

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

ALHAMBRA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

CASE NO. 2024010914

DECISION

MAY 29, 2024

On January 29, 2024, the Office of Administrative Hearings, called OAH, received a due process hearing request, also called a complaint, from Alhambra Unified School District, naming Parent on behalf of Student as respondent. On February 12, 2024, the case was continued to allow Parent, who is self-represented, additional time to prepare for the hearing and to explore hiring counsel.

Administrative Law Judge Penelope Pahl heard this matter via videoconference on April 16, 17, 18, and 23, 2024. Attorneys, Howard Fulfroast and Emily Goldberg, represented Alhambra Unified School District. Director of Special Education, Michele Yamarone, attended all hearing days on Alhambra's behalf. Parent was self-represented, and attended all hearing days on Student's behalf.

## CLOSING BRIEFS

At the parties' request, the matter was continued to May 13, 2024, at 3:00 p.m., for written closing briefs. Alhambra filed a timely, closing brief. At 4:30 p.m., on May 13, 2024, Alhambra also filed a notice it had not been served with a closing brief from Student and requested that OAH disregard any brief that was filed after the ordered deadline.

Self-represented Parent filed a closing argument after hours on Monday May 13, 2024. Page two of Parent's closing argument states, "With my handwritten signature, this letter serves as my oath of factual statements and opinions based on factual information." Student's closing argument was filed at 8:07 p.m.

On May 14, 2024, Alhambra filed a motion to strike Student's closing argument. On May 15, 2024, Student filed a motion to accept his late closing argument. Student then filed a response to Alhambra's motion to strike on May 20, 2024.

Alhambra argued that filing late gave Student the unfair advantage of knowing Alhambra's arguments and being able to refute them, thereby prejudicing Alhambra. Alhambra also argued that the late filing "created a disruption of procedural order and fairness, undermining the integrity of the process."

In the request that OAH accept Student's closing argument, Parent asserted that she had difficulties with the technical aspects of filing her closing argument document, which delayed her filing. Student denied refuting Alhambra's arguments by referencing its closing brief in Student's closing arguments. Alhambra's motion to strike Student's

closing argument, included an email from Parent asserting her difficulties with the technical aspects of uploading her closing argument. No refutation of Parent's assertion regarding the technical difficulties was offered by Alhambra.

Alhambra offered no examples of arguments it made in closing that Student specifically quoted to refute, or even mentioned its closing brief. Nor did Alhambra offer any examples of how allowing the late brief impacted the integrity of the process. Alhambra's objection to the consideration of Parent's closing argument identified no prejudice resulting solely from the late filing of the brief. The general rule in both federal and state forums is that purely technical violations of procedures, resulting in no prejudice, are not grounds for relief. (See, 34 C.F.R. § 300.513(a)(2).) Conversely, both Alhambra and Parent informed OAH that Parent had technical difficulties creating and uploading her closing argument. Parent struggled, at times, to manage the technology during the hearing. Parent was not as familiar with the process as other participants. Parent's brief will be considered, subject to limitations.

Parent was offered several opportunities to testify and call witnesses. Parent declined both methods of presenting evidence. Therefore, any statements of fact included in Parent's closing argument, that were not offered under oath and subject to cross-examination, will be disregarded. Any statements attributed to anyone who did not testify, or that were not offered under oath and subject to cross-examination will be disregarded. Any references to documents that were excluded from evidence, will be disregarded. Nor will opinions from Parent, or others, that were not presented during the hearing and subject to cross-examination, be considered. Finally, uncorroborated

hearsay cannot form the basis for a finding of fact in a special education case. Findings of fact in a special education hearing may not be based solely on hearsay evidence. (Cal. Code Regs., tit. 5, § 3082 subd. (b).)

One example of this, but not the only example in the documents admitted, is Student's exhibit 36. Student's exhibit 36 is a series of emails between Parent and assessors that includes long narratives from Parent regarding her observations of, and opinions about, Student; as well as quotations from unidentified sources and opinions about what they mean. Parent chose not to testify. Therefore, Parent did not corroborate the statements made in this exhibit, or give Alhambra the opportunity to question Parent about the statements or quotes.

After eliminating content in the described categories, Parent's closing argument will be considered, as no prejudice was established to Alhambra for the late filing.

The undersigned will not consider Parent's opinions regarding evidence, or any assertions of additional facts neither testified to, nor subject to cross examination, in Student's May 20, 2024 response to Alhambra's motion to strike. Instead of opposing the motion to strike, Parent submitted a series of statements justifying the comments she made in Student's closing argument, and adding additional facts not in evidence. As stated previously, Parent was given multiple opportunities to testify and call witnesses which she declined.

(This space is intentionally left blank. Text continues on the following page.)

## ISSUES

Despite Alhambra's recitation of different forms of the issues in their closing brief, the following issues for hearing were specified in the Prehearing Conference Order, and confirmed at the beginning of the hearing. These are the issues raised at this hearing:

1. Was Alhambra's speech and language assessment of May 8, 2023, legally compliant, so that Alhambra need not fund an independent educational assessment at district expense?
2. Was Alhambra's occupational therapy assessment of April 26, 2023, legally compliant, so that Alhambra need not fund an independent educational assessment at district expense?
3. Was Alhambra's functional behavior assessment of May 8, 2023, legally complaint, so that Alhambra need not fund an independent educational assessment at district expense?

(This space is intentionally left blank. Text continues on the following page.)

## 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; 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. The party requesting the hearing also 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).) Here, Alhambra had the

burden of proving that the assessments it conducted met legal requirements. 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).)

At the time of the hearing, Student was 10 years old and in fourth grade. Student resided within the Alhambra's geographic boundaries at all relevant times. The assessments at issue were conducted when Student was in the third grade, and were part of the process of determining special education eligibility. Student was not found to be eligible for special education services.

#### ISSUE 1: WAS ALHAMBRA'S SPEECH AND LANGUAGE ASSESSMENT OF MAY 8, 2023, LEGALLY COMPLIANT, SO THAT ALHAMBRA NEED NOT FUND AN INDEPENDENT EDUCATIONAL ASSESSMENT AT DISTRICT EXPENSE?

