

*This is a redacted version of the original decision. Select details have been removed from the decision to preserve the anonymity of the student. The redactions do not affect the substance of the document.*

**Pennsylvania Special Education Due Process Hearing Officer  
Final Decision and Order**

**CLOSED HEARING**

**ODR No. 30862-24-25**

**Child's Name:**

A.B.

**Date of Birth:**

[redacted]

**Parent:**

[redacted]

**Local Education Agency:**

Parkland School District  
1210 Springhouse Road  
Allentown, PA 18104

**Counsel for LEA:**

Kristine Roddick, Esq.  
King Spry  
1 West Broad Street  
Bethlehem, PA 18018

**Hearing Officer:**

James Gerl, CHO

**Date of Decision:**

April 30, 2025

## **BACKGROUND**

The father requested an independent educational evaluation (neuropsychological evaluation) of the student at public expense. The school district declined the request, and it filed this due process complaint to defend its reevaluation of the student.

I find in favor of the father on the issue raised by the instant due process complaint.

## **PROCEDURAL HISTORY**

Prior to the hearing, the issue was reviewed at the prehearing conference. In addition, the parties agreed to seventeen stipulations of fact, which greatly shortened the amount of time necessary for hearing and the decisional process in this case.

The due process hearing was completed in one virtual session. The father was not represented by a lawyer in this case. Seven witnesses testified at the hearing. School district exhibits S-1 through S-11, S-12a, S-12b, S-13 through S-19, and S-21 were all admitted into evidence. Exhibit S-20 was rejected on relevance grounds. The father offered no exhibits at the hearing.

After the hearing, counsel for the school district submitted a written closing argument/post-hearing brief and proposed findings of fact. The unrepresented father was offered the opportunity to present a post-hearing brief, but he did not do so. All arguments submitted by the parties have been considered. To the extent that the arguments advanced by the parties are in accordance with the findings, conclusions and views stated below, they have been accepted, and to the extent that they are inconsistent therewith, they have been rejected. Certain arguments and proposed findings have been

omitted as not relevant or not necessary to a proper determination of the material issues as presented herein. To the extent that the testimony of various witnesses is not in accordance with the findings stated below, it is not credited.

Personally identifiable information, including the names of the parties and similar information, has been omitted from the text of the decision that follows. FERPA 20 U.S.C. § 1232(g); and IDEA § 617(c).

### **ISSUE PRESENTED**

At the prehearing conference, the parties identified and reviewed the issue presented by the complaint. The sole issue presented by the due process complaint is the following:

Whether the school district has proven that the father is not entitled to an independent educational evaluation at public expense?

### **FINDINGS OF FACT**

Based upon the parties' stipulations of fact, I have made the following findings of fact:

1. The student was born on [redacted], is [redacted] years old and is in [redacted] grade. The student attends an elementary school in the district.
2. The student was deemed eligible for special education services under the primary disability category of Specific Learning Disability in the areas of written expression, reading, and mathematics, with a secondary disability category of Autism.

3. The student was receiving supplemental learning support.
4. The student was first enrolled in the school district on or about January 18, 2022, during the student's [redacted] grade year.
5. On October 5, 2023, the father completed a Permission to Reevaluate – Oral Request Form. The father did not complete the section on the form for parental concerns. This form was received by the school district on October 6, 2023.
6. On October 16, 2023, the school district issued a Prior Written Notice/Request for Consent for a Reevaluation, and the father provided consent on October 16, 2023.
7. On December 30, 2023, the school district completed a Reevaluation Report for the student.
8. The reevaluation included parent input, teacher input, classroom observations, a review of records, state and/or local standardized assessments, curriculum-based assessments, cognitive testing, including both a WISC-V and a CTONI-2, achievement testing, a Qualitative Reading Inventory, a student interview, behavioral rating scales, and a functional behavioral assessment.
9. The behavior rating scales included the Behavior Assessment System for Children – Third Edition (BASC-3), the Autism Spectrum Rating Scales (ASRS), and the Behavior Rating Inventory of Executive Functioning – Second Edition (BRIEF-2).
10. The Reevaluation Report concluded that the student was eligible for special education services under the primary disability category of Specific Learning Disability in reading, mathematics, and written expression, and a secondary disability category of Autism.

