

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

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AB , 8200/07-08 KE
Name

Xx/xx/xx
Date of Birth

02/21/2008
Date of Hearing

Closed
Type of Hearing

Parties to the Hearing:

Mr. & Mrs.
Parents' Names

02/28/08
Date Transcript Received

Address

03/28/08
Date of Decision

Southern York County
School District

03/13/08
Date Record Closed

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I. BACKGROUND

Student is a third grade student in the Southern York County School District.

Student's academic struggles were first noted during her kindergarten year, resulting in a District recommendation that she be retained in kindergarten. At her Parents' request, Student was promoted to first grade, but continued to struggle academically despite academic supports in the regular classroom. She was retained, and fared better academically during her second year in first grade. Student began falling behind again in second grade, however, prompting her Parents to request an evaluation to determine whether she is eligible for special education services.

The District commenced an evaluation during the summer of 2007 and issued an Evaluation Report in September 2007, at the start of Student's third grade school year. Based upon the evaluation results, the District concluded that Student is IDEA eligible as a student with specific learning disabilities in reading, math and written expression. Parents initially accepted the evaluation report to the extent of participating in an immediate IEP meeting concerning a special education program for Student, and approved the District's NOREP for placement in a learning support resource room. Parents have not requested any changes to Student's program or placement since that time.

Toward the end of September 2007, Parents notified the District that they disagreed with the evaluation, stating that it did not sufficiently assess all of Student's areas of need. Parents requested that the District fund an IEE. The District refused that request and commenced a due process hearing to support the appropriateness of its evaluation.

II. FINDINGS OF FACT

1. Student is a 9 year old child, born xx/xx/xx. She is a resident of the Southern York County School District and is eligible for special education services. (Stipulation, N.T. pp. 10--12).
2. Student has a current diagnosis of specific learning disabilities in reading, math and

writing in accordance with Federal and State Standards. 34 C.F.R. §300.8(a)(1), (c)(10); 22 Pa. Code §14.102 (2)(ii); (Stipulation, N.T. p. 11).

3. Student entered the School District as a kindergarten student in the 2003/2004 school year. She struggled academically and was recommended for retention, but the District honored her Parents' request that she be promoted to first grade for the 2004/2005 school year. (N.T. pp. 40, 120; P-8, S-2)

4. In first grade, Student continued to struggle and could not keep pace with her peers academically, despite additional classroom supports in reading and math. (N.T. p. 221; P-8, S-2)

5. Parents agreed to retain Student in first grade for the 2005/2006 school year, and she made better academic progress during her second year in first grade. (N.T. pp. 40, P-8, S-2)

6. In second grade (2006/2007 school year), however, Student again began to fall behind her classmates, particularly in reading, spelling and math, notwithstanding classroom supports provided by a reading specialist, tutoring in math provided by her second grade teacher and by older students, as well as significant help with homework from her Mother each day. (N.T. pp. 56, 57, 66; HO-1, P-7. P-8, S-2, S-4)

7. In March 2007, Parents requested a psycho-educational evaluation to determine whether Student's difficulties with school work resulted from a learning disability. Parents signed a permission to evaluate on March 27, 2007. (N.T. pp. 23, 216; HO-1; P-8, S-2, S-4)

8. The District's School Psychologist conducted a psychological evaluation of Student on July 3, 2007, administering the Wechsler Intelligence Scale for Children, Fourth Edition (WISC IV), the Wechsler Individual Achievement Test, Second Edition (WIAT II), the Illinois Test of Psycholinguistic Abilities, Third Edition (ITPA-3) and Human Figure Drawing. The School Psychologist also reviewed Student's school records, including the Parent Information form completed by Student's Mother in March 2007, information from the school nurse, and teacher input forms completed by her second grade teacher, the reading specialist and math teacher who worked with her. (N.T. pp. 21, 23, 25, 47, 52, 55; HO-1, P-7, S-2, S-4)

9. On July 5, 2007, the School Psychologist completed her report, noting that as measured by the WISC-IV, Student's verbal ability and non-verbal reasoning skills fell within the average range, but she demonstrated difficulty with working memory and significant problems in the area of processing speed, resulting in a full scale IQ score of 87, putting her cognitive potential in the low average to average range. (N.T. pp. 26, 27, 108, 109; S-2, S-4)