Alhambra Unified School District filed this case to ask OAH to determine whether the assessments it conducted met legal standards. The case was filed after Alhambra denied Parent's request for independent educational assessments. Alhambra asserts that its speech and language, occupational therapy and functional behavior assessments were legally compliant; thus, it should not be required to provide independent assessments at public expense. Parent's criticisms regarding the validity of Alhambra's assessments are unclear, as Parent did not testify, or call witnesses during the hearing on this matter.

## REQUEST FOR INDEPENDENT EDUCATIONAL EVALUATIONS

A parent may request an independent educational assessment if the parent disagrees with the results of the district's assessment. (34 C.F.R. § 300.502; Ed Code 56329, subd. (a)(3).) A district that refuses to provide an independent educational assessment must promptly request a due process hearing to determine whether or not their assessment met legal standards. (34 C.F.R. § 300.502(b)(2)(i).) Parent requested independent educational evaluations in the areas of speech and language, occupational therapy and functional behavior, on November 9, 2023. Following its refusal of Parent's requested independent assessments, Alhambra filed this request for due process on January 29, 2024.

## ASSESSMENT PLAN

Prior to conducting an assessment, Alhambra was required to obtain parental consent. The consent was required to include Parental notice of the types of assessments to be conducted, and notice of Parent's procedural rights, as required by the IDEA and California special education laws. (20 U.S.C. § 1414(b)(1); 20 U.S.C. § 1415(b)(3) & (c)(1); Ed. Code, §§ 56321, subd. (a), 56381, subd. (a).) (20 U.S.C. §§ 1414(b)(1), 1415(c)(1); Ed. Code, § 56321, subd. (a).) The assessment plan must be in a language easily understood by the public, and in the native language of the student. The assessment plan must explain that the district will not implement an individualized educational program, or IEP, without the consent of the parent. (Ed. Code, § 56321, subd. (b)(1)-(4).)

Alhambra emailed an assessment plan to Parent on November 23, 2022, seeking consent for Parent's requested assessments including the speech and language, occupational therapy, and functional behavior assessments at issue in this case. The



email included the assessment plan and a notice of Parent's procedural rights in English, the language fluently spoken by Parent throughout the hearing. The assessment plan stated that no educational placement or services would result from the assessment without the consent of the parent. The assessment plan complied with the applicable statutes and met all notice requirements. Parent returned the signed consent to the assessment plan to Alhambra on March 13, 2023.

## ASSESSMENT TECHNICAL REQUIREMENTS

Legally compliant assessments must be conducted by qualified assessors. (20 U.S.C. §1414(b)(3)(A)(iv).) Student's speech and language assessment was conducted by Mae Nye. Nye has been employed by the Alhambra school district since the fall of 2018, and has been employed as a speech pathologist for a total of 12 years. Nye is licensed by the state of California as a speech pathologist and holds a California speech pathology credential. Nye is trained and experienced in the administration of the standardized tests she used to evaluate Student. Her experience and educational background, as well as her clear explanations of how the assessment was conducted, including her observations, and conclusions, established that she was qualified to conduct the speech and language assessment.

The assigned assessor is required to select valid, reliable assessment instruments, and other means of evaluation, that avoid discrimination on the basis of sex, race, or culture. Standardized testing must be administered in conformance with the instructions provided by the producers of the tests. Standardized tests must be used for the purposes for which they are valid and reliable; and be administered in the language and form most likely to

yield accurate information on the student's functioning. (20 U.S.C. §1414(b)(3)(A); 34 C.F.R. § 300.304 (c)(1); Ed. Code § 56320, subds. (a) & (b).) (20 U.S.C. § 1414 (b)(3)(A); Ed. Code § 56320, subd. (a) and (b)(3).)

Assessors are required to use a variety of technically sound assessment tools and strategies to gather relevant information, including information provided by a parent, to assist in determining whether the child has a disability. If the child has a disability, the assessment must determine the relative contribution of cognitive and behavioral factors, in addition to physical and developmental factors. (20 U.S.C. § 1414 (b)(2)(A); Ed. Code § 56320, subd. (b).) In preparation for assessments assessors must review Student's educational records and prior assessment history, if appropriate. (20 U.S.C. § 1414(c).)

In preparation for the assessment, Nye reviewed prior speech assessments administered when Student was three years old. Student was assessed twice previously for speech deficits: once in April of 2017, just after he turned three; and once in January of 2018, just before he turned four. Both assessments found Student had average expressive and receptive language capabilities and age appropriate pragmatic language abilities.

Nye interviewed both Parent, and Student's third grade teacher, Kelly Fukushima, regarding their experiences with Student. Fukushima had no concerns about Student's speech abilities at school either during class or during unstructured times. Fukushima considered Student's communication abilities to be age appropriate. Fukushima did not see any speech or communication deficit that interfered with Student's ability to access his education, or interact with peers or adults while at school. Parent expressed concern

that Student did not ask for what he needed, speak up when something was bothering him, or report difficulties he had with peers. Parent also expressed concern about Student's articulation.

Nye assessed Student for articulation deficits; receptive language, referring to Student's ability to understand when others speak to him; expressive language, referring to Student's ability to communicate with others; and pragmatic or social language, which is using speech to communicate with different groups, such as friends and teachers. Nye found Student to have average, age appropriate speech and language abilities in all areas in his educational environment.

## ARTICULATION AND VOICE

Nye concluded Student's articulation was average, with no concerns. Fukushima informed Nye that she had no difficulty understanding Student's speech, and had never observed his peers having difficulty understanding him. Nye's observations of Student in the classroom, and on the playground, revealed no articulation concerns. Nor did Nye observe articulation errors when Student was participating in her other assessments. These impressions were confirmed by the average scores on the Goldman Fristoe 3, Test of Articulation. Student made no articulation errors on that assessment.

Nye listened to Student's voice during all testing and observations. She determined that Student used the degree of pitch, volume, and quality appropriate to a student in Student's age range. No stuttering was observed. Nye concluded Student's voice and speech fluency were within expected limits.

## EXPRESSIVE AND RECEPTIVE LANGUAGE

Nye described receptive language as the understanding and comprehension of words, sentences and information presented. Expressive language is the ability to use words to communicate.

