

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

SELMA UNIFIED SCHOOL DISTRICT,

V.

PARENT ON BEHALF OF STUDENT.

CASE NO. 2025040745

DECISION

June 18, 2025

On April 14, 2025, the Office of Administrative Hearings, called OAH, received a due process hearing request from Selma Unified School District, called Selma, naming Student. Administrative Law Judge Dan Senter heard this matter by videoconference on May 6, 8, 13, 14, 15, 16, and 19, 2025.

Attorneys Kendra Eaton and Emma Powers represented Selma. Amie Visser, director of special education, attended all hearing days on Selma's behalf. Parent represented Student. Parent attended all hearing days, except for May 14, 2025, when Parent appeared for approximately two minutes. On May 14, 2025, Parent's continuance request was denied and the matter proceeded in her absence. On May 15, 2025, Parent rejoined the hearing and attended all subsequent hearing days.

OAH continued the matter to June 2, 2025, for written closing briefs. Selma timely filed a closing brief. Student did not file a closing brief. The record was closed, and the matter was submitted on June 2, 2025.

## ISSUE

Was Selma's psychoeducational assessment, as documented in the March 24, 2025 report, legally compliant, such that Student is not entitled to a psychoeducational independent educational evaluation, called an IEE, at public expense?

## JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, called IDEA, 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 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, 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).) Selma 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 nine years old and in fourth grade at the time of hearing. Student resided within Selma's geographic boundaries at all relevant times. Student has been found eligible for special education under the category of other health impairment.

#### ISSUE: THE MARCH 24, 2025 PSYCHOEDUCATIONAL ASSESSMENT

Selma contends that its March 24, 2025 psychoeducational assessment for Student met all procedural and substantive legal requirements. Accordingly, Selma asserts Student is not entitled to a psychoeducational IEE at public expense.

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Student asserts the psychoeducational assessment is not legally compliant because Student's mental health needs were not sufficiently assessed, parental input was not adequately considered, and the assessment involved coercion and retaliation. Therefore, Student asserts he is entitled to a psychoeducational IEE based on Parent's IEE request.

## SELMA TIMELY FILED FOR DUE PROCESS

A parent may request an IEE if the parent disagrees with the results of the district's assessment. (34 C.F.R. § 300.502 (2006); Ed Code 56329, subd. (a)(3).) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question. (34 C.F.R. § 300.502(a)(3)(i).) A district that refuses to provide an IEE must promptly request a due process hearing to determine whether its assessment met legal standards. (34 C.F.R. § 300.502(b)(2)(i); Ed. Code, § 56329, subd. (c).)

By email on April 2, 2025, Parent requested that Selma fund an IEE for Student. Parent also verbally requested an IEE during Student's April 3, 2025 individualized education program, called IEP, meeting. The April 3, 2025 IEP meeting notes reflect that Parent asserted general disagreement with the assessment at the IEP meeting. On April 4, 2025, Selma sent Parent a prior written notice denying Student's request. Selma filed for due process on April 14, 2025 to defend its assessment. Selma fulfilled its obligation to file for due process without unnecessary delay, as it filed less than two weeks after Parent's April 2, 2025 written request. (34 C.F.R. § 300.502(b)(2); Ed. Code, § 56329, subd. (c); see also *L.C. v. Alta Loma Sch. Dist.* (9th Cir. 2021) 849 Fed. Appx. 678, 680; *J.P. v. Ripon Unified Sch. Dist.* (E.D. Cal., Apr. 15, 2009, No. 2:07-cv-02084-MCE-DAD) 2009 WL 1034993, \*7-8.)

Parent testified that she initially requested the IEE prior to her April 2, 2025 email request, on March 27, 2025, and again on March 28, 2025. Later in her testimony, however, Parent conceded she was not certain whether she had received a copy of the assessment report by March 28, 2025, or had requested an IEE on the dates in March. Accordingly, Parent did not persuasively establish that she made an IEE request on March 27, or March 28, 2025.

However, even assuming Parent made a request on those dates, Selma still met its burden that it timely filed to defend its assessment. Fewer than three weeks between the request and filing, particularly with an IEP team meeting to review the assessments scheduled during that time, is deemed prompt; Selma met its burden of timely filing for due process.

## ASSESSMENT PLAN MET LEGAL REQUIREMENTS

The term assessment in California law has the same meaning as the word evaluation under the IDEA. (Ed. Code, § 56302.5.) To assess a student, a school district must provide proper notice to the parents. (20 U.S.C. § 1414(b)(1); Ed. Code, § 56321, subd. (a).) The notice consists of the proposed assessment plan and a copy of parental and procedural rights under the IDEA and state law. (Ed. Code, § 56321, subd. (a).) The assessment plan must be understandable to the general public, be in the parent's native language, explain the assessments that the district proposes to conduct, and state that the district will not implement an IEP without the parent's consent. (Ed. Code, § 56321, subds. (b)(1)-(4).)