10. With respect to achievement, Student was assessed in the areas of reading, math, written language, and oral listening comprehension. The results revealed reading weaknesses in the areas of pseudo-word decoding, which requires application of phonics skills, and word recognition. In math, Student had difficulties with computation and recall of basic math facts. The written language assessment revealed that her weakness in phonics also affects spelling in context and other aspects of writing. Student's listening comprehension was uneven, showing difficulties with deriving meaning from a complete sentence. (N.T. pp. 27—29, 147, 148, 162, 163; S-2, S-4)

11. The ITPA-3 was administered to further explore Student's phonics skills and confirmed the weakness in that area, as well as average ability in semantics, oral vocabulary and grammar. Her spoken language skills far outpaced written language. (N.T. p. 29, 149; S-2, S-4)

12. Based upon observation during the testing session, test results and teacher observations, Student manifests no social or emotional developmental concerns. She is described as happy, friendly, sociable and well-liked by her peers. (N.T. pp. 30, 165; S-2, S-4)

13. Although Student's Mother noted a suspicion of Attention Deficit-Hyperactivity Disorder (ADHD) in her letter requesting an evaluation, the School Psychologist observed during testing that Student was attentive, diligent and persistent in performing the testing tasks. The School Psychologist concluded from those observations that indicators for ADHD were absent, and, therefore that rating scales to determine whether there were any clinical signs for ADHD were unnecessary. (N.T. pp. 164, 165, 168; P-8)

14. The School Psychologist compiled the information gathered about Student from the various sources into an initial Evaluation Report (ER). Based upon the results of the psycho-educational testing and teacher reports, the ER stated the conclusion that Student meets the criteria for specific learning disabilities affecting the areas of reading, writing, spelling and math computation, and that she is in need of specially designed instruction. (N.T. pp. 30—36, 39, 40, 109, 120; S-2, S-4)

15. On September 7, 2007, the District presented the completed ER to Parents at a meeting attended by the school Principal, the District Supervisor of Special Education and Student's classroom Teacher. Although the School Psychologist had previously indicated her approval of the conclusions and recommendations contained in the ER, she was not present at the meeting due to a personal matter of which she had informed the District. The meeting was to be re-scheduled due to the Psychologist's unavailability on the original date, but Parents did not receive notice of the change of date. The meeting proceeded with the school Principal leading the review of the ER. (N.T. pp. 24, 37, 38, 110, 112, 114, 173—176, 186, 217, 218; S-3, S-4)

16. Parents waived the right to a ten day delay before an IEP meeting, permitting immediate discussion of the District's proposed IEP for Student, which provided for resource room learning support in reading, math and writing. The IEP was approved by Parents and continues in effect. (N.T. pp. 36, 111, 112, 177, 178, 219; S-5)

17. A few weeks after the MDE/IEP team meeting, Parents notified the School District of their disagreement with the ER and requested an Independent Educational Evaluation (IEE). The District denied Parents' request and sought clarification of the basis for the Parents' disagreement. The District also offered to have the School Psychologist speak to Parents to clarify the evaluation results, and attempted to convene an IEP meeting to further discuss the evaluation and Parents' concerns. (N.T. pp. 114, 115, 176, 194, 199—201, 219-- 221, 229, 230, 232, 233; P-2, S-6, S-7)

18. When the Parents declined to further discuss the ER with the District in any context, the parties were at an impasse, prompting the District to file a due process complaint to seek a determination of the appropriateness of its evaluation. (N.T. pp. 115, 163, 202, 229, 233; S-7)

19. Although Parents do not disagree with the District's conclusion that Student is eligible for IDEA services, they disagree with what they characterized as the District's conclusion that Student "has a low IQ." They are also concerned that the District's evaluation was "missing something," that it is not detailed and comprehensive enough to assure that Student will receive the appropriate help to meet all of her learning needs. (N.T. pp. 220—223, 230, 238, 239, 242,)

20. Parents' current concerns are that homework demands increased at the beginning of the third grade school year, resulting in an increase in Student's frustration due to her inability to complete the work more quickly. Student is also becoming frustrated by having to request re-instruction and re-direction from her teacher when she is unable to understand classroom requirements. Student's Mother also noted that she still has problems sounding out words, that she can read only words she has memorized and can't write words. (N.T. pp. 221—223, 230, 238)

21. Parents' belief that additional testing is necessary is based upon informal consultation with a relative enrolled in a school psychology graduate program, who, in turn, consulted several professors who suggested a number of additional tests which could be performed to clarify the origin, nature and extent of Student's learning difficulties. (N.T. pp. 219—221, 231, 240)

III. ISSUES

1. Did the Southern York County School District conduct an appropriate multidisciplinary evaluation of Student , including sufficient assessments to identify every area of suspected disability?

