

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

CASE NO. 2021100581

DEL MAR UNION SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

DECISION

March 11, 2022

On October 20, 2021, Del Mar Union School District filed with the Office of Administrative Hearings, called OAH, a due process hearing request naming Parent on behalf of Student. On November 4, 2021, OAH continued the matter for good cause at the parties' joint request. Administrative Law Judge Theresa Ravandi heard this matter via videoconference on January 19, 20, 25, and 26, 2022.

Attorneys Madisyn Ukrainetz and Summer Dalessandro represented Del Mar. Nadine Schick, Del Mar's director of special education, attended all hearing days on its behalf. Attorney Daniel Robinson represented Parent and Student. Parent appeared

each day on Student's behalf with several breaks in her attendance. Parent authorized her attorney to proceed in her absence. At the parties' request, OAH continued the matter to February 18, 2022, for written closing briefs. Upon timely submission of closing arguments, the record was closed, and the matter was submitted on February 18, 2022.

STUDENT'S REQUEST FOR JUDICIAL NOTICE

In his closing brief, Student requests judicial notice of an October 1, 2020 Order Granting Reconsideration in OAH case number 2020090236, a matter involving the same parties. Student included, as an attachment, a copy of this Order which identified Student's stay put placement as a general education cohort. On February 23, 2022, Del Mar filed an opposition and moved to strike the attachment and all references to it on the grounds the Order is irrelevant and the motion untimely.

Judicial notice is generally called official notice when taken by an administrative tribunal. (See Gov. Code, § 11515.) No specific statute or regulation governs the taking of official notice in special education due process proceedings. OAH often looks to the California Evidence Code for guidance in such situations. Evidence Code section 452 allows, in part, the taking of judicial notice of the records of any court. (Evid. Code, § 452, subd. (d).

Student's request is denied as untimely. Student attempts to establish, after the close of evidence, his primary placement at the time of the assessment. Student failed to timely disclose this Order pursuant to Education Code section 56505, subdivision (e)(7), and did not use it at hearing. Del Mar did not have notice Student would seek to

introduce the Order after the close of hearing. Granting Student's request would deny Del Mar the opportunity to submit documents or arguments in response. (See *J.W. v. Fresno Unified School Dist.* (9th Cir. 2010) 626 F.3d 431, 439-440.) Furthermore, Student's placement or whether Del Mar failed to implement a stay put placement was not at issue in this hearing and no determinations are made herein. Only relevant material may be noticed. (*Mangini v. R.J. Reynolds Tobacco Co.* (1994) 7 Cal.4th 1057, 1063; *Aquila, Inc. v. Superior Court* (2007) 148 Cal.App.4th 556, 569.) Contrary to Student's argument, the October 2020 Order does not establish that Student's primary placement at the time of the February 2021 assessment observations was the general education classroom. Any such determination would not alter the findings in this Decision that Del Mar's Student observations in the special education and general education settings were legally compliant.

ISSUE

At the start of hearing, Del Mar withdrew its request to defend its speech and language assessment of Student. The sole issue for hearing was:

Was Del Mar's April 2021 psychoeducational assessment legally compliant such that Student is not entitled to an independent psychoeducational evaluation at public expense?

JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, its regulations, and California statutes and regulations. (20 U.S.C. § 1400 et. seq.; 34 C.F.R.

§ 300.1 (2006) et seq.; Ed. Code, § 56000 et seq.; Cal. Code Regs., tit. 5, § 3000 et seq.)

The main purposes of the Individuals with Disabilities Education Act, referred to as the IDEA, are to ensure:

- all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living, and
- the rights of children with disabilities and their parents are protected.

(20 U.S.C. § 1400(d)(1); See Ed. Code, § 56000, subd. (a).)

The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education, referred to as FAPE, to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511 (2006); Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L.Ed.2d 387]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Del Mar requested this hearing and had the burden of proof. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was 12 years old and in sixth grade at the time of hearing. Student resided within Del Mar's geographic boundaries at all relevant times. Prior to the

assessment at issue, Del Mar found Student eligible for special education under specific learning disability and speech or language impairment. This hearing concerned Student's triennial psychoeducational, including academic, assessment contained in Del Mar's multidisciplinary evaluation report dated September 22, 2020, as amended for the April 16, 2021 individualized education program or IEP team meeting. The report will be referred to as the April 16, 2021 report. As used in this Decision, the term psychoeducational assessment includes the academic assessment. In California, evaluations are referred to as assessments. (Ed. Code, § 56302.5.) The terms evaluation and assessment are used interchangeably throughout.

ISSUE: WAS DEL MAR'S APRIL 2021 PSYCHOEDUCATIONAL ASSESSMENT LEGALLY COMPLIANT SUCH THAT STUDENT IS NOT ENTITLED TO AN INDEPENDENT PSYCHOEDUCATIONAL EVALUATION AT PUBLIC EXPENSE?

Del Mar contends its psychoeducational evaluation of Student met all legal requirements. Del Mar asserts it timely filed to defend its assessment following Parent's September 2021 request for an independent psychoeducational evaluation. As such, Del Mar maintains Student is not entitled to a publicly funded independent psychoeducational evaluation.

Student argues he is entitled to an independent psychoeducational evaluation because Del Mar failed to comprehensively assess for attention deficits and dyslexia, did not conduct appropriate classroom observations, improperly changed academic scores rendering the report invalid, and failed to appropriately calculate whether he had a severe discrepancy between ability and achievement. As a result, Student asserts Del Mar assessors incorrectly determined he did not meet eligibility criteria for other

health impairment and specific learning disability. Whether or not the eligibility determination made by Student's IEP team were correct is not at issue in this decision.