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A proposed assessment plan shall be developed within 15 calendar days of referral for assessment, not counting calendar days of school vacation in excess of five schooldays. (Ed. Code, § 56321, subd. (a).) A school district must give the parents 15 days to review, sign, and return the proposed assessment plan. (Ed. Code, § 56321, subd. (c)(4).) The proposed written assessment plan must contain a description of any recent assessments that were conducted, including any available independent assessments and any assessment information the parent requests to be considered, information about the student's primary language, and information about the student's language proficiency. (Cal. Code Regs., tit. 5, § 3022.)

Here, Parent emailed a request for special education assessment to Selma on December 11, 2024. Selma had a school vacation from December 21, 2025, through January 12, 2025. Subsequently, Selma resource specialist Elisa Gentry prepared an assessment plan dated January 13, 2025. It included assessments that were informed by concerns identified at a December 5, 2024 student success team meeting. The assessment plan proposed assessments in the areas of academic achievement completed by a resource specialist; health completed by a school nurse; intellectual development completed by a school psychologist; and social-emotional and behavior completed by a school psychologist.

Gentry provided the assessment plan to Parent on January 15, 2025, by sending it home in Student's backpack. Gentry contacted Parent via Parent Square on January 15, and 17, 2025, and by email on January 17, and 21, 2025, to confirm Parent's receipt. On January 21, 2025, Parent informed Gentry that she had received the assessment plan. Selma timely provided the assessment plan to Parent.

Parent did not sign the January 13, 2025 assessment plan and instead requested another meeting. Selma complied with Parent's request and held a student success team meeting on February 6, 2025, to address Parent's concerns. Parent requested a one-to-one aide for Student. In response, Selma added a "special circumstances instructional assistant" assessment to the January 13, 2025 assessment plan, to be conducted by the school psychologist. Other than the instructional assistant assessment, the revised January 13, 2025 assessment plan proposed the same assessments as the original plan. Parent signed the revised January 13, 2025 assessment plan on February 6, 2025. Parent vaguely asserted that Selma may have made changes to the assessment plan after she signed it, but Student presented no persuasive evidence to support this contention.

The revised January 13, 2025 assessment plan properly explained the assessments to be conducted and identified the professionals responsible for conducting them. Selma provided Parent procedural safeguards with the assessment plan. The assessment plan was in a language easily understood by the general public and in English, Parent's native language. It indicated that a prior IEP assessment had been conducted on March 7, 2022, and that no special education services would be provided without parent's written consent. Parent had adequate time to consider the plan.

The assessment plan was legally compliant.

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## ASSESSMENT REQUIREMENTS

School district evaluations of students with disabilities under the IDEA serve two purposes:

1. identifying students who need specialized instruction and related services because of an IDEA-eligible disability; and
2. helping IEP teams identify the special education and related services the student requires. (20 U.S.C. § 1414(a); 34 C.F.R. §§ 300.301 (2007), 300.303 (2006).)

The first refers to the initial evaluation to determine if the child has a disability under the IDEA, while the latter refers to the follow-up or repeat evaluations that occur throughout the course of the student's educational career. (See 71 Fed. Reg. 46640 (Aug. 14, 2006).)

The assessment must be conducted in a way that:

- uses a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent;
- does not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability; and
- uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.



The assessments used must be:

- selected and administered so as not to be racially, culturally, or sexually discriminatory;
- provided in a language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally;
- used for purposes for which the assessments are valid and reliable;
- administered by trained and knowledgeable personnel; and
- administered in accordance with any instructions provided by the producer of such assessments. (20 U.S.C. § 1414(b); 34 C.F.R. § 300.304(b) & (c) (2006); Ed. Code, § 56320.)

The determination of what tests are required is made based on information known at the time. (*Vasheresse v. Laguna Salada Union Sch. Dist.* (N.D.Cal. 2001) 211 F.Supp.2d 1150, 1157-1158 (*Vasheresse*)). No single measure, such as a single intelligence quotient, shall be used to determine eligibility or services. (Ed. Code, § 56320, subds. (c) & (e).) In selecting assessment tools, assessors must be knowledgeable about the student's suspected disability and must pay attention to student's unique educational needs such as the need for specialized services, materials, and equipment. (Ed. Code, § 56320, subds. (c) & (g).) A student's unique educational needs are to be broadly construed to include, if appropriate,

- academic,
- social,
- health,

- emotional,
- communicative,
- physical, and
- vocational needs. (*Seattle Sch. Dist., No. 1 v. B.S.* (9th Cir. 1996) 82 F.3d 1493, 1500, abrogated in part on other grounds by *Schaffer, supra*, 546 U.S. at pp. 56-58; see also Ed. Code, § 56320, subds. (f) & (g).)