IV. DISCUSSION AND CONCLUSIONS OF LAW

Under the IDEA regulations, Parents are entitled to an Independent Educational Evaluation (IEE) at public expense if the parent disagrees with the District's evaluation of an IDEA eligible or potentially eligible student. 34 C.F.R. §502(b)(1); *In Re: The Educational Assignment of D.S.*, Special Education Opinion No. 1857 (12/24/07); *In Re: The Educational Assignment of E.H.*, Special Education Opinion No. 1838 (8/29/07). Upon notice of such disagreement, the District is obligated to either support the appropriateness of its evaluation in a due process hearing or provide the IEE. 34 C.F.R. §502(b)(2)(i), (ii). The due process hearing in this case was prompted by the District's denial of Parents' request for an IEE at public expense. The underlying issue for decision, therefore, is whether the School District conducted a substantively appropriate evaluation of Student .

Both parties, however, raised secondary issues which should also be addressed. First, Parents objected to testimony concerning the District's efforts to determine the basis for the Parent's disagreement with the IEE, correctly pointing out that the District "may not require the parent to provide an explanation" of the reason for disagreeing with the District evaluation. 34 C.F.R. §502(b)(4). The same regulatory provision, however, clearly permits the District to "ask for the parent's reason why he or she objects to the public evaluation." *Id.* As noted, the decision in this case must be based upon whether District's evaluation is appropriate. Consequently, neither the District's efforts to determine the reason for Parents' disagreement, nor the Parents' decision to decline to discuss that matter with the District affects the outcome of this case.

It is apparent, however, that the District's real purpose for seeking to explore the underlying reason for Parent's disagreement was to support its position that the Parents do not, in fact, have a real and substantive disagreement with the District's evaluation. That is the second tangential issue raised in this matter. During her testimony at the hearing, Student's Mother referred several times to the Parents' primary basis for their disagreement, *i.e.*, the Parents' belief that the evaluation results simply categorized their daughter as a student with a "low IQ" and, therefore, that her educational needs are unlikely to be properly met. Parents clearly, and understandably, are unwilling to accept such a determination, and fear that what the District is "missing" in its evaluation are disabilities which mask their child's true intellectual potential. Parents believe that the District's evaluation was insufficient to discern and delineate the true nature, and all components, of Student's disability and, therefore, that it fails to identify all of Student's educational needs resulting from her disability. Although Parents do have a true disagreement with the District's evaluation, their position is based upon an understandable, but nevertheless emotional, reaction to the WISC-IV results, from which they concluded that the

District believes that Student has a low cognitive potential. Parents' underlying concern appears to be that as a result of that IQ measure, the District will make insufficient efforts to help Student overcome her disabilities and reach a level of academic success that will permit her to attend college and pursue an intellectually challenging career.

As discussed below, however, neither the testimony concerning the evaluation nor the ER and psychological reports support the proposition that the District considers Student a child with low intellectual potential. Moreover, the record supports the conclusion that the District's evaluation appropriately identified Student's disabilities and current educational needs.

The purpose of an evaluation is, of course, to determine whether the child meets any of the criteria for identification as a "child with a disability" as that term is defined in 34 C.F.R. §300.8, as well as to provide a basis for the contents of an eligible child's IEP, including a determination of the extent to which the child can make appropriate progress "in the general education curriculum." C.F.R. §§300.8, 300.304(b)(1)(i), (ii). The general standards for an appropriate evaluation are found at 34 C.F.R. §§300.304—300.306. The District is required to 1) "use a variety of assessment tools;" 2) "gather relevant functional, developmental and academic information about the child, including information from the parent;" 3) "Use technically sound instruments" to determine factors such as cognitive, behavioral, physical and developmental factors which contribute to the disability determination; 4) refrain from using "any single measure or assessment as the sole criterion" for a determination of disability or an appropriate program. C.F.R. §300.304(b)(1—3). In addition, the measures used for the evaluation must be valid, reliable and administered by trained personnel in accordance with the instructions provided for the assessments; must assess the child in all areas of suspected disability; must be "sufficiently comprehensive to identify all of the child's special education and related service needs" and provide "relevant information that directly assists" in determining the

child's educational needs. 34 C.F.R. §§300.304(c)(1)(ii—iv), (2), (4), (6), (7). An initial evaluation must also include, if appropriate: 1) A review of existing evaluation data, if any; 2) local and state assessments; 3) classroom-based and teacher observations and assessments; 4) a determination of additional data necessary to determine whether the child has an IDEA-defined disability, the child's educational needs, present levels of academic achievement and related developmental needs, whether the child needs specially-designed instruction and whether any modifications or additions to the special education program are needed to assure that the child can make appropriate progress and participate in the general curriculum. 34 C.F.R. §§300.305(a)(1),(2).