DEL MAR COMPLIED WITH NOTICE, CONSENT AND TIMELINE REQUIREMENTS FOR CONDUCTING THE PSYCHOEDUCATIONAL ASSESSMENT

A school district has an ongoing duty to reassess the educational needs of a special education student. Reassessments require parental consent. (20 U.S.C. § 1414(c)(3); 34 C.F.R. § 300.300(c)(1)(i) (2008); Ed. Code, § 56381, subd. (f)(1).) To obtain parental consent for a reassessment, the school district must provide proper notice to the parent. (20 U.S.C. §§ 1414(b)(1), 1415(b)(3) & (c)(1); 34 C.F.R. § 300.300 (c); Ed. Code, §§ 56321, subd. (a), 56329.) The notice consists of a proposed written assessment plan describing any evaluation procedures the district proposes to use and a copy of procedural safeguards under the IDEA and state law. (20 U.S.C. § 1414(b)(1); 34 C.F.R. § 300.304(a) (2006); Ed. Code, § 56321, subd. (a).) The assessment must be completed, and an IEP team meeting held within 60 days of receiving consent, exclusive of school vacations in excess of five school days and other specified days. (20 U.S.C. § 1414(a)(1)(C); 34 C.F.R. § 300.301(c) (2007); Ed. Code, §§ 56043, subds. (f)(1), 56302.1, subd. (a), and 56344, subd. (a).) This timeline may be extended if the parent agrees to an extension in writing. (Ed. Code, §§ 56043, subd. (f)(1), 56344, subd. (a).)

Del Mar completed an initial draft multidisciplinary assessment report dated September 22, 2020. This assessment did not include in-person testing and observations because of the COVID-19 pandemic and Parent not making Student

available. By March 15, 2021, Del Mar completed Student's psychoeducational assessment including in-person testing and observations and updated the September 2020 multidisciplinary report.

On January 18, 2022, the parties entered into a joint stipulation of facts which the undersigned accepted and considered. The parties stipulated Del Mar met all legal requirements regarding assessment procedures prior to conducting the psychoeducational assessment; Parent consented to this assessment; and Del Mar timely completed the assessment and compiled the results into the multidisciplinary assessment report prepared for the April 16, 2021 IEP team meeting. Del Mar's February 7, 2020 assessment plan provided Parent proper notice of the psychoeducational assessment. Parent signed consent to the assessment plan on March 4, 2020. The parties do not dispute the timeliness of the assessment and report compiled in the April 16, 2021 multidisciplinary report. Del Mar established it complied with notice, consent, and timeline requirements for completing the psychoeducational assessment and report.

DEL MAR'S ASSESSORS WERE QUALIFIED

Assessments must be conducted by individuals who are both knowledgeable of the student's disability and competent to perform the assessment, as determined by the local educational agency. (Ed. Code, §§ 56320, subd. (g), 56322.) A psychological assessment, including tests of intelligence and emotional functioning, must be conducted by a credentialed school psychologist. (Ed. Code, §§ 56324, subd. (a), 56320, subd. (b)(3).) Assessments and other evaluation materials must be administered by

trained and knowledgeable personnel in conformance with the instructions provided by the producer of such tests. (20 U.S.C. § 1414(b)(3)(A)(iv) & (v); 34 C.F.R. § 300.304(c)(iv) & (v) (2006); Ed. Code, § 56320, subd. (b)(3).)

Del Mar's psychoeducational assessors were knowledgeable of Student's disabilities and competent to perform their assessments. Krystle Stadler, a Del Mar credentialed school psychologist, was one of Student's assessors. Stadler held a Pupil Personnel Services Credential in school psychology, an education specialist degree, and a master's degree in education. She had 10-years experience as a school psychologist, the past five with Del Mar, and had conducted more than 500 psychoeducational assessments of students over her career. Stadler knew Student for five years, and formally assessed him in second and fifth grade. Stadler was knowledgeable of Student's disabilities and needs because she conducted his 2017 psychoeducational assessment and provided Student short-term counseling services during the 2020-2021 school year. Stadler was a qualified assessor based on her credentials, knowledge, and experience conducting psychoeducational assessments.

Stadler assessed Student pursuant to the February 2020 assessment plan in the areas of intellectual development, social-emotional functioning and behavior, and adaptive behavior. Stadler testified at hearing. She was thoughtful and thorough in her testimony, familiar with Student's educational functioning, and knowledgeable about the multidisciplinary assessment process, results, and report which she compiled. Stadler's testimony was consistent with her report and largely corroborated by Student's expert. She was a credible witness, and her testimony was given substantial weight.

Katherine Kirby, an education specialist with Del Mar since 2015, administered the academic achievement testing of the psychoeducational assessment and was qualified

to do so. Kirby earned a master's in special education in 2013 and was credentialed to teach mild-to-moderate programs. Kirby was Student's special education teacher for fourth and part of fifth grade. She taught Student core academics, providing specialized academic instruction and behavior supports. Kirby formally and informally assessed Student's academic performance in the classroom and measured his progress on goals. She frequently observed Student in general education classes. Kirby was also Student's case manager and consulted with Student's related service providers and IEP team members and scheduled IEP meetings. Kirby was familiar with Student's academic struggles and personal strengths. She was a sincere, conscientious witness who testified persuasively.

THE ASSESSORS USED A VARIETY OF TESTING STRATEGIES

A school district must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent. (20 U.S.C. § 1414(b)(2)(A); 34 C.F.R. § 300.304(b)(1) (2006); see also Ed. Code, § 56320, subd. (b)(1).)

Stadler first reviewed Student's education records such as report cards, attendance, IEPs, and past assessments, including the 2017 multidisciplinary assessment and the 2020 Feifer Assessment of Reading that a colleague administered. This review guided Stadler's choice of rating scales and questionnaires that she provided to Parent, Student's general education teacher, and Kirby. Kirby also conducted a thorough record review, including Student's 2017 academic achievement testing, previous and updated present levels of performance, academic goals, and progress reports.

Stadler administered numerous rating scales to gather information about Student's social, emotional, and behavioral functioning as well as life skills. She

interviewed Student's teachers. Stadler also interviewed Student throughout the testing sessions and indirectly obtained his perspective through Parent and teacher impressions.

The IDEA and its implementing regulations require that assessments include a means of obtaining and incorporating parent input. During the assessment process, Stadler had one phone conversation with Parent about Student's remote learning challenges. She attempted to formally interview Parent, but Parent did not make herself available. Stadler considered Parent input critical to understand Student's functioning across settings. Therefore, she emailed Parent interview questions and incorporated Parent's answers into the assessment.