11. On December 31, 2024, the school district emailed the father a Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN) indicating that the school district denied the father's request for a reevaluation. The rationale for the school district's denial was that the student had previously undergone five cognitive assessments included in the school district's reevaluation. In addition, based on the school district's December 2023 Reevaluation Report, the school district believed that there was data available for planning and programming for the student's IEP. The father did not return this NOREP/PWN.

12. On January 8, 2025, the school district issued a Written Notice of Consent (WNC) to conduct a 504 eligibility evaluation for a Section 504 Plan. The father has not returned the WNC.

13. Via email dated January 17, 2025, the father requested a neuropsychological evaluation. Attached to the father's email was a note from a pediatrician. The note recommended a "neuropsychological evaluation."

14. Via email dated January 17, 2025, the school district sought clarification from the father regarding whether he was asking for an evaluation under the IDEA. In response, the father indicated he was requesting a "neuropsychological evaluation." On January 20, 2025, the school district issued a NOREP denying the father's request. The father has not returned this NOREP.

15. On January 24, 2025, the school district met with the father to discuss the father's independent educational evaluation request.

16. On January 27, 2025, the school district issued a NOREP denying the father's request for an independent educational evaluation at public expense. The father has not returned this NOREP.

17. On January 28, 2025, the father requested a neuropsychological evaluation, and on January 30, 2025, the father emailed the school district requesting a neurological evaluation. In response, on January 31, 2025, the school district again emailed the father the January 27, 2025 NOREP denying the independent educational evaluation at public request.

Based upon the evidence in the record compiled at the due process hearing, I have made the following findings of fact: <sup>1</sup>

18. The student is a very happy and a very energetic kid. (NT 160)

19. On November 22, 2023, .[redacted] (S-21; NT 156, 162 – 163)

20. In conducting the December 30, 2023 reevaluation, the school district evaluators did not consider the trauma to the student [redacted]. The reevaluation report does not mention the incidents or the trauma, and the evaluators did not consider the effects of the incidents or the trauma, if any, upon the student's educational, behavioral or social needs. (S-6; NT 82 – 83, 147 – 149)

21. The father requested updated cognitive testing of the student by e-mail on December 20, 2024. (S-7; NT 92)

22. The father sent an e-mail to the school district on December 27, 2024 requesting a comprehensive educational and psychological evaluation of the student. (S-8)

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<sup>1</sup> (Exhibits shall hereafter be referred to as "S-1," etc. for the school district's exhibits; references to page numbers of the transcript of testimony taken at the hearing shall hereafter be designated as "NT\_\_\_\_").

23. On January 6, 2025, the father informed the school district that he was formally revoking consent for special education services for the student. (S-12a; NT 33)

24. On January 16, 2025, the student's treating pediatrician wrote a letter to the school district officials stating that the student was being treated for three diagnoses: attention deficient hyperactivity disorder, autism spectrum disorder and adjustment disorder. The letter explains how the combination of the three conditions affects aspects of academic and social functioning. The physician recommends that the school district conduct a neuropsychological evaluation to obtain information regarding possible adjustments to the student's educational and behavioral plans. The school district received the pediatrician's letter. (S-14; NT 114 – 116)

25. School district staff did not consider the pediatrician's January 16, 2025 letter, including the statement that the combination of the three conditions that the student was being treated for could affect educational performance and behavior in the classroom. The director of student services investigated the license of the physician and determined that the physician was a pediatrician. Because the doctor was a pediatrician and was not a member of the IEP team, the school district discounted the doctor's recommendation. The school district did not provide a consent form to the student's father so that the school district staff could speak to or request further information from the pediatrician. (S-14; NT 103 – 104, 109, 114 – 116)

26. On January 20, 2025, the student's father requested an independent educational evaluation at public expense because the father disagreed with the school district's December 30, 2023 evaluation. The father believed that the combination of the student's adjustment disorder with attention deficient hyperactivity disorder and autism affected the student's

needs. The father requested information concerning criteria for qualified examiners, suggested sources and locations, and procedures for reimbursement. (S-14)

27. The school district did not provide the information requested by the father regarding suggested sources and locations for locating potential evaluators and the district's procedures for an independent educational evaluation. (NT 131, 145-146)

28. A neuropsychological evaluation is based upon a medical model, including the Diagnostic and Statistical Manual taxonomy. A neuropsychological evaluation determines the student's strengths and difficulties. A psychoeducational evaluation uses IDEA terminology. Many of the same types of assessments and similar data and information are involved in both evaluations. The father in this case is requesting a neuropsychological evaluation, as recommended by the student's pediatrician, as the independent educational evaluation at public expense requested in this case. (NT 116 – 118, 158)