Once the assessments are completed, the qualified District professionals and the child's parents determine whether he/she is a "child with a disability" and his/her educational needs. 34 C.F.R. §300.306(a). In making such determinations, the District is required to: 1) "Draw upon information from a variety of sources," including those required to be part of the assessments, assure that all such information is "documented and carefully considered." 34 C.F.R. §300.306(c)(1). The District must also provide a copy of the evaluation report and documentation of the eligibility determination to the Parents at no cost. 34 C.F.R. §300.306(a)(2). If it is determined that the child meets the criteria for IDEA eligibility *i.e.*, is a child with a disability and is in need of specially designed instruction, an IEP must be developed. 34 C.F.R. §§300.306(c)(2).

In addition to the general evaluation procedures applicable to all eligible or potentially eligible students under the regulatory provisions described above, including obtaining parental consent for an evaluation and adhering to the timelines, the IDEA regulations provide for additional procedures when it is suspected that a child is IDEA eligible due to specific learning disabilities. 34 C.F.R. §§300.307—300.311, 300.309(c). Specifically, the regulations provide that the team making the determination must include a regular education teacher and

either a school psychologist, speech-language pathologist or remedial reading teacher. 34 C.F.R. §300.308.

The criteria for making the determination that a child has a specific learning disability are: 1) The child does not achieve adequately for his/her age or grade level to meet state standards in one or more of eight specific areas of reading, math and written expression based upon his/her “response to scientific research-based intervention” or “The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state approved grade-level standards, or intellectual development” determined by the team to be relevant to the identification of a specific learning disability, using appropriate assessments in accordance with the applicable federal regulations; 2) the child’s inadequate achievement is not primarily the result of other disabilities, cultural, environmental or economic factors, or limited English proficiency. 34 C.F.R. §300.309(a).

The evaluation team must also ensure that the child’s underachievement is not the result of inadequate instruction in reading or math by considering whether the child “was provided appropriate instruction in regular education settings, delivered by qualified personnel” and the results of periodic assessments of achievement at reasonable intervals which are shared with the child’s parents. 34 C.F.R. §300.309(b).

Observation of the child in his/her usual learning environment “to document the child’s academic performance and behavior in the areas of difficulty” is also required. 34 C.F.R. §300.310(a). The evaluation team may either rely upon information obtained from routine classroom observations/progress monitoring conducted prior to the evaluation referral or assure that at least one member of the evaluation team observes the child as part of the evaluation procedures. 34 C.F.R. §300.310(b)

Finally, there are additional documentation requirements for the determination of eligibility due to a specific learning disability. 34 C.F.R. §300.311. The evaluation report must state:

(1) Whether the child has a specific learning disability; (2) The basis for making the determination, including an assurance that the determination has been made in accordance with §300.306(c)(1); (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning; (4) The educationally relevant medical findings, if any.

34 C.F.R. §300.311(a)(1—4). Required documentation must also contain specific statements reflecting the results of each of the additional evaluation procedures prescribed in §300.309, along with descriptions of instructional strategies used with the child; data collected on the child, documentation of parental notification; state “policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;” “Strategies for increasing the child's rate of learning; and the parents' right to request an evaluation.” 34 C.F.R. §311(a)(5—7). Finally, each member of the evaluation team “must certify in writing whether the report reflects the member's conclusion” or “submit a separate statement presenting the member's conclusions.” 34 C.F.R. §311(b).

The record at the due process hearing established that the District fulfilled all of the foregoing procedural requirements with respect to both the general evaluation procedures and those specific to determining whether Student is IDEA eligible as a student with specific learning disabilities. (F.F. 8—14; S-2, S-4). The Parents' only real dispute concerning the District's procedural compliance was their insistence that providing the report of the psychological evaluation in a separate document, while including only a summary of that report in the ER itself, rendered the ER deficient from the outset. There is no doubt from the record, however, that the full psychological report was provided to the Parents along with the ER, establishing that they received all relevant documentation. Moreover, testimony established that both reports are

included in the Student's school records. (N.T. p. 88). Even if the Parents were correct in their insistence that the psychological report must be physically included within the ER itself, such procedural lapse by the District would clearly not be sufficient to render the District's evaluation inappropriate. The District could simply be ordered to attach the psychological report to the end of the ER, a procedure often used by school districts.