Nye observed Student in class and at recess, as well as during testing. Nye had no concerns regarding Student's ability to communicate effectively with either adults or peers. Nye had no difficulty communicating with Student. He demonstrated understanding of the information in spoken communications from others by his appropriate responses in different contexts.

Fukushima informed Nye that Student was an active participant in her class. Fukushima could understand Student's communication, as could his peers. Student communicated effectively in and outside the classroom.

Nye's observations aligned with Fukushima's description of Student's communication capabilities. Nye observed Student in Fukushima's class while engaged in a group project. The small group, of three to four students, was preparing a PowerPoint presentation on an endangered species. Student was adding to the PowerPoint slides and productively interacting with peers. He was also enjoying the collaborative process. He and a fellow student found a typographical error funny, and they laughed together. After the short interlude, Student returned to his work. Nye observed Student communicating effectively and typically, compared to his peers. He was able to work in the group and maintain attention on his school work. Fukushima roamed the classroom during the joint project. When she stopped at his table, Student showed her the PowerPoint and asked her a question.

Standardized testing confirmed the teacher and the assessor observations of Student's communication abilities at school. Student scored in the average range of expressive and receptive language on both the Comprehensive Assessment of Spoken Language, Second Edition, and the Oral and Written Language Scales, Second Edition.

The Oral Language composite score, on the Oral and Written Language Scales, is a composite of listening comprehension and oral expression abilities. The listening comprehension scales demonstrated Student had average comprehension of parts of speech in both simple and complex sentences. Student also demonstrated the ability to understand figurative language, ambiguous language and to make inferences from context. Student also understood complex speech functions such as correlative and subordinating conjunctions, and temporal markers. The oral expression scales demonstrated Student's abilities to use parts of speech correctly, as well as age appropriate inferencing, figurative language, and complex sentences.

The Comprehensive Assessment of Spoken Language demonstrated Student had age-appropriate, average abilities to understand specific features of a word's meanings. This language assessment also demonstrated age appropriate, average abilities in oral expression, vocabulary, grammar, and non-literal language.

## PRAGMATIC SPEECH

Nye described pragmatic speech as "how we use speech socially." Nye assessed Student in this area based on observations, interviews of Parent and Fukushima, and rating scales completed by Parent and Fukushima.

On the Clinical Evaluation of Language Fundamentals Pragmatics Profile, Parent rated Student as having below average abilities in the areas of verbal and nonverbal pragmatic skills. This rating scale evaluates the perceptions of a teacher and a caregiver as to Student's social and academic communication. When Nye discussed the ratings with Parent, Parent disclosed to Nye that her ratings on the Pragmatics Profile might not have been accurate, because Parent did not understand all of the statements and how to rate them.

Fukushima rated Student in the average range for social and academic communication. Given the disparity between Parent and teacher's ratings, and the uncertainty of Parent regarding her responses, Nye considered the areas where both raters reported similar ratings. Both Parent and teacher identified strengths in the areas of making and responding to verbal and non-verbal greetings; beginning and ending conversations, as well as making relevant contributions, joining or leaving ongoing conversations, and understanding jokes and stories. Parent and teacher also agreed Student had strengths in taking turns in class or social interactions; agreeing and disagreeing; offering and responding to expressions of affection; and understanding both posted and implied school rules. Both Parent and teacher expressed concern about Student's ability to ask others to change their "actions or states." Fukushima said Student could do this "sometimes." As to all other areas, Parent expressed concerns regarding Student's communication, where Fukushima rated student as having strengths in all communication areas.

In addition to her observation of Student in the classroom, described previously, Nye observed Student during recess. Nye saw typical interactions with peers which included lots of running and laughing. Student talked with students in multiple groups and had no difficulties leaving one group and joining another. Nye did not observe Student having difficulties with any peers.

Nye noted that Student would arrive for testing sessions without problems. Student greeted her appropriately. Nye noted Student was more fidgety than a typical student in his age range. However, he still attended to the tasks. He commented a few times about his disappointment in missing class activities due to the testing. When the comments interrupted the testing, Student complied with Nye's redirection. Overall, Nye concluded that Student's speech and language abilities were "mostly strengths that would be an asset to him in accessing his education." She found no areas of concern.

Assessors are prohibited from relying on a single measure or assessment as the sole basis for determining whether a child is eligible for special education, or the appropriate content of an eligible student's IEP. (20 U.S.C. § 1414 (b)(2)(A); 34 C.F.R. § 300.304(b)(2); Ed Code. § 56320, subd. (e).) An assessment tool must "provide relevant information that directly assists persons in determining the educational needs of the child." (34 C.F.R. § 300.304(c)(7).) The assessment must be sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified. (34 C.F.R. 300.304(c)(6).) Nye used multiple assessments to assess the full range of Student's speech and communication abilities. The evidence established that Nye met all legal requirements in assessing Student's speech and language.

## ASSESSMENT REPORT

Following completion of the assessment, a written report must be prepared that explains whether a Student requires services, the basis for that opinion, Student's behavior observed during the assessment process, and the relationship of that behavior to Student's social and academic functioning. (Ed. Code, § 56327.) The report must be provided to the parent at the IEP team meeting regarding the assessment. (Ed. Code, § 56329, subd. (a)(3).)

Nye prepared a report that described her observations, the outcome of her assessments, and her interviews with Parent and teacher. The report informed the IEP team that Student's speech and communication abilities were all in the average range and typical for his age. It provided detailed information as to Student's performance on the individual subtests that comprised the standardized testing results. The report described Nye's discussions with Parent and Fukushima, as well as Nye's own observations of Student in the class, on the playground, and during testing. The report explained the basis for Nye's conclusion that she did not find any speech or communication areas of concern that required special education services. A copy was provided to Parent and discussed at the IEP team meeting that took place on May 15, 2023. The report met all legal requirements.