A district must also ensure that the child is observed in the child's learning environment, including the regular classroom setting, to document academic performance and behavior in areas of difficulty. (34 C.F.R § 300.310(a) (2006)' Ed. Code § 56341, subd. (c).) In addition to Kirby's special education and general education classroom observations, Stadler observed Student across settings, particularly in areas of challenge. Stadler observed Student's academic performance and behavior in both the general education and special education settings, on the playground, and during unstructured class time. Initial observations in September 2020 occurred during remote instruction. In February 2021, Stadler observed Student for two hours, in 30-minute sessions, on four separate days. These observations included transitions to and from recess, independent math and small group reading in the special day class, and general education science and art. At that time, Del Mar students had returned to in-person learning in small cohorts to minimize exposure to and the spread of COVID-19. Students within a cohort freely interacted, while cohorts remained physically distant as part of the health and safety mandates. Del Mar assigned Student to Kirby's special day

class cohort. Therefore, Student received general education instruction from a distance, meaning he sat just outside the general education classroom, near the door. Prior to the pandemic, Stadler had observed Student inside his special education and general education classrooms.

Student contended that videoconference observations during remote instruction and physically distant observations of Student participating in general education while outside the physical classroom were insufficient. On March 4, 2020, Governor Newsom declared a state of emergency in California due to COVID-19. On March 13, 2020, the Governor issued Executive Order N-26-20, which regulated school district operations during public-health-related school closures. On April 9, 2020, the California Department of Education implemented Executive Order N-26-20 by issuing a Special Education Guidance for COVID-19. The Department advised school districts that in the delivery of in-person special education services such as assessments, they should seek to comply with federal, state, and local health official's guidance related to physical distancing, with the goal of keeping students, teachers, and service providers safe. (<https://www.cde.ca.gov/ls/he/hn/specialedcovid19guidance.asp>.)

The California Department of Public Health released guidance on August 25, 2020, permitting the provision of in-person specialized support and services in stable cohorts for schools able to satisfy all required conditions. The guidance specified required health and safety practices for small group learning for students with disabilities. (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/small-groups-child-youth.aspx>.)

During the assessment process, Student participated in remote learning and then in-person cohort learning due to the global pandemic. Student participated in the

general education setting in a physically distanced manner pursuant to health and safety guidelines. As such, these settings were appropriate for assessment observations. The law requires Del Mar assessors to observe Student in the relevant learning environment to document his academic performance and behavior in areas of difficulty. Del Mar complied with this requirement. Stadler observed Student across his school day, especially in his challenging areas of academics and peer interactions. Stadler credibly established she had sufficient observation data to understand Student's abilities and needs. Stadler's testimony was persuasive, withstood cross examination, and was unchallenged by Student's expert. Stadler's observations were consistent with teacher input, testing data and rating scales, and corroborated by other assessors. Student did not introduce evidence challenging the accuracy or sufficiency of these observations.

Student argued the observations were fatally flawed because they did not occur inside the general education classroom. However, the law does not require districts to observe students inside a physical classroom. That Stadler did not observe Student when he was physically inside the general education classroom did not render the assessment legally noncompliant. Stadler effectively observed Student in his then-current learning environments and obtained valid results. Del Mar's assessors conducted legally sufficient observations of Student in his learning environment.

Kirby and Stadler also selected and administered several standardized assessment tools discussed in the next section. During the assessment process, Stadler consulted with Kirby, and the speech and language and occupational therapist assessors to understand and incorporate their data in completing the psychoeducational assessment. Del Mar established that its assessors used a variety of assessment tools and strategies

to gather information about Student, including record review, Parent, teacher and Student input, observations, consultation, and administering informal as well as formal testing measures.

ASSESSORS APPROPRIATELY ADMINISTERED PROPER INSTRUMENTS

No single measure may be used as the sole criterion for determining whether the student has a disability or determining an appropriate educational program for the student. (20 U.S.C. § 1414 (b)(2)(B); 34 C.F.R. § 300.304(b)(2) (2006); Ed. Code, § 56320, subd. (e).) Rather, the assessor must use a variety of technically sound instruments. (20 U.S.C. § 1414 (b)(2)(A); 34 C.F.R. § 300.304(b)(1) & (2).) Technically sound instruments are those shown through research to be valid and reliable. (*Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed.Reg. 46540-46541, 46642 (Aug.14, 2006).)

In selecting assessment tools, special attention must be given to the child's unique educational needs. (Ed. Code, § 56320, subds. (c) & (g).) An assessment tool must provide relevant functional and developmental information that directly assists in determining the child's educational needs. (34 C.F.R. § 300.304(c)(7).) The selected instruments are to also assess the relative contribution of cognitive and behavioral factors, as well as physical or developmental factors. (20 U.S.C. § 1414(b)(2)(C); 34 C.F.R. § 300.304(b)(3).)

Tests and assessment materials must be selected and administered so as not to be discriminatory on a racial or cultural basis; must be provided and administered in the student's primary language and in the form most likely to yield accurate information on the student's functioning; and must be used for the purposes for which the measures

are valid and reliable. (20 U.S.C. § 1414(b)(3)(A)(i), (ii) & (iii); 34 C.F.R. § 300.304 (c)(1); Ed. Code, § 56320, subds. (a), (b)(1) & (2).) Each instrument must be administered and scored in accordance with the test developer's instructions. (20 U.S.C. § 1414(b)(3)(A)(iv) & (v); 34 C.F.R. § 300.304(c)(iv) & (v); Ed. Code, § 56320, subd. (b)(3).) If the evaluation procedures required by law are met, the selection of particular testing or evaluation instruments is at the discretion of the school district. (*Letter to Anonymous* (OSEP Sept. 17, 1993) 20 IDELR 542.)

ACADEMIC TESTING

Kirby used two standardized, research-based, and valid instruments to assess Student's academic achievement, the Wechsler Individual Achievement Test, Fourth Edition, called the WIAT-4, and the Woodcock-Johnson IV: Tests of Oral Language. Kirby specifically selected the WIAT-4 because it was newly updated and would provide a good comparison to Student's 2017 academic testing which used the third edition. She was familiar and comfortable with this measure and had administered it multiple times. In addition, this test had a Dyslexia Index which measured the presence of dyslexic characteristics. Kirby selected the Woodcock-Johnson Oral Language because it was also an up-to-date tool that could explore Student's WIAT-4 score variability in oral language.

