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PENNSYLVANIA

## SPECIAL EDUCATION HEARING OFFICER

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Student's Name: Student

Date of Birth: xx/xx/xx  
O.D.R. # 6543/05-06 AS

Dates of Hearing: May 30, 2006

Type of Hearing: Open

### Parties to the Hearing:

Parents

Mr. and Mrs. Parent

Represented by:

Pro Se

Date Final Transcript Received:

June 5, 2006

School District

West Shore S. D.  
P.O. Box 803  
New Cumberland, PA 17070

Represented by:

Grace Deon  
60 E. Court Street  
Doylestown, PA 18901

Date of Decision:

June 19, 2006

Hearing Officer:

Linda J. Stengle

## **Background**

The student's date of birth is xx/xx/xx, and has just recently finished first grade. Partway through the school year, the parents requested an evaluation to determine if the student was eligible for gifted services. This due process hearing was requested by the parents because they dispute the outcome of that evaluation.

## **Findings of Fact**

- 1.** The student's date of birth is xx/xx/xx. (Stip. at N.T. 10)
- 2.** The student resides with [the] family within the geographic boundaries of the School District, which is responsible for his education. (Stip. at N.T. 10-11)
- 3.** In January 2006, the parents requested a multidisciplinary evaluation of the student to determine if [the student] was eligible for gifted supports and services. (SD 1)
- 4.** The school district has a procedure that it follows for gifted evaluations. It requires that a the student must score a 125 or above on an individual screening instrument to qualify for additional testing for gifted eligibility. The student must also score 130 or higher on the WISC or the Binet. The district states that if the student does not score 130 or above on one of these instruments, he or she must score within the standard error of measurement at the 95% confidence level in order for achievement to be considered as an identifying factor. The district states that if the student scores within the standard error of measurement, then achievement must be within the two top percentiles (at or above the 98%) in major academic areas to be considered gifted. (P 1; N.T. 12-14)
- 5.** The district administers the Primary Test of Cognitive Skills to all first graders as a screening instrument, and this student was administered the K-BIT. The results of these screenings did not suggest gifted ability. (N.T. 19-21; SD 3)
- 6.** The district produced a Gifted Written Report on March 16, 2006, in response to the request from the parents. (SD 2; N.T. 17-19)
- 7.** The GWR consisted of information from the parents, results of the Wechsler Intelligence Scale for Children, results of the Wechsler Individual Achievement Test – II, rates of acquisition and retention, the results of an administration of the Kaufman Brief Intelligence Test, information from the classroom teacher, and an assessment of possible intervening factors. (SD 2)
- 8.** The WISC-IV yielded a full scale IQ of 126, which placed the student in the superior range. [The] verbal comprehension score was 134; [the] perceptual reasoning score was 117; [the] working memory score was 126; and [the] processing speed was 103. (SD 2)
- 9.** On the WIAT II, the student achieved scores of 124 in reading comprehension, 117 in math reasoning, and 114 in written expression. The psychologist only administered selected subtests of the WIAT. (SD 2; N.T. 24)
- 10.** On the K-BIT, the student achieved a composite score of 123, indicating abilities in the superior range. (SD 2)
- 11.** The team considered multiple criteria to determine whether student evidenced gifted ability. (SD 2; N.T. 25-26)
- 12.** The student appeared to acquire and retain information at an above average rate when compared to grade level peers. (SD 2)

13. The student did not appear to possess any intervening factors, which would mask gifted abilities. (SD 2)
14. The district met with the parents and reviewed the Gifted Written Report on March 28, 2006. At the request of the parents, additional reading testing was done and reviewed at the meeting. The student, then a first grader, was found to have an independent word recognition level of fifth grade. [The student's] reading fluency was 165 words per minute at the third grade level and 113 WPM at the fourth grade level. [The student's] reading comprehension was independent at level four. On the Slosson Oral Reading Test, [the student] had a score of 147 and a grade equivalent of 6.4 on word recognition skills. (SD 3)
15. A classroom teacher had also administered a DRA (directed reading assessment) which showed reading skills to be at the fifth grade level with adequate comprehension skills. (SD 3)
16. The student's needs can be met in the regular classroom. Though [the student] reads above grade level, [the student] is working with a group of students in [the] classroom on an appropriate reading level. [The student] fits into the group, and while [the student] is one of the top two or three students in the class, [the student] is not light years above the students in [the student's] reading group. (N.T. 25-26, 65-66)
17. The parent requested information on the student's performance in math, and the team opted to reconvene on April 18, 2006, to review the math information. (SD 3)
18. The team reconvened on April 18, 2006, and reviewed the teacher's math results. (SD 3)
19. The teacher reported that on math pre-tests, 50% of her classroom scored the same as, better than, or one problem less than did the student. (SD 3; N.T. 46-48)
20. A review of the student's report card shows that [the student] mastered two of 24 math concepts and had made progress on the other 22 concepts. [The student] had not mastered any of the second grade math concepts. (SD 3, SD 4; N.T. 67-69)
21. On April 18, 2006, the district notified the parents that the student was not in need of gifted education and that [the student] should continue in [a] regular education placement. (SD 2)
22. On April 25, 2006, the parent disapproved the recommendation of the district. (SD 2)

### **Issue**

1. Is the student eligible to receive gifted supports and services under 22 Pa Code Chapter 16?

### **Discussion**

Is the student eligible to receive gifted supports and services under 22 Pa Code Chapter 16?

22 PA Code § 16.22 which regulates gifted multidisciplinary evaluations states:

(e) Gifted multidisciplinary evaluations shall be sufficient in scope and depth to investigate information relevant to the student's suspected giftedness, including academic functioning, learning strengths and educational needs.

(f) The multidisciplinary evaluation process shall include information from the parents or others who interact with the student on a regular basis, and may include information from the student if appropriate.

(g) The following protection-in-evaluation measures shall be considered when performing an evaluation of students suspected of being gifted:

(1) No one test or type of test may be used as the sole criterion for determining that a student is or is not gifted.

(2) Intelligence tests yielding an IQ score may not be used as the only measure of aptitude for students of limited English proficiency, or for students of racial-, linguistic- or ethnic-minority background.

(3) Tests and similar evaluation materials used in the determination of giftedness shall be:

(i) Selected and administered in a manner that is free from racial and cultural bias and bias based on disability.

(ii) Selected and administered so that the test results accurately reflect the student's aptitude, achievement level or whatever other factor the test purports to measure.

(iii) Professionally validated for the specific purpose for which they are used.

(iv) Administered by certified school psychologists under instructions provided by the producer of the tests and sound professional practice.

(v) Selected and administered to assess specific areas of educational need and ability and not merely a single general IQ.

(h) The GMDT shall prepare a written report which brings together the information and findings from the evaluation or reevaluation concerning the student's educational needs and strengths. The report shall make recommendations as to whether the student is gifted and in need of specially designed instruction, shall indicate the bases for those recommendations, and shall indicate the names and positions of the members of the GMDT.

According to the preponderance of the evidence, the GWR produced by the district meets all the criteria for an appropriate GWR, and its conclusions were appropriate. The document is comprehensive and fully informs the GIEP team. The parents did not demonstrate that anything required by the regulations was lacking in the document, though they did take issue with the way the district conducted the evaluation. None of the points they made added up to a violation of the regulations or pointed to a conclusion that the student was entitled to gifted support services. Districts are bound by regulation, and the district in this situation complied with Chapter 16.

## Order

Hereby:

1. Student is not eligible for gifted supports and services at this time.

June 19, 2006

Date

Linda J. Stengle  
Hearing Officer