Parent offered no persuasive evidence establishing that any aspect of the speech and language assessment failed to meet legal standards. In her written closing, argument, Parent referenced a report by a Dr. Farencz. Although originally on the witness list, Parent chose not to call Dr. Farencz to testify. Dr. Farencz' report was excluded from evidence because it was unauthenticated, uncorroborated, and Alhambra had no opportunity to cross examine on its content. In closing Parent also offered her



own opinion that the speech and language report failed to meet standards because Nye failed to assess Student's reading and writing. When questioned about this during the hearing, Nye explained that her assessment did not include evaluation of Student's reading and writing capabilities as those were assessed by Parent's independent psycho-educational assessment which Alhambra provided. Nye stated that reading and writing capability were not assessed by a speech pathologist. Parent's opinion was not offered under oath or subject to cross examination, is not persuasive, and therefore will not be considered.

Parent offered no expert or other testimony challenging the sufficiency or legal compliance of Alhambra's speech and language assessments. Alhambra met its burden of proving that the speech and language assessment was legally compliant.

## ISSUE 2: WAS ALHAMBRA'S OCCUPATIONAL THERAPY ASSESSMENT OF APRIL 26, 2023, LEGALLY COMPLIANT, SO THAT ALHAMBRA NEED NOT FUND AN INDEPENDENT EDUCATIONAL ASSESSMENT AT DISTRICT EXPENSE?

Danielle Callahan met the requirements prescribed by the IDEA, to conduct Student's occupational therapy assessment. (20 U.S.C. §1414(b)(3)(A)(iv).) Callahan is a California state licensed occupational therapist. Callahan's explanations of the assessment processes were impressive in their detail. She was able to present complex information in a way that could be easily understood by someone who is not an occupational therapist. Her experience and educational background, as well as her clear explanations of the assessment conducted, her observations and conclusions, established that she was qualified to conduct the occupational therapy assessment.

## ASSESSMENT PURPOSE

Callahan assessed Student to evaluate whether he demonstrated any occupational therapy needs. The assessment consisted of interviews of Parent and teacher; review of Student work samples; observations of Student; and standardized testing. Student had never previously been assessed for occupational therapy needs.

Callahan defined Student's occupation as "student" and explained that the occupation does not exist in a vacuum. Rather, it includes his ability to interact with fellow students, his teachers, and his opportunities to express his interests. Callahan's assessment included evaluation of Student's hand grasp, hand dominance, fine motor skills, and his tolerance for the sensory environment in the classroom and around the school.

In preparation for the assessment, Callahan reviewed Student's educational records and interviewed both Parent and Fukushima to determine their concerns regarding Student's occupational therapy needs. Fukushima had concerns regarding Student's motivation to complete non-preferred tasks, which she saw as improving. She also expressed concern about Student's inconsistent attention. Parent's concerns were Student's hand strength; writing performance; balance and coordination; and body awareness.

## MOTOR PLANNING AND PHYSICAL ACTIVITY PERFORMANCE

Callahan evaluated Student's ability to engage in the many types of movement required of a student on a daily basis. These included: sitting for extended periods of time to engage in a lesson; bending down to retrieve items that were dropped;

navigating around fellow students when moving about the classroom, and through the halls to other classes; and playing on the playground. Callahan observed Student on the playground, in the lunchroom and in class, as well as during the assessment process.

Student demonstrated adequate motor planning skills to allow him to navigate independently around the school campus and complete necessary tasks. These abilities are known as praxis and involve the ability to generate an idea, plan a motor sequence and carry out an unfamiliar motor task. These basic functions are necessary to learn new skills.

Callahan observed and tested Student's abilities to navigate the classroom, lunchroom and playground. She determined Student was able to participate in all activities in the school setting. Student used a wobble stool in class. He was observed to lean over from the wobble stool and pick up a dropped pencil without holding onto anything, a feat Callahan found demonstrated impressive balance and core strength. Student was observed to be able to remain seated in the wobble stool for an hour without slumping or leaning on his hands. Callahan observed Student complete a 30 minute, in-class writing task using the wobble stool.

Parent had expressed concerns about Student's abilities to open ziplock bags and water bottles. However, during testing, Student was able to successfully open a ziplock bag and a water bottle, completing these tasks without difficulty.

Parent also reported that Student occasionally fell. Callahan did not observe Student falling. Fukushima reported that Student participated in all class activities, both in and outside the classroom. Callahan observed no difficulties during recess. Callahan observed Student running, and using the swings and slide without struggles. She also

watched Student successfully climb up and down the steps of a play structure, climb a rock wall, and ascend ladders without help, using reciprocal movements. When transitioning between class and other areas of the school, Student could climb up and down stairs, and navigate a crowded room or hallway without bumping into things. He had no difficulty with falling, or maintaining balance when he encountered changes in surfaces among the classroom, lunchroom, hallways, and various areas of the playground. Generally, Callahan determined Student's movement abilities to be within the average range for his age.

## VISUAL AND AUDITORY PERCEPTION

Callahan described visual perception as the effectiveness of the brain's ability to interpret what Student is seeing, and Student's ability to translate that into actions necessary to support his education. Visual perception translates what the brain understands into what the body does. Visual perception is not visual acuity, which is measured by eye tests. Auditory Perception measures the brain's responses to things heard. Auditory Perception does not measure auditory acuity which is measured by hearing tests.

Observations and testing revealed that Student had no difficulties using a pencil, or opening his backpack, a pencil box, or food containers for eating. He demonstrated an age appropriate ability to use utensils to eat. Student also demonstrated that he could cut on a line, follow a maze, adequately orient puzzle pieces, and write between lines with age appropriate skill.

Callahan administered the Beery-Buktenica Developmental Test of Visual Motor Integration, Sixth Edition, to measure Student's fine motor skills and visual perception for fine motor output. Callahan administered three subtests of the Visual Motor Integration test, the second two of which were timed.

Student demonstrated skills in the average range for a boy his age on the untimed Beery Visual Motor Integration test. He was able to reproduce simple and complex lines and shapes. On the timed Visual Perception test, Student was able to copy shapes composed of simple and multiple parts with accurate representations of shape and orientation. This testing instrument indicated tasks involving visual perception were a relative strength of Student's. The timed Beery Motor Coordination test demonstrated Student's age appropriate ability to connect dots to complete simple and complex formations while remaining within a 1/2 inch boundary. The testing confirmed that Student had fine motor, and visual perceptual skill development consistent with his age, and adequate to meet the demands of his education.