Student benefited from a routine. Kirby wrote Student's testing sessions on his daily visual schedule to prepare him for each session, to reduce anxiety, and to better ensure testing reflected Student's true ability. She also integrated the class positive behavior reinforcement system by allowing Student to earn inflated points for testing. Kirby provided breaks, paired preferred subtests with those less preferred, and kept testing blocks to 25 minutes or less. Student participated in seven academic testing

sessions over a span of 20 days in January 2021. Kirby did not use any COVID-19 health and safety protocols during testing because Kirby and Student were in the same cohort.

The WIAT-4 tested Student's reading, writing, and math skills through multiple subtests. On this measure, average scores range from a standard score of 85 to 115. Student's overall academic achievement in each area was below average as compared to same-age peers.

The WIAT-4 measured all areas of reading. On reading subtests, Student scored the lowest in reading comprehension and the highest on pseudoword decoding where he scored in the average range. Kirby noted Student's decoding scores improved since the 2017 academic assessment. Testing showed Student's strength was in phonemic awareness and decoding, and Student's greatest reading challenge was comprehension and answering inferential questions. All of Student's writing scores were below average. Writing was difficult for Student and an area he resisted, though he showed good effort and self-corrected spelling errors during the testing. In math, Student scored below average on each subtest with the exception of an average score in addition fluency.

Kirby established that Student's academic test scores were consistent with his class performance, present levels of performance and areas of need, and accurately reflected his abilities. Student performed relatively well on timed subtests which felt more like a game and tests with more visuals and less writing. Overall, he was on task and engaged, though he became distracted and looked out the window during one timed reading subtest which likely lowered his score.

Student scored below average on the WIAT-4 Dyslexia Index which consisted of three of the reading subtests. Based on Student's scores, Kirby determined Student showed moderate characteristics of dyslexia. Kirby readily explained her findings and

the significance of the scores in context during cross examination. Kirby noted Student scored in the average range on one subtest, just two points below average on another, and that his distraction during the third subtest deflated his score. In class, Kirby worked with Student one-to-one and in small groups using a multi-sensory reading intervention curriculum for students with reading delays. Kirby's testimony that Student's reading scores were comparable to his class performance and that further academic testing was not required to determine Student's educational needs was persuasive.

The WIAT-4 yielded phonological and orthographical processing composite scores. Student's ability to understand letter sounds fell in the average range as compared to his ability to understand written letters which was below average. Kirby also measured Student's oral language skills with the WIAT-4. Student scored below average on the Oral Language Composite which consisted of the listening comprehension subtest where Student scored below average, and the oral expression subtest where Student scored in the average range. Kirby reasonably accounted for this variability at hearing. Kirby explained that listening comprehension included higher level skills, like drawing inferences, which was difficult for Student. The oral expression subtest included picture identification and rapidly naming as many items as possible that belonged to a category. Student enjoyed these tasks which resembled games. Even so, Kirby decided to administer a supplemental test, the Woodcock-Johnson IV Oral Language, because of Student's variable scores.

On the Woodcock-Johnson, Student showed difficulty with both comprehension and expression. Student's oral language scores on both the Woodcock-Johnson and WIAT-4 were similar, but the Woodcock-Johnson used less visuals and weighed a task that Student struggled with more heavily.

Kirby credibly established the academic measures administered were appropriate for Student as they covered all areas of academic ability and the specifics of oral language, and accurately reflected Student's overall skills. The test results revealed the same strengths and weaknesses Kirby observed firsthand as Student's teacher. She administered them in Student's primary language, in a nondiscriminatory manner, and in compliance with the test developers' instructions. Similarly, Kirby scored them in accordance with the manuals and double checked her results with a colleague who found no scoring errors.

In April 2021, before reviewing the report at an IEP team meeting, the educational specialist who filled in for Kirby during the last part of the school year noted and corrected one error in the academic report. Kirby had mistakenly used the descriptor "low average" for Student's WIAT-4 phonological processing composite and subtest scores when Student's standard scores actually fell within the average range. Kirby accurately reported the actual scores. Contrary to Student's assertion, this correction did not change Student's scores or render the assessment results or report invalid. Del Mar informed Parent of the correction and provided Parent a corrected report before reviewing it at an IEP team meeting.

INTELLECTUAL DEVELOPMENT TESTING

Stadler conducted formal testing using personal protective equipment in accordance with the COVID-19 pandemic health and safety requirements. She wore a face shield. Additionally, Stadler and Student wore face masks, used hand sanitizer and plexiglass barriers, and maintained a safe distance. Stadler noted in her report and testimony these precautions were not included in the test developers' instructions. The test developers advised to use the tools with caution as COVID-19 protocols might

affect the accuracy of some measures. Stadler used a 90 percent confidence interval in scoring the tests to account for any such impact. Stadler was confident she otherwise administered and scored all tools in accordance with the publishers' instructions, interpreted the results within the limits of their measured validity, and believed the results to be reliable. Stadler's opinion was persuasive and unchallenged. The assessment tools used were valid despite COVID-19 precautions.

Similar to Kirby, Stadler spread Student's testing over five sessions, up to 30 minutes each, with intermittent breaks as needed. Stadler described Student as focused and motivated with minor disengagement. Stadler credibly opined the results accurately reflected Student's capabilities and functioning.

Stadler reasonably determined Student's areas of suspected disability were speech or language impairment, other health impairment based on attention issues, specific learning disability, emotional disturbance, and autism. Stadler based her determination on Student's prior eligibility finding in 2017, record review, observations, interviews, and Parent input. She was knowledgeable in each area of suspected disability. Stadler established that she knew Student as a learner and his areas of challenge. Based on this knowledge, Stadler chose an array of tools that would best capture Student's learning potential and explore challenges without undue stress.

Stadler administered numerous cognitive measures. Overall, Student scored in the below average range with areas of relative strength. In her testimony and written report, Stadler credibly explained in detail the measures she chose, the significance of the results, and the reason for administering or foregoing supplemental measures to

explore score variability. Stadler used three standardized tools to assess Student's learning potential, known as cognitive ability, and measure how well Student demonstrated an understanding of academic work.