More substantively, the Parents contend that the District's evaluation did not include all background information in sufficient detail, and was not otherwise sufficiently comprehensive to identify all of Student's needs. Through cross examination of the School Psychologist, Parent's attorney demonstrated that there were numerous additional or alternative tests which could have been performed and other information which could have been drawn from the results of the tests which were administered. Nevertheless, the Parents were unsuccessful in demonstrating that the evaluation conducted by the District was deficient, and, therefore, inappropriate. The School Psychologist's testimony established that used her professional judgment to select the assessment measures used for the evaluation, and nothing in the record suggests that her exercise of professional judgment led to the use of insufficient or inappropriate testing materials. The Parents' attorney made valiant efforts to suggest through cross examination that other methods and other tests would have yielded additional information, and there is no doubt that is the case. The issue, however, is whether the evaluation as performed was sufficient and appropriate. Nothing in the record either contradicts or casts doubt upon the District's School Psychologist's explanations of why she chose the assessments she used and why the attorney's suggestions of other tests, other methods and other scores which could have been calculated were either not necessary for a comprehensive evaluation of Student, or would not have provided as much relevant information as the assessments and scores which were used. (*See*, N.T. pp. 123—159).

Notably, there is no dispute by the Parents that Student is a child with specific learning disabilities and in need of special education services. Indeed, the results of the evaluation confirm that Student's difficulties are in the same areas with which Parents expressed concerns, *i.e.*, inability to sound out words and to write words accurately in context, difficulty understanding directions and remembering both tasks to be completed and subject content, such as math facts and sight words. Moreover, the ER and psychological report clearly place Student's cognitive potential in the average range. (S-2, S-4). The reports do not suggest that her academic difficulties are based upon a "low IQ" as her Mother testified. (N.T. pp. 220, 221). The District quite obviously considers Student's academic achievement to be below her intellectual potential, since the conclusion that she has learning disabilities is explicitly based upon a discrepancy between ability and achievement.

It was obvious from Student's Mother's testimony that the Parents' primary reason for disagreeing with the District's evaluation is their own opinion that the conclusion reached from the evaluation is that Student has a "low IQ," which is inaccurate. Parents also relied upon the opinions of unnamed third parties who, in the exercise of their professional judgments, based upon second hand descriptions of Student or observation of Student in a far different context than school, might have selected other or additional evaluation measures. There is absolutely no basis, however, for crediting the professional judgment of such unnamed persons, who did not testify at the hearing, over the judgment of the obviously well-qualified School Psychologist who quite cogently explained her reasons for choosing the assessments she used.

Parents also noted that their disagreement with the District's evaluation, which was first stated several weeks after receiving the ER and psychological report, was based upon their feeling that the interventions put into place after the early September IEP meeting were not working. In the first instance, the IEP had been barely implemented by that time. Second, if it

was immediately apparent that the interventions were insufficient or inappropriate, the Parents' first step should have been a request for an additional IEP meeting to discuss their concerns about the amount and/or type of interventions Student was receiving and determine whether the specially designed instruction should be adjusted, altered or intensified. A special education program that does not appear to be working as well as expected, or hoped, does not automatically mean that the underlying evaluation was inappropriate, and an IEE is necessary, particularly when the program has been in place for only a very short time.

It is most unfortunate that the Parents chose not to participate in an IEP meeting to further explore the results of the District's evaluation, as well as issues concerning Student's special education program if they were concerned that it was not providing her with sufficient support to enable her to make reasonable progress. Although Parents have no obligation to provide an explanation of their disagreement with the District's evaluation, they do have numerous opportunities to participate with the District in assuring that their child receives sufficient and appropriate special education services. No evaluation, no matter who performs it or the number of measures included, can provide insight resulting in a special education program that yields immediate improvement in a child's academic performance.