Based on her review of the testing protocols, Parent questioned Student's inability to complete the Visual Perception subtest within the time allowed. Callahan explained that testing protocols required that she have Student stop when time ran out. She also stated that the test was devised to assess a range of capabilities, and "just kept going" until Student ran out of time, completed all tasks, or was unable to proceed. Despite not completing all available tasks, Student scored above average on this subtest.

Callahan also administered the Bruiniks-Oseretsky Test of Motor Proficiency, Second Edition. This motor proficiency test measures hand function. Callahan administered three subtests. The fine motor precision subtest demonstrated Student's

skills in precise manipulative movements of fingers or tools. Student must draw, fold, or cut within a specified boundary. Cutting small circles is an example of a task on this evaluation. The fine motor integration subtest required Student to demonstrate the ability to reproduce drawings of different, increasingly complex, geometric shapes. Student scored in the average range on both of these subtests. The outcomes on this test corroborated the Beery testing scores and showed sufficient hand function and brain interpretation to conduct the fine motor tasks expected of students at his age level.

Due to Parent's particular concern with Student's writing ability, Callahan also administered the Manual Dexterity subtest to expand the evaluation of Student's fine motor control. This subtest is a hands-on, play based test that examines Student's abilities to use his hands together, as well as his ability to grasp, draw, or cut small things. Callahan opined that Student's score on the Manual Dexterity subtest demonstrated that he could perform activities involving small objects with accuracy and relatively fluid movements, although not quickly. He performed within the average range for boys of his age.

To supplement her observations and standardized testing regarding Student's sensory perception, Callahan asked Parent and Fukushima to complete the Sensory Profile, second edition. These rating scales asked the raters' judgments as to the frequency Student engages in behaviors; and checks for deficits across settings. Raters were asked to provide ratings as to various observed Student reactions. Raters decided if Student behaviors occurred:

- "almost always" or about 90 percent of the time or more;
- "frequently" or about 75 percent of the time;

- “half the time” or 50 percent of the time;
- “occasionally” or 25 percent of the time;
- “almost never” which is 10 percent or less of the time; or
- “does not apply” if they have not observed the behavior.

These ratings are intended to measure Student’s ability to tolerate, or aversions, to, sensory input. Comparative ratings result from the comparison of Student’s score to the scores of same age peers. Those are expressed as:

- Much more than others;
- More than others;
- Just like the majority of others;
- Less than the majority of others; and
- Much less than the majority of others

The Caregiver Questionnaire of the Sensory Profile, Second Edition, rates Parent’s judgements as to Student’s behaviors outside school. On the Caregiver Questionnaire, Parent rated Student’s response to sensory input to be “just like the majority of others” in most areas, including, response to sounds; visual input; tactile input; oral input; movement, also called “vestibular” input; and changes in joint or muscle position, also called, “proprioceptive” input. Parent also rated Student as “just like the majority of others” regarding whether he seeks, or notices, sensory input. Parent also rated Student’s attention as being “just like the majority of others.”

Parent’s ratings demonstrated that she saw Student moving away or missing sensory input “more than others.” In behavioral areas, Parent saw Student as rushing through tasks “more than others” and as having strong emotional outbursts when unable to complete tasks “much more than others.”

Callahan evaluated Parent's higher than typical ratings of Student as reflecting possible social emotional or behavioral bases. Callahan explained that the individual items rated as higher than the majority indicated sensations were not triggering Student's reactions. Rather, some Parent responses suggested Student had reactions associated with feelings rather than sensory deficits. For instance, Parent reported Student "almost always" had feelings of failure, difficulty tolerating excessive workload, and feelings of self-doubt. Callahan looked at whether sensory areas were triggering the social emotional responses. In this case, none were demonstrated by Student, indicating this was not a sensory issue. In such instances, a psychological or behavioral basis might be present. However, Callahan explained that such determinations exceeded the scope of her practice.

Fukushima completed the School Companion Questionnaire of the Sensory Profile, Second Edition. This profile asks for the rater's judgments of Student's behaviors in the classroom and school environments. In addition to the areas rated by Parent, Fukushima's ratings included four School Factors:

1. Student's need for external supports to participate in learning;
2. Student awareness and attention within the learning environment;
3. Student's range of tolerance to sensory input within the learning environment; and
4. Student's availability for learning within the learning environment.



On the School Companion Questionnaire, Fukushima's ratings determined Student to be "just like the majority of others" in all areas. The only behaviors Fukushima observed to occur occasionally were Student's tendencies to get too close to others when talking, and to want to wipe his hands quickly during messy tasks. These areas were not concerns and did not impact Student's ability to access his education.

Callahan found that Student demonstrated tactile processing average for his age. He showed adequate tolerance for sensations on his skin when asked to play with "moon sand," thera-putty, shaving cream and cotton balls. He tolerated gluing and painting activities when participating in craft lessons.

Callahan also determined that Student had adequate tolerance for movement-based activities on the playground. He had no difficulties swinging on swings; sliding down a slide; running; or rolling in a prone position on the scooter board. He was able to transition between activities without protest or becoming upset.

Fukushima observed no areas of concern, but did note Student played or "fiddled" with items about half the time and could be fidgety while waiting in lines occasionally. Neither of these interfered with Student's ability to access his education.

Student also demonstrated adequate response to visual stimuli. His eyes worked in unison per observation, and he could focus on objects up to five feet away. His peripheral vision appeared intact when he was asked to locate items in different areas of the room. Student tolerated changes in light levels without difficulty. Fukushima saw no differences between Student and his peers in these areas.

Student also showed adequate tolerance for audio input. The school bell didn't startle him, and he was not bothered by noisy environments. He responded when his name was called and followed instructions both in the classroom and during testing. During testing tasks, Student was not distracted by the sounds of other students, the playground, or passing cars. Fukushima had no concerns regarding Student's tolerance for audio input, and reported his behaviors to be like the majority of his peers.

## WRITING ABILITIES

Mother expressed considerable concern about what she perceived as messy handwriting by Student. Fukushima also said that Student sometimes turned in less than acceptable handwriting. However, Callahan observed one instance in class when Student submitted substandard work and corrected it when asked by Fukushima to do so. She also observed Student self-correcting work. Student is able to write neatly.