On the Wechsler Intelligence Scale for Children, Fifth Edition, or WISC-V, Student's standard score on the Full Scale Intelligence Quotient Index was in the third percentile or borderline range compared to same-age peers. Stadler administered the Tests of Nonverbal Intelligence, Fourth Edition, or TONI-4, based on Student's language impairment. She described this tool as eliminating complex language requirements that influence the results of more traditional intelligence measures like the WISC-V. Student's TONI-4 Index Score was in the 10th percentile and below average. Stadler also administered the Kaufman Assessment Battery for Children, Second Edition, or KABC-2. Student's Nonverbal Index standard score was also below average, in the fifth percentile. Stadler credibly opined Student's scores were statistically similar on these three measures. Stadler established Student's overall cognitive ability fell in the below average range given his best performance across cognitive tests, namely the TONI-4 results. She compared Student's academic achievement scores with his below average cognitive scores in determining that Student did not meet the eligibility criteria for specific learning disability.

Stadler also assessed Student's processing abilities to determine any discrepancy from his overall cognitive ability. She tested Student in all processing areas, specifically,

- attention,
- conceptualization or fluid reasoning skills,
- association or memory skills,
- expression,

- visual processing,
- visual-motor integration, and
- auditory processing.

In addition to the WISC-V, Stadler administered the Comprehensive Test of Phonological Processing, Second Edition, or CTOPP-2; selected subtests of the KABC-2; and the planning subtests of the Cognitive Assessment System, Second Edition, or CAS-2, which measured processing speed and attention skills. Stadler administered a visual motor integration test and consulted with the occupational therapist who also assessed Student's visual processing and sensory-motor integration.

Stadler carefully paired assessment tools to accurately measure Student's cognitive performance. In the area of conceptualization, Student's standard score on the WISC-V Fluid Reasoning Index fell in the extremely low range. To determine if this represented a true deficit, Stadler administered a sister tool which measured this same area, the KABC-2 Planning Cluster. Student scored in the average range. Stadler determined Student's stronger performance was more in line with his abilities and best represented his conceptualization skills. Student's expert, Dr. Spencer Wetter, generally agreed with Stadler. Dr. Wetter was a licensed neuropsychologist who had completed several thousand evaluations of special education students over his 17-year career. He had presented at conferences and published in the areas of assessments, dyslexia, and executive functioning. Dr. Wetter opined, given variable test scores, Student's stronger performance on the KABC-2 subtests showed Student's ability for higher level functioning, and the lower WISC-V fluid reasoning score likely reflected an extraneous factor like fatigue or inattention.

Student showed significant weakness in the area of auditory processing, visual-motor integration, visual processing, association skills, and expression skills. These scores fell in the very low to below average range, which Stadler found commensurate with Student's overall cognitive abilities. However, Stadler determined Student's processing skills in the area of attention fell significantly below his cognitive ability. Namely, on the WISC-V Processing Speed Index, Student's standard score was in the first percentile. Student's scores on a similar measure, the CAS-2 planning subtests, were comparable.

Index scores are comprised of various subtests which measure specific processing areas. Stadler administered supplemental subtests to clarify variable scores. For example, Student scored in the very low range on the WISC-V Verbal Comprehension Index. Because Student scored in the average range on one subtest, and in the very low range on another, Stadler administered an additional subtest to better understand Student's functioning. Student again scored in the very low range. Stadler reasonably accounted for score variability based on the makeup of the subtests. She concluded, as had Kirby, that Student performed better on tests with visual supports as opposed to tests that required Student to spontaneously show his knowledge.

Stadler agreed that characteristics of dyslexia typically show under visual and auditory processing and association skills which involve memory. Student's test scores showed deficits in all these areas. On cross examination, Stadler provided clear, consistent answers when asked about apparent discrepancies between subtest scores. The CTOPP-2 Rapid Naming Index measured auditory memory. Student's standard score was below average, despite variable scores on the two subtests that comprised this Index. Student scored in the average range on one subtest and in the poor range

on the other. Stadler credibly testified that pursuant to the publisher's manual, she was able to report the overall index score as valid. After consulting with Kirby on Student's academic scores, Stadler did not supplement this testing. Rather, Stadler reasonably concluded Student was performing academically within his cognitive ability, and that she did not require further test data on Student's rapid naming skills.

Stadler was familiar with Student's 2020 scores on the Feifer Assessment of Reading, or FAR, which she described as an elongated version of the CTOPP-2. Test publishers generally advise against retesting with the same instrument within 6-12 months of its administration to avoid the practice effect. As such, Stadler elected not to use the FAR. Both instruments measure similar areas, and Student's results were comparable. Stadler's testimony that there was no need to conduct further testing because Student's results showed he had trouble with auditory, visual, and memory processing as it pertains to global reading delays was persuasive.

Stadler did not find a discrepancy between Student's cognitive ability and academic achievement, as assessed by Kirby. Kirby concurred. Dr. Wetter also agreed that based on Stadler's and Kirby's assessment data, Student did not have a severe discrepancy between ability and achievement. Stadler determined Student did not meet the eligibility criteria for specific learning disability because Student was functioning within his ability. Stadler further opined that Student could not qualify as having a specific learning disability because he did not have average intelligence. This opinion was not challenged. Dr. Wetter similarly testified that a diagnosis of dyslexia meant a reading deficit not explained by cognitive deficits.

ADAPTIVE, SOCIAL, EMOTIONAL, AND BEHAVIOR NEEDS

To formally assess Student's adaptive skills, Stadler administered two rating scales to Kirby, Student's general education teacher, and Parent, namely, the Adaptive Behavior Assessment System, Third Edition, or ABAS-3, and the Behavior Assessment System for Children, Third Edition, or BASC-3. Parent did not complete the BASC-3. All raters identified Student's skills as below average in the conceptual domain, specifically communication, functional academics which form the foundation for reading, writing and math, and self-direction. These ratings were consistent with Student's scores on academic and cognitive measures.

Stadler administered three additional rating scales to the same raters to formally measure Student's social, emotional, and behavioral functioning, in conjunction with the BASC-3 and the ABAS-3 results. These were the Autism Spectrum Rating Scales or ASRS, the Emotional Disturbance Decision Tree, and the Child Depression Inventory, Second Edition. Parent did not complete the emotional disturbance scale. Stadler additionally administered the Childhood Autism Rating Scales, Second Edition, or CARS-2, to Parent and Kirby. All rating scales, in conjunction with observations, interviews, record review, Parent input, and consultation with the multidisciplinary assessment team, informed Stadler's opinion as to whether Student met eligibility criteria for autism, other health impairment, and emotional disturbance.