The personnel who assess the student shall prepare a written report that shall include, without limitation, the following:

- whether the student may need special education and related services;
- 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;
- the educationally relevant health, development, and medical findings, if any;
- if appropriate, a determination of the effects of environmental, cultural, or economic disadvantage; and
- consistent with superintendent guidelines for low incidence disabilities (those affecting less than one percent of the total statewide enrollment in grades kindergarten through 12), the need for specialized services, materials, and equipment. (Ed. Code, § 56327.)

## PSYCHOEDUCATIONAL ASSESSMENT

The psychoeducational assessment in dispute was contained in the March 24, 2025 multidisciplinary psychoeducational report and included intellectual development, academic, health, social-emotional, behavior, and special circumstances instructional assistant assessments and measurements. An instructional assistant assessment is not always conducted by a school psychologist and is sometimes published as a stand-alone report. In such cases, the instructional assistant assessment is sometimes analyzed separately in a decision from a psychoeducational assessment. Here, because Selma's instructional assistant assessment was included in the multidisciplinary psychoeducational report, conducted by the school psychologist, litigated at hearing, and included in the assessment that Parent broadly challenged at the April 3, 2025 IEP meeting when she requested an IEE, this Decision considers the instructional assistant assessment part of the psychoeducational assessment at issue.

A psychoeducational evaluation is normally conducted by a licensed or credentialed psychologist. (Ed. Code, § 56324, subd. (a) [any psychological assessment of a student shall be conducted by a credentialed school psychologist].) A school psychology intern may perform testing or activities under the supervision of a person who holds a credential as a school psychologist. (Ed. Code, § 49422, subd. (e)(1)(B).) A psychoeducational evaluation is used to determine eligibility for special education and, following an eligibility determination, to update present levels of the student's functioning. (20 U.S.C. § 1414(b)(4); Ed. Code, § 56026.)

Selma school psychologist Ana-Alicia Rodriguez conducted the intellectual development, social-emotional functioning, behavior, and instructional assistant assessment portions of the psychoeducational assessment. Rodriguez was assisted by

school psychologist intern Alexandria Leilani Strahan, resource specialist Gentry, who conducted the academic testing portion, and school nurse Hsini Wang, who conducted the health assessment.

Rodriguez met the statutory requirements to conduct the assessment. Rodriguez was a school psychologist who held a Pupil Personnel Services Credential, an associate's degree, a bachelor's degree in psychology, and an educational specialist's degree in school psychology. She was employed with Selma as a school psychologist since August 2014. Rodriguez completed over 400 psychoeducational assessments since 2011, when she began conducting them in graduate school. Rodriguez was familiar with Student. She conducted Student's prior psychoeducational assessment in 2022, at which time Student was not found eligible for special education. Rodriguez was trained and experienced in supervising school psychologist interns. Rodriguez's education, credentials, and experience qualified her to conduct the psychoeducational assessment, administer standardized tests, interpret results, prepare assessment reports, and supervise school psychologist interns.

Alexandria Leilani Strahan was a Selma school psychologist intern who assisted Rodriguez. Under Rodriguez's supervision, Strahan conducted a lunchtime observation of Student and scored Student's Woodcock Johnson Test of Cognitive Abilities assessment. Strahan held a bachelor's degree in school psychology. As of May 2025, Strahan also held a master's degree in school psychology, and she anticipated earning a Pupil Personnel Services Credential in May 2025. Strahan was authorized and trained to conduct special education observations and assessments, including scoring assessments, under the supervision of Rodriguez. Strahan was qualified to perform the assessment components she conducted for the assessment.

## SELMA ASSESSORS APPROPRIATELY ADMINISTERED PROPER ASSESSMENTS

Rodriguez did not use a single evaluation to measure each component of the psychoeducation evaluation. In conducting the psychoeducational assessment, Rodriguez:

- reviewed educational records, including
  - Student's grades,
  - attendance,
  - meeting notes,
  - intervention services,
  - prior psychoeducational assessment, and
  - state assessments;
- conducted an interview with Student;
- sent a questionnaire, called an input form, to Parent;
- conducted interviews with Student's fourth-grade teacher and Student's reading and math intervention teachers;
- observed Student in his general education classroom and on the playground;
- reviewed Student observation information provided by Strahan and Gentry;
- administered the Kaufman Assessment Battery for Children, Second Edition, Normative Update;
- administered the Woodcock Johnson Test of Cognitive Abilities, Fourth Edition;

- administered the Beery-Buktenica Developmental Test of Visual-Motor Integration;
- administered the Test of Auditory Processing, Fourth Edition;
- administered Wide-range Assessment of Memory and Learning, Third Edition;
- administered the Conners 4 Teacher Rating Scale;
- administered the Behavior Assessment Scale for Children, Third Edition;
- reviewed special circumstances instructional assistant assessment guidelines and determination of available supports and need, and conducted the instructional assistant assessment;
- reviewed results of health assessment completed by Wang; and
- reviewed results of the Kaufman Test of Educational Achievement, Third Edition, administered by Gentry.