Student's writing ability was determined to be average for his age, following administration of the Evaluation Tool of Children's Handwriting. Student demonstrated the ability to write legibly with few errors. Student's work samples and assessment showed that Student could use appropriate spacing to write letters and numbers. He was able to copy sentences at both close range and from five feet away. He was able to accurately write down information dictated to him. Student cleverly, and appropriately, used nonsense words in one writing task. Callahan found that Student was able to maintain the quality of his writing without the use of any samples. Callahan believed the few errors Student did make were the result of rushing a bit, and not the result of any fine motor or sensory difficulty with writing.

Callahan also evaluated Student's proprioceptive processing. This aspect of sensory processing relates to the use of muscles and joints to regulate body positioning and strength. Mother expressed concerns that Student's writing was too light. Callahan found Student to apply appropriate pressure to his pencil and, although a little light, all marks could be seen. Callahan acknowledged that, although the copies of some assessment protocols show some lighter writing, the photocopying and scanning did not accurately represent the quality of Student's writing. All of Student's writing was legible. Overall, Callahan found Student's writing scores to be high and solid. She concluded Student knows how to write legibly when motivated.

Parent offered her own opinions about the inadequacies of Callahan's assessment in closing; however, those were not offered during hearing or subject to cross examination. They will not be considered. Parent did not establish that she had the expertise to critique Callahan's assessment, and offered no expert testimony establishing that Callahan's assessment failed to meet required legal standards.

## ASSESSMENT TECHNICAL REQUIREMENTS AND REPORT

The evidence established that Callahan selected a variety of valid, reliable assessment instruments and approaches for evaluating whether Student had occupational therapy needs. Callahan interviewed Parent and asked Parent to complete rating scales to contribute to the occupational therapy assessment. Callahan was trained and experienced in evaluating occupational therapy needs and in the use of the standardized testing instruments chosen. The standardized tests were administered according to instructions by the producers of the tests. Student was assessed in English which was his primary language, and language of instruction. The occupational therapy assessment complied with all of the technical requirements

for administering the testing mandated by state and federal law. (20 U.S.C. §1414(b)(2)(A) and (3)(A); 34 C.F.R. § 300.304 (c)(1); Ed. Code § 56320, subds. (a) & (b).) (20 U.S.C. § 1414 (b)(3)(A); Ed. Code § 56320, subd. (a) and (b)(3).)

Callahan prepared a written report that explained the outcomes of the standardized testing, and described her observations of Student while evaluating his physical capabilities. The report explained her views regarding Student's capabilities. The report was presented at an IEP team meeting on May 15, 2023. Parent participated in the IEP team meeting along with the other members of the team noted in the IEP document. Callahan answered all of Parent's questions about the report at the IEP team meeting. The report met all statutory requirements. (34 C.F.R. § 300.306(a)(2); Ed. Code, § 56327 and § 56329, subd. (a)(3).) Student offered no persuasive evidence challenging the legal sufficiency of the testing or of the report. Alhambra's occupational therapy assessment was legally compliant.

**ISSUE 3: WAS ALHAMBRA'S FUNCTIONAL BEHAVIOR ASSESSMENT OF MAY 8, 2023, LEGALLY COMPLIANT, SO THAT ALHAMBRA NEED NOT FUND AN INDEPENDENT EDUCATIONAL ASSESSMENT AT DISTRICT EXPENSE?**

Jesse Santana, Psy.D., BCBA, conducted a functional behavior assessment of Student in April and May of 2023. The evaluation resulted in a written assessment report dated May 8, 2023. The assessment was conducted in response to Parent's concerns regarding Student's lack of attention and copying other's work in class.

In preparation for conducting the functional behavior assessment, Dr. Santana reviewed Student records, including prior assessments to reveal any information in the assessments that might provide insight into behavioral concerns related to Student. Student had not participated in any prior functional behavior assessments. Dr. Santana reviewed iReady test scores to gain a sense of Student's current academic performance.

## PARENT, STUDENT AND TEACHER INTERVIEWS

### PARENT INTERVIEW

Dr. Santana interviewed Parent to more fully understand her concerns regarding Student's behavior. Parent described Student as triggered by many different things at home, "including schoolwork, when he doesn't understand things, and when he doesn't get his way." Parent also described Student as saying concerning things about himself when he is mad or sad, including, for example, he hates himself, doesn't love himself and can't stop his tic. Sometimes, in frustration Student crumpled up his homework papers or didn't finish his homework appropriately. He sometimes had trouble sleeping.

Parent reported concerns that, at school, Student

- cursed and made inappropriate noises or gestures;
- copied his peers' work;
- destroyed property;
- engaged in inappropriate peer interactions;
- made inappropriate statements about himself;

- had difficulty following routines; and
- had difficulties overall with independence.

Parent believed Student was not learning to his full capacity at school. Parent reported diagnoses of

- attention deficit disorder,
- oppositional defiant disorder,
- bilateral myopia,
- anxiety,
- depression, and
- asthma.

Student got enjoyment from playing video games and was rewarded with time to play video games.

## STUDENT INTERVIEW

Dr. Santana's interview of Student revealed that Student's favorite adult at school was his teacher, Ms. Fukushima. He listed four best friends but described one in particular as the one who likes him best. Twice he mentioned that he would most like his parents to know when he was doing well in school. Student also said he would do anything to avoid having his mom, dad, or friends, be hurt. Student's favorite free time activity in class was silent reading but he enjoyed recess, and, if he had a choice, school would have a bit longer recesses so he could spend more time with his friends. He described himself as kind, positive and capable; and told Dr. Santana he believed his very best friend liked him because of these attributes.

Student said he hadn't run into problems at school that made him mad. He also said nothing at home made him mad but then paused, and told Dr. Santana that his parents could be mean sometimes when he was working on his homework, and he couldn't understand why. He described being most upset at home when his parents interrupted him when he was trying to do his homework. Student told Dr. Santana that he often did not understand what his parents were asking of him in relation to his homework and he became so frustrated that he crumbled his work and did not want to finish it.