Stadler noted that since preschool, Student displayed difficulty consistently engaging and attending to his general education classroom environments. During remote learning, Stadler similarly observed Student off task in both special education and general education settings. Stadler noted only minor inattentiveness to instruction

during in-person observations. Based on her record review, Student did not have a medical diagnosis of attention deficit hyperactivity disorder or any related medication prescriptions.

On rating scales, Parent endorsed that Student displayed inattention. On the BASC-3, both teachers rated Student's school attention problems in the at-risk range, which Stadler described as mild. Stadler considered Student's ability to attend across settings. Stadler noted, based on observations and teacher interviews, Student appeared inattentive and distracted and required support to maintain focus, but this was not consistent across settings. Student showed minimal inattentiveness in Kirby's class and during unstructured time. Stadler observed Student was very engaged in Kirby's class. During the evaluation process, Stadler consulted with the occupational therapist assessor about Student's engagement. Stadler concluded Student's perceived inattentiveness or heightened alertness to environmental stimuli more accurately reflected an unusual response to sensory experiences given his sensory sensitivity. Stadler did not find any markers of attention deficit hyperactivity disorder adversely impacted Student's educational performance based on her assessment. She opined Student had variable engagement but expected levels of alertness given appropriate supports. Therefore, Stadler determined Student did not meet the eligibility criteria for other health impairment.

Stadler identified the Autism Diagnostic Observation Schedule, Second Edition, as the gold standard for assessing autism. Stadler used this tool for Student's 2017 assessment and determined he met criteria for autism at that time. Stadler did not use this tool during the pandemic as the developers advised it could not be appropriately

administered given COVID-19 health and safety protocols. Stadler administered the CARS-2 in addition to the ASRS to ensure she did not rely on a sole instrument to determine whether Student met criteria for autism.

Both teachers and Parent reported Student displayed very elevated markers of autism across settings on the ASRS. They agreed Student showed autistic-like behaviors especially in the areas of social interaction, communication, and self-regulation. On the CARS-2, Parent and Kirby reported Student displayed mild-to-moderate signs of autism. Based on her own assessment and the occupational therapist's sensory processing evaluation, Stadler determined Student met the criteria for autism given his unusual response to sensory experiences and impaired communication and social interactions.

Teachers endorsed that Student displayed mild characteristics of emotional disturbance, specifically, an inability to build or maintain relationships. Stadler concluded Student's relationships were most impacted by autism markers. She additionally opined Student's self-awareness of his cognitive difficulties and poor school attendance negatively impacted his ability to feel socially connected and form relationships. As such, Stadler concluded Student did not meet eligibility criteria under emotional disturbance. Stadler recommended that the eligibility categories of speech or language impairment and autism best captured Student's areas of need.

Stadler evaluated Student in his primary language, in a form most likely to yield accurate information on what Student knew and could do developmentally and functionally. She used a variety of assessment tools that were valid and reliable for the purposes for which they were used, and administered them in a non-discriminatory manner. Stadler used technically sound instruments that she was qualified to use and

had experience using, and that were designed to provide relevant information to assist the IEP team in determining Student's educational needs. Stadler administered and scored each assessment pursuant to the test developers' instructions. Stadler did not use any single measure or assessment to determine Student's eligibility for special education or to make recommendations for Student's educational program. Del Mar established its assessors appropriately administered proper testing instruments to measure Student's academic, cognitive, adaptive, social, emotional, and behavior needs.

THE ASSESSMENT WAS SUFFICIENTLY COMPREHENSIVE

The purpose of a special education assessment is to identify special education eligibility and a student's individual needs. The IDEA and California state law require that a school district assess a student in all areas of suspected disability. (20 U.S.C. § 1414(b)(3)(B); see 34 C.F.R. § 300.304(c)(4) and Ed. Code, § 56320, subd. (f) [must assess all areas related to the suspected disability].) A district must ensure the evaluation is sufficiently comprehensive to identify all of the child's needs for special education and related services, whether or not commonly linked to the identified disability category. (34 C.F.R. § 300.304(c)(6).)

Stadler reasonably determined Student should be assessed for special education eligibility in the areas of speech or language impairment, autism, other health impairment, specific learning disability, and emotional disturbance.

The psychoeducational portion of the multidisciplinary assessment sufficiently identified Student's level of functioning and needs related to these categories. Stadler and Kirby comprehensively evaluated Student's academic, oral language, cognitive, processing including attention and sensory-motor, adaptive, behavior, and social-emotional needs.

Student contended Del Mar failed to adequately assess in the area of attention. Dr. Wetter testified that the BASC-3 and WISC-V results were not sufficient to rule-out attention deficit hyperactivity disorder, and he would have administered an additional rating scale and a continuous performance computer test. Stadler established that the purpose of the assessment was not to identify if Student had a diagnosis of attention deficit hyperactivity disorder. Rather, Stadler looked at attention processing and markers of attention deficit hyperactivity disorder to determine if these impacted Student's education. In addition to interview, record review, and observation data, five measures provided information on Student's strengths and weaknesses in the area of attention. The CTOPP-2, WISC-V, and CAS-2, as well as the ASRS and BASC-3 all provided data on Student's attention and concentration skills. Stadler included information in the assessment report on Student's lack of attention and specifically noted his difficulty with attention-based tasks. The record did not support Student's contention that Del Mar failed to adequately assess him in the area of attention.

Student criticized the assessment for failing to include Parent information from a health and development questionnaire. Del Mar provided Parent a health questionnaire and reminded her to complete and return it. Del Mar did not receive the completed health questionnaire; Parent did not testify to the contrary. Instead, Stadler reasonably relied on health information Parent provided for the 2017 assessment and health concerns Parent noted at IEP team meetings. Student's criticism was not supported by the evidence.

Del Mar's psychoeducational assessment was sufficiently comprehensive to determine Student's educational needs in the area of attention. Indeed, Stadler identified Student as having a cognitive deficit in the processing area of attention.