### **CONCLUSIONS OF LAW**

Based upon the arguments of the parties, all of the evidence in the record, as well as my own legal research, I have made the following conclusions of law:

1. If a parent disagrees with a school district evaluation, the parent may request an independent educational evaluation at public expense. IDEA § 615(d)(2)(A); 34 C.F.R. § 300.502(b)(1); PP by Michael P and Rita P v. West Chester Area School District, 585 F.3d 727, 53 IDELR 109 (3d Cir. 2009). When a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay, either pay for



the evaluation or else request a due process hearing to show that its evaluation is appropriate. 34 C.F.R. § 300.502(b)(2); JH v West Chester Area School District, 121 LRP 13514 (SEA Penna 2019); 22 Pa. Code § 14-102(a)(2)(xxix).

2. “Consent” for purposes of IDEA means that the parent has been informed of all relevant information, and that the parent understands and agrees in writing to the activity and that the parent understands that the granting of consent is voluntary. 34 C.F.R. § 300.9.

3. In conducting an evaluation, a school district must use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child. It must use technically sound instruments to assess the child. The assessments must be conducted by trained and knowledgeable personnel and administered in accordance with any instructions provided by the producer. The child must be assessed in all areas related to the suspected disability. The evaluation must be comprehensive. When conducting an evaluation, a school district must review appropriate existing evaluation data, including classroom-based assessments and observations by a teacher or related service provider, and on that basis determine whether any additional data are needed to determine whether the student is eligible, as well as to identify the child’s special education and related services needs. Perrin ex rel JP v Warrior Run Sch Dist, 66 IDELR 254 (M. D. Penna. 2015); IDEA § 614; 34 C.F.R. §§ 300.301, 300.304 – 300.305; 22 Pa. Code § 14-123.

4. A parent has a right to revoke consent for special education services at any time. 34 C.F.R. §§ 300.9, 300.300(b)(4). However, a parent may, after revoking consent, later given consent for special education services. See, AA by parents v. Walled Lake Consolidated Schools, 70 IDELR 73 (E.D. Mich. 2017).

5. The school district has not met its burden of proving that its December 30, 2023 evaluation was appropriate, and therefore, the father is entitled to the requested independent educational evaluation at public expense.

## **DISCUSSION**

### **I. MERITS**

#### **Has the school district proven that the father is not entitled to an independent educational evaluation at public expense?**

The school district contends that the father is not entitled to an independent educational evaluation at public expense. The school district contends that the father's revocation of consent for services and the absence of a previous evaluation renders the request inappropriate. The school district contends further that its December 30, 2023 reevaluation of the student was appropriate. The father contends that the school district's reevaluation was not appropriate and that the father is entitled to an independent educational evaluation at public expense.

The school district has not met its burden of proving that the father is not entitled to an independent educational evaluation at public expense.

The school district contends first that the father's revocation of consent for special education services disqualifies the father from requesting an independent educational evaluation at public expense. The school district cites no authority for the proposition that a parent may not request an independent educational evaluation at public expense after having revoked

consent for services. It is true, as the school district notes, that a student is not entitled to a free and appropriate public education after a student's parent has revoked consent for special education. Nothing in the statute or regulations or case law, however, prevents a parent from requesting an independent educational evaluation at public expense after having revoked consent for services. Indeed, IDEA requires that parental decisions concerning consent be made consistent with the principle of "informed consent." It is clear that the statute envisions that a parent will have maximum information available at the time that a decision regarding consent or revocation of consent is being made. Accordingly, it is clear that both the letter and the spirit of IDEA require that a parent not be precluded from making a request for an independent educational evaluation at public expense, even after having revoked consent, because a parent may determine at a later date to once again grant consent for services. Because informed consent is required in all instances, the right to request an independent educational evaluation at public expense must be permitted in these circumstances.

It is noted further that the revocation of consent was not listed by the school district as a reason for denying the father's request for an IEE in its formal NOREP issued on January 27, 2025. The school district's argument is rejected.

Next, the school district argues that it has not had a chance to complete its evaluation and that therefore the father is precluded from requesting an independent educational evaluation at public expense. Although the school district did propose a Section 504 evaluation, the school district's December 30, 2023 reevaluation of the student is the last IDEA evaluation of the student, and the father clearly disagreed with that evaluation. The fact that another evaluation has been proposed by the school district under a completely

different statute does not preclude the father from exercising the right under IDEA to request an independent educational evaluation at public expense.