Rodriguez and the assessment team determined the assessments to administer based on Student's areas of need identified in Student's educational records, including Student's prior psychoeducational assessment, and input from Student's teacher and Parent. Although Parent did not return certain assessment forms, Selma considered Parent's input from two student success team meetings and a conversation with the school nurse. Selma met its burden to select assessment tools based on Student's areas of need, use qualified personnel to conduct the assessment, obtain parental input, and used multiple measures, as required for its psychoeducational assessment.

Rodriguez and the Selma assessment team were trained to administer the assessments they administered and followed the instructions provided by the producer of each assessment to administer them to Student. No single procedure was used to

determine Student's eligibility for special education or to determine appropriate educational programs for Student. The instruments were selected and administered so as not to be racially, sexually, or culturally discriminatory. The tests and assessment materials were valid and reliable for the specific purposes for which they were used. The assessments were administered in English, Student's native language. During the hearing, Rodriguez credibly testified the psychoeducational assessment yielded valid information for Student.

## COGNITIVE AND PROCESSING SKILLS TESTING

To assess Student's cognitive skills, Rodriguez administered the Kaufman Assessment Battery for Children, Second Edition Normative Update and the Woodcock Johnson Test of Cognitive Abilities, Fourth Edition. Strahan scored the Woodcock Johnson under Rodriguez's supervision. To assess Student's processing skills, Rodriguez administered the Beery-Buktenica Developmental Test of Visual-Motor Integration, the Test of Auditory Processing, Fourth Edition, and the Wide-range Assessment of Memory and Learning, Third Edition.

Rodriguez analyzed the results of the cognitive and processing skills assessments, in conjunction with Student's academic testing and grades, using the Pattern of Strengths and Weaknesses Model and the Discrepancy Model. Under both models, Rodriguez determined that Student did not meet eligibility criteria for Specific Learning Disability. Rodriguez's determinations were documented in the assessment report. Eligibility determinations are outside the scope of this Decision, and no findings are made here regarding Student's eligibility for special education.

Parent did not question Rodriguez's qualifications or the testing in this area. Selma met its burden that the cognitive and processing skills testing was legally compliant.

## SOCIAL-EMOTIONAL AND BEHAVIORAL TESTING

As part of the psychoeducational assessment, Rodriguez used various standardized and non-standardized measures to assess Student's social-emotional functioning and behavioral needs. The standardized assessment tools included the Conners 4 Teacher Rating Scale, called the Conners, and the Behavior Assessment Scale for Children, Third Edition, called the BASC. Non-standardized measures included records review, interviews, and observation data.

## ATTENTION-RELATED BEHAVIORS AND FUNCTIONING

Rodriguez tested in the areas of attention, and related behavioral and social-emotional needs, due to concerns expressed at Student's success team meetings and from Student's teachers related to Student's low grades, difficulty remaining on task, lack of work completion, and social-emotional needs. Rodriguez also assessed in these areas due to Parent's report that Student was diagnosed with attention-deficit/hyperactivity disorder, called ADHD.

Rodriguez used the Conners to assess Student's attention-related behaviors and functioning. She used the BASC to measure Student's attention-related behaviors, study skills, learning problems, adaptive behaviors, and emotional needs. Rodriguez provided the Conners and the BASC rating scales to Melissa Berend, Student's fourth-grade teacher. Rodriguez also provided the rating scales to Parent when she sent them



home in Student's backpack with a Parent questionnaire on March 10, 2025. Berend completed and returned the Conners and BASC rating scales to Rodriguez. Parent did not return the rating scales or questionnaire.

Berend's Conners and the BASC rating scales indicated that she observed Student behaviors related to attention difficulties and learning difficulties. On the Conners, Berend rated Student in the very elevated range for inattention/executive dysfunction and schoolwork. On the BASC, Berend rated Student in the clinically significant range for

- attention problems,
- learning problems,
- atypicality,
- adaptive skills, and
- study skills.

Rodriguez found the information provided by Berend consistent with observation information, as well as multiple, additional sources of information. Student was observed multiple times for testing and seven times across a range of additional environments by Rodriguez, Strahan, and Gentry. The observations indicated that during class, Student sometimes demonstrated the ability to independently complete tasks, but frequently struggled to remain on-task, often becoming distracted and requiring several redirections from his teacher. During recess, Student demonstrated good social skills, and engaged in play with others. Rodriguez also reviewed Student's records, including the health assessment from the school nurse, which included Parent's report of Student's ADHD diagnosis. Rodriguez reviewed input from Student's math and reading intervention teachers that reported Student's inattentive behaviors.

Rodriguez considered Student's behaviors consistent with a diagnosis of ADHD in her recommendations. She analyzed Student's eligibility under the statutory criteria for other health impairment. Student's academic performance was adversely affected by his difficulties with attention-related behaviors consistent with a diagnosis of ADHD. Accordingly, Rodriguez determined Student met eligibility criteria for other health impairment and offered recommendations in her report. Rodriguez noted in the report that all final eligibility decisions would be discussed and made by the IEP team.