Parents would not have relinquished their right to pursue District-funded IEE had they participated in the IEP meeting the District attempted to convene after Parents made their IEE request. The District could have further explained the evaluation results, with or without specific questions from the Parents or an explanation of the reasons for their disagreement with the evaluation, which may or may not have clarified Parents' understanding of the evaluation results. Most important, however, the parties could have discussed issues concerning Student's program in order to make immediate adjustments, if necessary, and clarify the District's understanding of the problems she was still struggling with. The IDEA contemplates ongoing cooperation between

Parents and School Districts to assure that the initial program developed for an eligible child is, and remains, appropriate and permits the child makes reasonable academic progress.

Notwithstanding the dispute concerning the IEE, there is no reason that a meeting or meetings could not have been held to assure that Student receives the type and amount of services she needs to address the disabilities which the District's evaluation identified. There is no real disagreement between the parties concerning the results of the evaluation. The Parents' expressed concern was not that the District's evaluation is wrong, but that it is not detailed enough to fully explain the origin and nature of Student's learning disabilities in terms of her particular cognitive processes. Even if the District had agreed to an IEE as Parents requested, it would quite possibly have taken as long to obtain the results of such evaluation as the hearing process has taken, a period far too long to wait to make adjustments to Student' special education program if it is not helping her to make progress toward overcoming her identified learning disabilities.¹

Parents are obviously concerned about their daughter's learning difficulties, have been continually involved in working with her at home, and want to obtain the best possible help for her. It is certainly understandable that Parents would prefer to have as many additional details as possible about Student's learning disabilities, as well as additional suggestions for programming, which they would obtain through an IEE. Neither their sincere and commendable desire to do everything possible for Student, nor the likelihood that an IEE would provide an even more comprehensive evaluation than the District conducted, however, meet the standards for obtaining an IEE at public expense. To be appropriate, the District's initial evaluation need only meet the regulatory standards for an evaluation that is sufficiently comprehensive to determine whether a

¹ At the request of the attorneys for both parties, the hearing in this matter was scheduled for the end of January 2008, but was continued for approximately 30 days at the District's request when the attorney who was handling the case for the School District had to be replaced by another attorney in the firm, and notice of that circumstance came just one week before the January hearing date.

child is IDEA eligible, to identify the basis for such eligibility and to provide a solid basis for developing an appropriate special education program. The District's evaluation clearly meets those criteria in this case. Whether the program based upon the evaluation was appropriate when implemented and/or remains appropriate at present are issues beyond the scope of the due process complaint involved in this proceeding. If there are such issues, they should first be addressed through the IEP process.

Finally, if experience in implementing Student's program and monitoring her progress toward her IEP goals demonstrates at any time that the District needs additional information concerning Student's learning disabilities to assure that she makes reasonable educational progress, that matter should be addressed by her IEP team and such information obtained through either additional District assessments or outside sources. Monitoring progress, obtaining additional information and making adjustments to specially designed instruction as necessary are integral to the IDEA statutory and regulatory scheme and should be pursued through the IEP process.

V. SUMMARY

At Parents' request, an initial evaluation of Student was conducted by the Southern York County School District. In July 2007, the District's School Psychologist conducted a psychological evaluation of Student which included a variety of assessments, including cognitive and achievement tests, as well as information from her Parents and second grade teachers. The School Psychologist subsequently compiled an ER which included a summary of the results of the psychological evaluation and incorporated Parent and teacher information. As a result of the evaluation, Student was determined to be IDEA eligible as a child with specific learning disabilities in reading, writing and math who needs specially designed instruction in order to make reasonable educational progress.

Parents subsequently requested an IEE at public expense which the District denied, and then promptly filed a due process complaint to support the appropriateness of its evaluation. A careful review of the psychological report and ER produced by the District, as well as the testimony of the District's School Psychologist, established that the District's evaluation is appropriate, and, therefore, that the Parents are not entitled to an IEE at public expense. In addition, the record of the hearing established that Parents do not truly disagree with the outcome of the District's evaluation in terms of its conclusion that Student is IDEA eligible as a child with specific learning disabilities and in need of specially designed instruction. Rather, Parents erroneously believed that the District attributes Student's academic difficulties to low cognitive potential, and they would like to have more detailed information about the nature of Student's disability.

Based upon the record of the due process hearing, therefore, the Southern York School District will not be ordered to fund an Independent Educational Evaluation of Student .

VI. ORDER

In accordance with the foregoing findings of fact and conclusions of law, the Southern York County School District need take no action with respect to providing an Independent Educational Evaluation of Student at public expense.

Dated: 03/28/08

Anne L. Carroll

Anne L. Carroll, Esq., Hearing Officer