Moreover, this reason for denying the IEE is not mentioned in the school district's due process complaint or in its formal NOREP denying the IEE issued on January 27, 2025. Accordingly, the argument has been waived by the school district and is not properly before the hearing officer. 34 C.F.R. § 300.507(a)(1) and § 300.511(d). The school district's argument is rejected.

The only issue in this case, therefore, is whether the school district has proven that its December 30, 2023 reevaluation of the student was appropriate. It is concluded that the December 30, 2023 reevaluation by the school district was not appropriate.

The unique individual circumstances of this student include the unfortunate fact that the student was .[redacted]

Despite the fact that the student suffered such serious trauma and that the school district was aware of it before the reevaluation report was completed, the school district did not mention it in the reevaluation report or otherwise consider the severe trauma that the student had endured. There is no analysis or discussion in the report of the potential effects of the [redacted] on the student's educational needs and/or behavioral needs.

The school district contends that the trauma suffered by the student was considered because it employs a "trauma informed approach" to all evaluations. This argument is rejected. An individualized approach is required; the trauma to this student was not considered. It is clear from the testimony of the evaluators who prepared the reevaluation report that they did not consider or analyze the effects of the [redacted] upon the student's educational, behavioral or social needs. Because the December 30, 2023

reevaluation did not duly consider the effects of the [redacted], the school district's reevaluation was clearly not comprehensive.

In addition, the school district did not duly consider the input provided by the father in the form of a letter from the student's treating pediatrician. The pediatrician noted that the student suffered from adjustment disorder in addition to the other diagnoses. The physician explained how the combination of the three conditions that the student was diagnosed with could affect aspects of academic and social functioning. The physician recommended that the school district conduct a neuropsychological evaluation to obtain useful information regarding potential adjustments to the student's educational and behavior plans.

The testimony of the school district witnesses indicated that the school district did not take the report from the student's treating pediatrician seriously. The school district director of student services investigated the physician who sent the letter and determined that the physician was a pediatrician. Because the doctor was a pediatrician and, in the opinion of the director of student services, not familiar with information from the school, the director determined that the recommendation of the doctor should be discounted. The school district did not request that the father sign a consent form so that it could contact the pediatrician and ask questions.

Because the school district chose to ignore the pediatrician's recommendations, specifically the pediatrician's concern that the student's adjustment disorder, coupled with the student's other disabilities, could be affecting the student's educational, social and behavioral performance at school in other ways, it is clear that the student has not been appropriately assessed in all areas of suspected disability. Even though this information was provided after the reevaluation report was completed, it is clear that the

school district's reevaluation was not comprehensive because it did not analyze the potential combined effects of the student's disabilities.

The testimony of the student's father was more credible and persuasive than the testimony of the school district witnesses with regard to this issue. This conclusion is made because of the demeanor of the witnesses, as well as the following factors: the school principal suffered from very bad memory during his testimony. The testimony of the two school psychologists was impaired by evasiveness concerning whether they had considered the effects of the [redacted] upon the student. The testimony of the director of student services is impaired by testimony that the father never submitted a consent form so that the school district could talk to the student's treating pediatrician, even though the school district had not provided the father with any consent form to return.

It is concluded that the school district has not proven that its December 30, 2023 reevaluation of the student was appropriate.

## **II. RELIEF**

Because the school district has not proven that its reevaluation of the student was appropriate, the father is awarded the neuropsychological evaluation at public expense that the father has requested.

Because all relief under IDEA is equitable relief, it should be flexible, and because special education under IDEA works best with a collaborative process, Schafer v. Weast, 546 U.S. 49, 44 IDELR 150 (2005), the parties shall have the option to agree to adjust or amend the relief awarded herein, so long as both parties and any counsel of record agree in writing.

## **ORDER**

Based upon the foregoing, it is HEREBY ORDERED as follows:

1. The school district shall provide the independent educational evaluation (neuropsychological evaluation) requested by the father at public expense. The evaluation shall be consistent with the school district's criteria applicable to independent educational evaluations. The independent educational evaluation shall be completed on or before August 4, 2025; and

2. The parties may adjust or amend the terms of this Order by mutual written agreement signed by all parties and any counsel of record.

IT IS SO ORDERED.

ENTERED: April 30, 2025

*James Gerl*

James Gerl, CHO  
Hearing Officer