At hearing, Parent argued that Selma's assessment failed to adequately consider Student's ADHD diagnosis. Parent's argument was not persuasive. Parent never provided Selma with an ADHD medical diagnosis for Student. Despite this, Rodriguez adequately investigated Student's challenges with attention consistent with Parent's reported ADHD diagnosis for Student through multiple measures.

Rodriguez found the standardized assessment results from Berend's ratings scales consistent with the information collected from multiple, additional sources. Rodriguez credibly established the measurements were valid and accurate. Parent offered no persuasive evidence challenging the legal sufficiency of the attention-related testing.

For all these reasons, Selma met its burden that the attention-related component of the psychoeducational assessment was legally compliant.

## BEHAVIORAL AND SOCIAL-EMOTIONAL FUNCTIONING

Selma argued that it comprehensively assessed Student's behavioral and social-emotional functioning needs. Student argued that Selma failed to adequately assess Student's social-emotional needs. Parent asserted that Student's diagnoses of

destructive mood disorder, anxiety, and depression, as well as Student's suicidal ideation and suicide note were not adequately considered. As determined below, Selma met its burden to establish that this component of Student's psychoeducational assessment met all legal requirements.

For behavior and social-emotional functioning, Rodriguez used the Conners and BASC rating scales. Both the Conners and BASC contained specific scales related to social-emotional needs, including anxiety and depression. In particular, the Conners scale for "anxious thoughts" assessed Student's "fears and worries." The BASC rating scale for depression measured, "feelings of unhappiness, sadness, and stress that may result in an inability to carry out everyday activities or may bring thoughts of suicide."

Rodriguez considered the Conners and BASC rating scales completed by Berend related to social-emotional and behavioral needs. On the BASC, Berend rated Student in the average range on scales measuring anxiety, depression, and somatization. On the Conners, Berend rated Student in the average range on scales measuring emotional dysregulation, depressed mood, and anxious thoughts.

Rodriguez credibly testified that Berend's BASC and Conners standardized scores indicated no concerns related to anxiety or depression for Student. Rodriguez found the scores consistent with other assessment measures from multiple people who knew Student. Observation and assessment report information from Gentry, Strahan, Wang, and Rodriguez, similarly indicated no school concerns regarding anxiety or depression for Student.

Berend's testimony corroborated her rating scale scores. She credibly testified that the scores were an accurate representation of her observations of Student in her classroom during the 2024-2025 school year. While Berend was concerned about

Student's ability to pay attention and complete work, she did not have concerns for Student related to anxiety, depression, or ability to regulate emotions. She believed the rating scales were sufficiently comprehensive to demonstrate her concerns for Student.

Berend held a bachelor's degree, a Multiple Subject Teaching Credential, and an Education Specialist Instruction Credential. Berend taught fourth grade for five years, fifth grade for two years, and served as a special day class teacher for five years. She readily answered questions at hearing and provided thoughtful, detailed responses. Berend's testimony was given significant weight.

School nurse Wang and school principal Beth Doyle's observations of Student in the school environment were consistent with Rodriguez's findings. Student never reported anxiety, depression, or distress in the school environment to Wang, nor did she observe Student exhibiting such. Doyle confirmed Parent requested Student receive general education mental health services during fall 2024-2025, but the school mental health clinician determined Student did not qualify because Student did not present with social-emotional concerns at school. Though the assessment report did not document the outcome of this referral, it noted that a school-based referral was made, as well as a referral to an outside-school organization, but that organization was not able to connect with Parent, despite several attempts.

Parent offered no persuasive evidence that she provided any medical documentation of destructive mood disorder, anxiety, or depression, or information about Student's suicidal ideation or suicide note, to the Selma assessment team. Nonetheless, the absence or presence of medical diagnosis information is not determinative of the legal validity of the assessment in this case.

Like in the prior section, where Selma's testing adequately considered Student's attention needs despite the lack of a medical diagnosis, here, Selma adequately considered Student's social-emotional needs and how they impacted Student's ability to access his education despite a lack of medical documentation. Through Berend's rating scales, Rodriguez assessed student's social-emotional needs including related to anxiety, depression, and emotion dysregulation. Rodriguez established the standardized scores were consistent with information received from multiple sources, including from people who knew Student. Rodriguez credibly established the measurements were valid and accurate. She also adequately considered the available input from Parent, as well as from additional sources, regarding Student's social-emotional needs. (*Vasheresse, supra*, 211 F.Supp.2d at pp. 1157-1158 [The determination of what tests are required is made based on information known at the time.]) Parent offered no persuasive evidence challenging the legal sufficiency of the social-emotional testing. For all these reasons, Selma met its burden that the social-emotional component of the psychoeducational assessment was legally compliant.