## TEACHER INTERVIEW

Dr. Santana used a modified version of the FAIR-T which is an interview form used to collect information from teachers. While the T stands for teacher, the other part of the acronym was not defined. Dr. Santana found the whole form to be unnecessarily burdensome to teachers, so he modified it to elicit the information he needed. He then supplemented the information by speaking to the teacher. Use of the full FAIR-T form is not required to conduct a reliable functional behavior assessment.

Fukushima provided responses to the FAIR-T electronically, and then spoke with Dr. Santana. Fukushima described Student as very polite and friendly. He enjoyed sharing stories, especially about his favorite video games. She described him as occasionally having difficulty staying focused on assignments. Fukushima informed Dr. Santana she did not have concerns about Student's behaviors impacting his ability to access his education. She said he had mild off-task behaviors.

## FORMAT OF FUNCTIONAL BEHAVIOR ASSESSMENT

Unlike speech or occupational therapy assessments, functional behavior assessments do not involve standardized testing. Instead, the assessment is based on the development of definitions of behaviors of concern, followed by observations that track and evaluate those behaviors in the school setting. Dr. Santana explained that, in a school-based functional behavior assessment, behaviors of concern are identified following interviews with parents and teachers. Those interviews allow him to identify behaviors of concern that may be impacting Student's ability to access his education or impeding the education of others.

In this instance, Fukushima identified off-task behavior to be the only behavior of concern in the school environment. Fukushima had never observed Student engage in any of the behaviors Parent identified at school, except being occasionally off task, and copying peers' work.

Dr. Santana defined off-task behavior in two different ways:

1. Off-task during writing; and,
2. Off-task when working in a group, which might also include chatting at inappropriate times, or copying another's work.

Although Fukushima had never observed the behaviors Parent expressed concern about at school, Dr. Santana still added them to a list of behaviors to watch for during his observations. Those behaviors were:

1. Tic;
2. Cursing;
3. Inappropriate noises;



4. Inappropriate gestures;
5. Property destruction;
6. Inappropriate peer interactions,
7. Inappropriate comments about self;
8. Difficulty following routines; and,
9. Difficulties with overall independence.

Dr. Santana intended to develop operational definitions of these additional behaviors if they were identified in the school setting as interfering with Student's ability to access his education.

Dr. Santana had Fukushima complete the Functional Assessment Screening Tool and the Questions About Behavioral Function. Both of these are rating tools to help identify factors that may influence the occurrence of problem behaviors. They are used to help identify possible functions of behavior, or said another way, to identify why Student might be engaging in a behavior. These tools screen for categories that indicate whether a student might be engaging in behaviors to seek attention, to access items or activities, to escape non-preferred activities, for self-stimulation, or for distraction in the form of physical discomfort such as self-harming.

Fukushima's ratings of Student resulted in similar scores across both tools. These ratings tools indicated that Student's off-task behavior might serve the function of "escape", that is, Student might disengage from work to give himself a break. The ratings did not support the theory that Student engaged in off-task behaviors to seek attention, access items or activities, engage in self-stimulation, or engage in physical discomfort, such as self-harming.

Dr. Santana conducted four observations of Student. His intention was to track the antecedents, behaviors, and consequences of the defined problem behaviors in the school setting. If identified during observations, the behavior analyst then tracks what prompted the behavior, the antecedent; as well as the consequence of the behavior, which helps the behavior analyst understand why the student chose the behavior in question. The behaviorist also examines the particular school environments where the behaviors occur to determine whether there is an environmental impediment or trigger that contributes to the behaviors of concerns.

The observations were conducted on different dates, at different times and in different environments. Dr. Santana ended his observations with his interview of Student.

On April 4, 2023, Dr. Santana observed Student in his music class from 11:45 a.m. to 12:45 p.m. The class engaged in four different singing and dancing activities in both a large group, and with partners, so music books could be shared. Dr. Santana observed Student engage in age-appropriate, cooperative conduct during the class. Student listened to, and followed instructions without the need to ask for repetition, and without the need for redirection. He shared music with a randomly assigned partner without difficulty. During transitions between assignments, he chatted appropriately with his peers and then refocused, without any need for redirection, when the class was called to begin a new song. He consistently participated in both singing and dancing, following directions without question.

Dr. Santana did note the presence of involuntary facial tics identified by Parent. However, Santana described them as subtle, and low intensity, requiring someone to be looking for them in order for them to be noticeable. Dr. Santana did not observe Student paying attention to the tics in any way. Nor was Student's ability to participate in the class impeded by the tics.

On April 6, 2023, Dr. Santana observed Student in his Homeroom class from 1:10 p.m. to 2:10 p.m. During this time, the class engaged in silent reading, a group lesson allowing interaction among the students, classroom clean-up, and story time. Student complied with all directives and was not observed to require repetition of instruction or redirection to address off-task or any other behaviors. While working in the group, he appropriately spoke with other students, but was able to attend to his work. No copying of peers' work was observed. Student complied with the direction to return to his desk, put away his work and clean up the class. He engaged in the class clean-up routine independently, without further direction from the teacher. Student was not disruptive of story time. When the story was complete, Student followed directions to prepare to go home. He saw another student remain on the story time rug, and went to the student to ask if he needed help, at which time they both returned to their desks in preparation for leaving for the day.

Student was observed on April 14, 2023, during a rainy day morning recess, and homeroom. During the indoor recess, Student chose to chat with friends instead of watch a movie being offered during the recess period. Dr. Santana observed typical peer interactions for a nine-year-old boy. He was seen to talk, laugh and smile. Student cooperatively complied with transition instructions to line up and go back to the classroom.

Once inside the class, Student settled at his desk along with all of the others, and listened to the story Fukushima read, attentively and without disruption. Student patiently waited while materials were passed out, listened to Fukushima's instructions for completing the assignment and began. He did not ask questions about the instructions. Nor did he require repetition or redirection as he worked on the assignment. He worked independently, and was not observed to copy work from a peer. He turned the assignment into Fukushima when it was completed. Student then independently worked on two additional assignments. He submitted the second assignment to the teacher when it was finished. He began a third assignment but was called to Fukushima's desk. The teacher gave him feedback on the assignments he had previously submitted. He listened attentively, and took the assignments back to his desk, where he began making corrections.