Dr. Wetter's opinion that he would have done more to rule out attention deficit hyperactivity disorder did not establish that Del Mar's psychoeducational evaluation was not sufficiently comprehensive. Stadler's opinion that Student's inattention was better described as an unusual sensory response and an autism marker, rather than other health impairment, did not render the assessment legally non-compliant.

Student also contended Del Mar failed to adequately assess in the area of dyslexia. Dr. Wetter could not rule out dyslexia based on Del Mar's assessment. However, the purpose of the psychoeducational assessment was not to rule out dyslexia but to determine special education eligibility and identify educational needs and strategies to meet these. Dr. Wetter explained, given Student's variable scores on the CTOPP-2 Rapid Naming Index, he would have administered another measure to determine whether Student's poor rapid letter naming subtest score represented a true deficit. Stadler reasonably interpreted the score as a true deficit, concluded Student's CTOPP-2 scores were comparable to the 2020 FAR results, and established she did not need further testing to identify Student's strength and weaknesses in the area of dyslexia. Del Mar proved that it comprehensively assessed Student in the area of dyslexia by means of the CTOPP-2, WISC-V, TONI-4, KABC-2, WIAT-4, and Woodcock-Johnson Oral Language measures.

Student alleged the assessment was deficient because it did not include a severe discrepancy calculation through a numeric comparison of academic and cognitive scores. Student's contention is not persuasive because districts are not required to use a severe discrepancy model when assessing for a specific learning disability. (Ed. Code, § 56337, subd. (b).) Student argued Stadler should have used Student's KABC-2 Planning cluster standard score of 90 as the measure of his overall cognitive ability and

the point of comparison for academic scores. However, Stadler established the planning subtests measured Student's fluid reasoning skills, not overall cognitive ability.

Dr. Wetter agreed with Stadler that cognitive index scores were the most appropriate measure for comparing academic scores when determining a specific learning disability. Furthermore, Dr. Wetter agreed with Del Mar assessors that Student's scores did not indicate a severe discrepancy that would qualify him as having a specific learning disability. Dr. Wetter explained that for students reading at their cognitive level, reading deficits were better explained by a cognitive deficit.

Student's contention that Del Mar did not comprehensively assess him in the areas of attention and dyslexia was not persuasive. Kirby and Stadler assessed Student's

- academic performance;
- cognitive ability; and
- social, emotional, behavioral, and adaptive functioning.

Their assessment data was consistent with their previous impressions of Student, record review, and past assessments, and relevant to assist the IEP team to identify Student's special education eligibility and program needs. Kirby and Stadler believed that their portions of the multidisciplinary assessment complied with all legal requirements and furnished sufficiently comprehensive information to make sound educational decisions. Their testimony, combined with an independent examination of the assessment report, confirm that they did. The psychoeducational assessment was sufficiently comprehensive.

THE ASSESSMENT REPORT WAS LEGALLY COMPLIANT

The IEP team has the duty to determine whether a student is eligible for special education and related services, not the assessor. (20 U.S.C. § 1414(b)(4)(A); 34 C.F.R.

§ 300.306(a)(1) (2017); Ed. Code, §§ 56329, subd. (a)(1), 36342, subd. (a).) However, to aid the IEP team in determining eligibility, an assessor must produce a written report that includes information of whether the student may need special education and related services, along with the basis for that determination. (Ed. Code, § 56327, subds. (a) & (b).) In California, the personnel who assess a student must prepare a written report that includes:

- whether the student may need special education and related services, and the basis for making that determination;
- the relevant behavior noted during observation of the student in an appropriate setting;
- the relationship of that behavior to the student's academic and social functioning;
- any educationally relevant health, development, and medical findings;
- for students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services; and
- if appropriate, a determination of the effects of environmental, cultural, or economic disadvantage. (Ed. Code, § 56327.)

Del Mar's April 2021 psychoeducational assessment report included all legally required components. The 111-page multidisciplinary report contained a lengthy appendix, and speech and occupational therapy assessments not at issue here. The report included an extensive review of Student's prior testing, health and development, academic performance, and attendance, and a review of IEPs, related services, present levels, and goals.

The report explained each assessment tool used and analyzed Student's performance in each area assessed. It explained Student's areas of relative strength, and areas of challenge, and recommended teaching strategies. Stadler incorporated Parent's written response to interview questions and teacher input. The report discussed relevant behavioral observations of Student and how Student's behavior impacted educational performance. The report detailed eligibility criteria for each category considered. It addressed exclusionary factors including environmental, cultural, or economic factors and determined none of these factors primarily accounted for Student's identified needs. The report included a determination of whether Student may need special education and related services and the basis for that determination. Specifically, the report concluded, based on the multidisciplinary teams' testing results, that Student met eligibility criteria for autism and speech and language impairment, but not emotional disturbance, other health impairment, or specific learning disability. The report explained that Student did not demonstrate a discrepancy between ability and achievement.

Student challenged the assessment and report on the basis that Del Mar should have deemed him eligible for special education as a student with other health impairment, based on attention deficit hyperactivity disorder, and specific learning disability based on dyslexia. However, eligibility determinations are made by the IEP team and not individual assessors. (Cal. Code Regs., tit. 5, § 3030(a).) The assessment report characterized the eligibility findings as recommendations and correctly deferred eligibility decisions to the IEP team.

Parent testified that the assessment report erroneously concluded that Student struggled socially and was written to justify Student's special day class placement. Student presented no legal authority establishing that an assessor's recommendation

regarding an eligibility category or placement, if adopted or rejected by an IEP team, would render an assessment legally non-compliant. A determination about Student's eligibility or placement was not at issue in this hearing, and no such findings are reached in this Decision.

DEL MAR PROVIDED PARENT THE ASSESSMENT REPORT AND TIMELY REVIEWED IT AT AN IEP TEAM MEETING

Upon completion of an assessment, the district shall provide parents a copy of the evaluation report and the documentation of determination of eligibility. (20 U.S.C. § 1414(b)(4)(B); 34 C.F.R. § 300.306(a)(2); Ed. Code, § 56329, subd. (a)(3).) The assessment must be completed, and an IEP team meeting held within 60 days of receiving consent, exclusive of school vacations in excess of five school days, unless the parent consents in writing to an extension. (20 U.S.C. § 1414(a)(1)(C); 34 C.F.R. § 300.301(c); Ed. Code, §§ 56043, subds. (f)(1), 56302.1, subd. (a), and 56344, subd. (a).)