## PARENTAL INPUT

Parents are vital to the assessment process. Assessments are required to include information provided by a parent to assist in determining whether the child has a disability. (20 U.S.C. § 1414 (b)(2)(A); Ed. Code, § 56320, subd. (b).) "Although the District is required to obtain parental input ..., they are not required to obtain parental input on each and every test or measure." (*Parent on Behalf of Student v. Garvey Sch. Dist.*, (C.D. Cal., Aug. 27, 2019, No. CV 18-2312-JFW (JEMX)) 2019 WL 6729763, \*12.)

Parent asserted that Selma's coercion and retaliation prevented Parent from providing input and rendered the assessment invalid. Parent also argued at times that she did not recall being asked for her input. Neither argument was persuasive.

First, Parent asserted that Selma's multidisciplinary team coerced her into consenting to an IEP assessment, rather than a 504 plan, and retaliated against her, so Parent chose not to provide her input. Parent conceded that although she received Rodriguez's March 21, 2025 email requesting rating scale input, Parent would not speak with Rodriguez, or anyone else, about her concerns for Student because they were retaliating against her. This decision does not address Parent's arguments as they pertain to Section 504 of the Rehabilitation Act, because OAH does not have jurisdiction over such claims. Notwithstanding, Parent asserted that members of the Selma team, including Rodriguez and Doyle, pressured her to pursue an IEP rather than a 504 plan. Parent also asserted that Selma staff retaliated against her for advocating for her son by not providing her with Student's missing homework assignments. Parent claimed that because she was coerced and retaliated against, the assessment process was biased, and she would not provide her input.

Parent's arguments were not persuasive. The evidence established that Parent was not coerced to pursue an IEP, but instead was an active participant in requesting and consenting to the IEP assessment. Parent requested the assessment in writing and requested and participated during two student success team meetings prior to signing the assessment plan, which also contained an instructional assistant assessment pursuant to her request. After this, Parent submitted inquiries to Selma about the assessment process, to which Selma responded, sending Parent two detailed prior written notices to address Parent's concerns. With regard to Parent's arguments about Student's missing homework assignments, Parent offered no persuasive evidence of

retaliation. Even had Parent offered persuasive evidence that she was coerced or retaliated against, Parent did not provide any legal authority that such actions would invalidate the assessment.

Second, in other instances, Parent vaguely asserted she did not recall being asked for her input. Parent claimed she did not remember receiving rating scales from Selma. Parent's assertion was unconvincing and immaterial because Parent did not dispute receiving subsequent communications from Gentry or Rodriguez, on March 14, and March 21, 2025, that invited her to request additional copies of the rating scales and assistance in completing them. Accordingly, even had Parent not initially seen or received the rating scales on March 10, 2025, Parent conceded she was aware that Selma sought her input.

Parent's testimony throughout the hearing was not persuasive because she frequently responded to questions by stating she did not recall, or provided vague, inconsistent, or evasive responses. These responses diminished the reliability of Parent's testimony. Parent's credibility was also lessened by the contradiction between her argument that she intentionally did not provide her input for the assessment because it was retaliatory, and her contradictory testimony that she did not recall being asked for her input.

In contrast, Rodriguez established that the assessment considered Parental input and she had taken reasonable steps to obtain additional input from Parent. Rodriguez exhibited a strong understanding of assessment procedures, testing protocols, and Student's unique needs. Her answers were thoughtful, detailed, and responsive to questions. Rodriguez's testimony was given substantial weight.

The weight of evidence established that Parent was not prevented from providing input on the assessment by coercion or retaliation. Selma made reasonable efforts to request Parent's input but Parent chose not to provide it. Selma adequately considered Parent's input from the student success team meetings and Parent's brief interview with the school nurse.

## SPECIAL CIRCUMSTANCES INSTRUCTIONAL ASSISTANT ASSESSMENT

Selma contends that Student's instructional assistant assessment was legally compliant. Parent did not specifically challenge the legal compliance of the instructional assistant assessment, but asserts that Student's needs warrant a one-to-one aide.

To conduct the instructional assistant assessment, Rodriguez considered Student's developmental and health history, educational history, Parent and teacher input, classroom observation information, lunch and recess observation information, and social-emotional assessment information. Rodriguez also analyzed student's curriculum, including existing accommodations and interventions Student received, as well as Student's physical classroom environment and school schedule. Taking this information into account, as well as four in-class observations conducted by the assessors, Rodriguez analyzed Student's ability to access the curriculum.

Rodriguez also used a standard instructional assistant assessment rubric provided to Rodriguez by Selma. Following the instructions provided with the rubric, Rodriguez found that

- Student did not demonstrate intensive medical needs;
- did not have low incidence needs;
- did not need assistance with basic life functions; and



- did not display serious behaviors that impacted his safety and interfered with learning.

Rodriguez determined that Student did not qualify for a special circumstances instructional assistant aide to meet his educational needs, though she noted that all final decisions about eligibility would be discussed and made by the IEP team.