Dr. Santana conducted his final observation first thing in the morning on April 19, 2023, during a math class. Student was attentive to the instruction presented and followed directions to fill in the worksheet they were completing as a group. Student worked independently on the worksheet when the class was directed to do so. He was observed to look away from his work a few times, but never for more than 10-15 seconds. He returned to work independently. Student completed the worksheet and turned it in to the teacher. Student attentively listened to a story being read after the math lesson, then transitioned easily to recess with two other students.

Dr. Santana was unable to collect "ABC" data during his observations because he did not observe Student engaging in any behaviors of concern. Student was compliant, worked consistently and independently, did not require redirection and was not observed to copy from his peers. During hearing, Parent asked several times about the lack of

antecedents being recorded. However, Dr. Santana consistently explained that he was unable to record antecedents to behaviors that did not occur. Student independently refocused on work following very brief, 10-15 second breaks. The tics observed were involuntary, physically discrete, and did not impede Student's ability to access his education or interact with his peers.

Dr. Santana's evaluation of the learning environment revealed that Student's behavior was not impacted by the physical school environment. Student managed to access his education with the available adult support of his teacher and worked well with the 23 other students in the class. He was neither distracted by, nor a distraction to, his peers. No physical barriers existed in the school environment that impeded Student's ability to access his education.

## TEACHER'S OBSERVATIONS OF STUDENT

Fukushima has been teaching third grade for 16 years and presented herself as professional, compassionate, and experienced in managing a classroom. She described multiple, creative methods of approaching student management, when discussing how she interacted with Student and the class as a whole. During hearing, Fukushima stated that she did not consider Student's mild, off-task behavior to be a concern. She described one instance of copying when Student was allowed to work with a friend during "buddy work." She did not allow them to work together again for a while, and sometimes moved Student closer to her during group work. Eventually, to avoid moving Student and to promote his independence, Fukushima started roaming the class during group work to discourage copying. Fukushima never observed the other behaviors described by Parent at school.

Fukushima noted that Student completed about 95 percent of classwork, which is better than average for students his age. His was right on target with reading and a little below average in math, primarily in the area of geometry. She saw most of the class struggling in this area. She considered it only a mild concern. Student matured over the course of the year and his behavior improved. Her goal was to move Student towards independence to prepare him for the greater independence level expected of fourth grade students. Student's off-task behaviors occurred mostly during writing. Fukushima did not consider the moments he lost focus to exceed the other students in the class. Usually, his difficulty in writing was an inability to think of something to write about. He was getting to the point where he redirected himself back to work and asked for help when needed. She saw significant growth in his ability to be independent over the year, when given the opportunity to make independent decisions.

Parent attempted to introduce new evidence through her closing argument which has not been considered, as explained previously. Although blank protocol forms were admitted into evidence, Parent ultimately chose not to testify to explain why she asked for these to be admitted, or to establish their origin. Questions about why certain aspects of the FAIR-T were not used were clearly answered by Dr. Santana. No expert witness, or other testimony, questioning the legal compliance or validity of Alhambra's functional behavior assessment was offered. Parent offered no credible evidence to establish Alhambra's functional behavior assessment failed to meet legal standards.

(This space is intentionally left blank. Text continues on the following page.)

## ASSESSMENT TECHNICAL REQUIREMENTS AND REPORT

Dr. Santana's educational background and experience, as well as his clear explanations of observations and how he reached his conclusions regarding Student's behavior, demonstrated that he met the expertise requirements prescribed by the IDEA, to conduct Student's occupational therapy assessment. (20 U.S.C. §1414(b)(3)(A)(iv).)

While functional behavior assessments do not involve standardized testing, they must still meet the basic elements of a valid assessment pursuant to state and federal law. Those requirements are that the assessment be comprehensive, and the analysis employed be thorough, accurate, and reliable. (20 U.S.C. §1414 (b); Ed. Code § 56320 subd. (b)(2) and (f); see also, *Timothy O. v. Paso Robles Unified School Dist.* (9th Cir. 2016) 822 F.3d 1105, 1121.) Dr. Santana's functional behavior assessment met these requirements.

The evidence established that Dr. Santana selected a variety of valid, reliable, assessment approaches to determine whether Student had behavior deficits that impacted his ability to access his education. This resulted in the ability to derive a thorough, accurate, and reliable assessment of Student's behaviors in the school environment.

(This space is intentionally left blank. Text continues on the following page.)

Dr. Santana prepared a written report that described his interviews, the methodology used to define the behaviors, the additional behaviors he was watching for, his observations of Student, and the basis for his opinion that Student did not demonstrate any behaviors that impeded his ability to access his education. This report was presented to the IEP team on May 15, 2023. Parent participated in the IEP team meeting along with the other members of the team noted in the IEP document. Dr. Santana answered all of Parent's questions about the report at the IEP team meeting. The report met all statutory requirements. (34 C.F.R. § 300.306(a)(2); Ed. Code, § 56327 and § 56329, subd. (a)(3).) Student offered no persuasive evidence challenging the legal sufficiency of the testing or of the report. Alhambra's functional behavior assessment was legally compliant.

## 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.

### ISSUE 1:

Was Alhambra's speech and language assessment of May 8, 2023, legally compliant, so that Alhambra need not fund an independent educational assessment at district expense?

Alhambra prevailed on Issue 1.



## ISSUE 2:

Was Alhambra's occupational therapy assessment of April 26, 2023, legally compliant, so that Alhambra need not fund an independent educational assessment at district expense?

Alhambra prevailed on Issue 2.

## ISSUE 3:

Was Alhambra's functional behavior assessment of May 8, 2023, legally compliant, so that Alhambra need not fund an independent educational assessment at district expense?

Alhambra prevailed on Issue 3.

## ORDER

1. Alhambra's May 8, 2023 speech and language assessment met all required legal standards. Alhambra is not required to provide an independent speech and language assessment at public expense.
2. Alhambra Unified School District's April 26, 2023 occupational therapy assessment met all required legal standards. Alhambra is not required to provide an independent occupational therapy assessment at public expense.
3. Alhambra's May 8, 2023 functional behavior assessment met all required legal standards. Alhambra is not required to provide an independent functional behavior assessment at public expense.

## 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.

PENELOPE S. PAHL

Administrative Law Judge,

Office of Administrative Hearings