Del Mar identified its assessment reports as draft reports until reviewed at an IEP team meeting. The law does not specify when an assessment report must be provided to a parent other than "upon completion." Del Mar complied with this legal requirement. Stadler completed and compiled the psychoeducational assessment into a draft multidisciplinary report in March 2021. Del Mar provided Parent this draft report in March 2021. On April 15, 2021, Del Mar provided Parent a corrected draft copy which fixed typographical errors in Kirby's WIAT-4 phonological processing descriptors and correctly identified Student's scores as average.

On April 16, 2021, Del Mar convened Student's IEP team to review the results of the psychoeducational assessment as contained in the multidisciplinary report. Del Mar tried to meet for this review in March 2021, but Parent was not available. Del Mar

informed Parent it would hold the April 16, 2021 IEP team meeting without her if she failed to appear. Parent did not attend. Kirby and Stadler reviewed their assessments at the April 16, 2021 IEP team meeting. No changes were made to the April 16, 2021 assessment report.

Nadine Schick, Del Mar's director of special education, sent Parent the final assessment report on April 20, 2021, with a prior written notice offering to schedule another IEP team meeting to review the assessments with Parent. Schick had worked in special education since 1998 as a resource specialist, educational specialist, and program manager, prior to serving as special education director. During summer break 2021, Parent requested an IEP team meeting to review the assessments. Del Mar convened an IEP team meeting with Parent on September 13, 2021. At Parent's request, Del Mar held the assessment review in a question-and-answer format.

Timely completion of assessments is an important element of the reevaluation process. Parents need information in a timely fashion because early interventions are important to a child's progress, particularly with autistic children. (*Amanda J. v. Clark County School Dist.* (9th Cir. 2001) 267 F.3d 877, pp. 893-894.) Here, the parties stipulated to the timeliness of the psychoeducational assessment as compiled in the April 16, 2021 multidisciplinary report. Given the parties' joint stipulation, a calculation of the statutory 60-day timeline for holding an IEP team meeting to review the assessment need not be determined. Student's stipulation to the timeliness of the assessments operated as written consent to extend the 60-day timeline to not only complete the assessments, but also to review them at an IEP team meeting.

Del Mar established that it provided Parent a copy of the psychoeducational assessment as contained in the April 16, 2021 multidisciplinary assessment report and

timely reviewed it at an IEP team meeting on April 16, 2021, in Parent's absence. Parent participation in the IEP team meeting was not at issue in this hearing and no findings are made herein. Del Mar further reviewed its psychoeducational assessment with Parent at an IEP team meeting in September 2021. Any delay in reviewing the assessment at an IEP team meeting did not render the assessment legally noncompliant.

DEL MAR FILED TO DEFEND ITS ASSESSMENT WITHOUT UNDUE DELAY

The procedural safeguards of the IDEA provide that under certain conditions, a parent is entitled to obtain an independent evaluation of her child at public expense. (20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.502(a) & (b) (2006); Ed. Code, §§ 56329, subd. (b), 56506, subd. (c).) An independent evaluation is an evaluation conducted by a qualified examiner not employed by the school district. (34 C.F.R. § 300.502(a)(3)(i).) A parent has the right to request an independent evaluation at public expense if the parent disagrees with an evaluation obtained by the school district. (34 C.F.R. § 300.502(b)(1); Ed. Code, § 56329, subd. (b).)

When a parent requests a publicly funded independent evaluation, the school district must, without unnecessary delay, either initiate a due process hearing to show that its evaluation is appropriate or ensure that an independent evaluation is provided at public expense. (34 C.F.R. § 300.502(b)(2); see Ed. Code, § 56329, subd. (c).) The term "unnecessary delay" is not defined in the regulations. "It permits ... a reasonably flexible, though normally brief, period of time that could accommodate good faith discussions and negotiations between the parties over the need for, and arrangements for, an [independent educational evaluation]." (*Letter to Anonymous* (OSEP Aug. 13, 2010) 56 IDELR 175.) Some delay in the provision of an independent evaluation, or in filing for a due process hearing after declining to fund an independent evaluation, is

reasonable if the school district and the parent are engaging in active communications, negotiations, or other attempts to resolve the matter. (*J.P. v. Ripon Unified School Dist.* (E.D. Cal. April 15, 2009, No. 2:07-cv-02084-MCE-DAD) 2009 WL 1034993; *L.C. v. Alta Loma School Dist.* (9th Cir. 2021) 849 Fed. Appx. 678, 680 [delay in filing for over three months found reasonable]; *L.S. v. Abington School Dist.* (E.D. Pa. Sept. 28, 2007, No. 06-5172) 2007 WL 2851268 [six-week delay in filing for due process not a per se violation given ongoing efforts to resolve the matter].)

On September 13, 2021, Parent disagreed with Del Mar's multidisciplinary assessment and requested an independent educational evaluation. Parent requested, in relevant part, an independent psychoeducational evaluation to include attention deficit hyperactivity disorder, dyscalculia, dysgraphia, and cognitive ability. Approximately three weeks later, on October 7, 2021, Schick provided Parent prior written notice detailing Del Mar's understanding that Parent was seeking a full psychoeducational evaluation including academic and cognitive assessments. Del Mar also explained it was declining Parent's request and would initiate a due process filing to defend its assessment if Parent did not withdraw the request by October 15, 2021. When Parent did not withdraw the request or otherwise respond by October 15, 2021, Del Mar filed for due process five days later on October 20, 2021. Del Mar filed to defend its psychoeducational assessment without undue delay.

CONCLUSIONS AND PREVAILING PARTY

As required by California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided.

Del Mar's April 2021 psychoeducational assessment was legally compliant, such that Student is not entitled to an independent psychoeducational evaluation at public expense.

Del Mar prevailed on the sole issue for hearing.

ORDER

Del Mar's April 16, 2021 psychoeducational assessment was legally compliant. Student is not entitled to a publicly funded independent psychoeducational evaluation.

RIGHT TO APPEAL THIS DECISION

This is a final administrative decision, and all parties are bound by it. Pursuant to Education Code section 56505, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within 90 days of receipt.

/s/

THERESA RAVANDI

Administrative Law Judge

Office of Administrative Hearings