Student did not question Rodriguez's qualifications or present any persuasive evidence at hearing to show that the instructional assistant assessment was not legally compliant. Parent offered only conclusory argument that she believed Student's needs required a one-to-one aide to help Student remain on task. A determination of appropriate services, such as a one-to-one aide, is outside the scope of this Decision, and no findings are made here regarding services offered to Student.

Rodriguez was trained to conduct the instructional assistant assessment, used multiple tools to conduct it, including relevant records, observations, and a standard instructional assistant rubric, following standard instructions provided by Selma. The testing was valid and reliable. Selma met its burden that the special circumstances instructional assistant assessment was legally compliant.

## ACADEMIC ASSESSMENT

Selma resource specialist Gentry conducted Student's academic assessment as part of the psychoeducational assessment. Gentry served as a resource specialist in Selma since 2005 and as a special day class teacher for six years in Selma prior to that. She held a bachelor's degree and master's degree in special education. She held a Multiple Subject Teaching Credential and an Education Specialist Credential. Gentry was knowledgeable about Student. Prior to conducting Student's assessment, Gentry

attended Student's December 5, 2024 and February 6, 2025 student success team meetings. Gentry was knowledgeable of Student's areas of need, and was qualified, trained, and competent to conduct the academic portion of the assessment.

Gentry administered the Kaufman Test of Educational Achievement, Third Edition, called the Kaufman. Gentry also conducted two observations summarized in the report. The testing and assessment materials and procedures used were selected and administered so as not to be racially or culturally discriminatory. The tests and assessment materials were valid for the specific purposes for which they were used, and were administered in conformance with the instructions for the test or other assessment materials. Gentry was trained to administer the assessment and did so in English, Student's native language.

Gentry used the Kaufman to determine Student's academic skills in

- reading,
- writing,
- math,
- listening, and
- speaking.

Overall, Gentry determined Student had average skills in reading, math, listening, and oral expression. Gentry found Student had deficits in spelling and written expression. The results of the Kaufman were consistent with Gentry's observation findings that Student was able to engage in math and reading lessons, but struggled with writing and exhibited inattentive behaviors.

Berend provided additional input in the psychoeducational report and testified that Student could sometimes independently complete work, but frequently displayed inattentive behavior that contributed to poor grades. Student's grades for the fourth grade as well as his state standardized test scores from third grade were included in the psychoeducational report.

Student did not question Gentry's qualifications. Consistent with Parent's argument about the entire assessment, Parent asserted the academic assessment was invalid because it was the result of coercion and retaliation. As determined in this Decision, those arguments were not supported by the evidence. Even had they been, Student offered no legal authority that such acts would invalidate the academic assessment. Student also did not present any expert opinion or any persuasive evidence to invalidate the academic assessment. For the above reasons, the academic assessment was legally compliant.

## HEALTH ASSESSMENT

As part of the psychoeducational assessment, Hsini Wang, a Selma school nurse, conducted Student's health assessment. A health assessment must be conducted by a credentialed school nurse or physician. (Ed. Code, § 56324, subd. (b).) Health and nursing services are related services that are specifically included as designated instructional services in California. (Ed. Code, § 56363, subd. (b)(12).)

Wang was a credentialed school nurse, who held a bachelor's degree and a Credentialed School Nurse certificate. Wang conducted health assessments as part of special education multidisciplinary teams, among other duties. Wang was familiar with

Student. She previously conducted the health assessment for Student's prior special education assessment in 2022. Wang was qualified to conduct the health assessment.

Wang administered a vision screening and hearing screening on Student, both of which Student passed. Wang also determined Student had a healthy weight.

Wang interviewed Parent as part of the health assessment and sent home a medical release to obtain information from Student's medical providers. Parent briefly participated in the interview but would only provide information about Student's ADHD and related medication. Parent did not agree to sign the release of information for the medical providers.

When Parent was asked a series of questions at hearing regarding whether Wang requested her input, Parent simply replied in each instance "I don't know." Parent did not appear to thoughtfully consider Selma's questions, but instead, quickly, in each instance, stated, she did not know. Similar to Parent's responses regarding her input for the social-emotional testing section, Parent's responses here were vague. As determined earlier in this Decision, Parent's testimony was frequently vague, evasive, and inconsistent, which lessened her credibility. Parent's answers regarding Wang's requests for her input were given little weight.

In contrast, Wang readily answered questions and her testimony about her efforts to obtain and review Student's health information was thoughtful. Wang credibly testified that she sought and considered Student's health information from multiple sources. Wang reviewed Student's early childhood and birth information provided by Parent from the 2022 health assessment, since Parent only provided limited information to Wang for the instant report. Wang also reviewed Student's health information within the medical section of Selma's student information system, Aeries.

Through this review, Wang was aware that Parent had reported Student had a history of anxiety and depression and Student had taken medication for anxiety. Parent had not provided Selma with a doctor's authorization to allow Selma to administer Student's medication at school.

Wang asked other members of the Selma multidisciplinary team if they had a medical release that would allow Wang to speak with Student's medical providers, but they did not. Wang also spoke with and observed Student, who neither reported nor exhibited signs of anxiety, depression, or distress in the school environment. Wang testified that no teachers or any other providers or assessors reported to Wang that Student exhibited signs of anxiety or depression.

Wang's testimony was corroborated by the social-emotional and behavioral testing conducted by Rodriguez. As discussed in this Decision, Rodriguez found through rating scale data corroborated by multiple observations and records that Student exhibited no concerns for anxiety or depression at school. Doyle's testimony that Student did not qualify for general education mental health services during the fall of the 2024-2025 school year because Student did not present with social-emotional concerns at school was also consistent with Wang's findings that Student did not exhibit signs of anxiety and depression at school.

Wang's health section of the assessment included Parent's report that Student was diagnosed with ADHD in 2024 and took medication for that. However, the health section did not contain certain additional information about communications with Parent, such as dates of Wang's phone calls to Parent, the medical release sought from Parent, or references to the Parent-reported information in Aeries or information from the student success team meetings. Nonetheless, the absence of this information in the

report did not undermine the validity of Wang's health assessment, given that Wang considered Student's health information from a variety of sources, including Parent, and credibly testified about her findings.

Wang credibly testified that the health section of the assessment report was complete and valid. Wang did not recommend special education nursing services for Student. Student presented no persuasive evidence to challenge the legal sufficiency of the health assessment. Parent did not question Wang's qualifications or argue that Student required nursing services.

Student failed to provide any evidence that showed Student required further testing in an area which fell under the purview of the school nurse. Selma met its burden that the health assessment was legally compliant.

## PARENT'S ADDITIONAL ARGUMENTS

In addition to the arguments addressed above in this Decision, Parent contends the assessment was not legally compliant for the following reasons:

- Selma violated the Family Educational Rights and Privacy Act, called FERPA, by sharing the multidisciplinary psychoeducational report with Visser, Selma director of special education, and the attorneys representing Selma;
- Selma violated the California Public Records Act, called CPRA, by not producing requested records;

- Selma violated Section 504 of the Rehabilitation Act by not implementing Student's accommodations or 504 plan;
- Selma discriminated against Student due to his neurodivergence;
- Selma coerced Parent to excuse the Selma nurse from the IEP meeting; and
- Selma office staff harassed and retaliated against Parent and impacted Parent's ability to participate in Student's IEP meeting.

Parent's above arguments were either not relevant to the issue in this case or not under the jurisdiction of OAH, or both. OAH does not have jurisdiction over FERPA, CPRA, Section 504 of the Rehabilitation Act, or civil rights violations, so no determination is reached in this Decision on those issues. Any argument that a required participant was not present at Student's IEP meeting is beyond the scope of this Decision, so Parent's argument regarding the validity of Parent's excusal of the school nurse is not addressed in this Decision. Likewise, no findings are made regarding Parent's argument that the actions of a Selma office staff person impacted Parent's ability to participate at Student's IEP meeting, as a failure to meaningfully participate in an IEP meeting claim is beyond the scope of this Decision.

## ASSESSMENT REPORT

Within 60 days of parental consent to the assessment, the assessment report must be provided to the parent, and an IEP team meeting must be held to consider the assessment. (Ed. Code §§ 56329, subd. (a)(3), 56302.1, subd. (a), 56327.)

Parent signed the assessment plan on February 6, 2025. Selma provided Parent a copy of Selma's multidisciplinary psychoeducational report prior to the April 3, 2025 IEP team meeting. At Student's April 3, 2025 IEP team meeting, Selma provided Parent with an additional copy of the report and the IEP team considered the assessment. Selma timely provided Parent with the assessment report and timely held an IEP meeting to consider the assessment.

The multidisciplinary psychoeducational assessment report was legally compliant. It contained Rodriguez's determination that Student met eligibility criteria under other health impairment and the basis for that determination. Relevant behavior and observation information was documented in the report, including regarding the relationship between Student's behavior and Student's academic and social functioning. Educationally relevant health information was contained in the report provided by Wang. Relevant academic and other relevant assessment information from Rodriguez, Strahan, Gentry, and Wang was contained in the report.

Student offered no persuasive evidence challenging the legal sufficiency of the assessment or the report. Selma met its burden that the assessment report met legal requirements.

## 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:

Selma's psychoeducational assessment, as documented in the March 24, 2025 report, was legally compliant, so Student is not entitled to a psychoeducational IEE at public expense.

Selma prevailed on the sole issue in this case.

## ORDER

1. Selma's March 24, 2025 psychoeducational assessment was legally compliant.
2. Student is not entitled to a psychoeducational IEE.

## 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.

Daniel Senter  
Administrative Law Judge  
Office of Administrative Hearings