

*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 Gifted Education Due Process Hearing Officer  
Final Decision and Order**

**Open Hearing**

**ODR No. 32067-25-26**

**Child's Name:**

J.L.

**Date of Birth:**

[redacted]

**Parents:**

[redacted]

**Counsel for Parent:**

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**Hearing Officer:**

Vicki A. McGinley, Ph.D.

**Date of Decision:**

December 8, 2025<sup>1</sup>

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<sup>1</sup> The record closed upon receipt of written closing briefs from the parties.

## **INTRODUCTION AND PROCEDURAL HISTORY**

The Student (“Student”), J.L., is a [redacted] year-old child residing in the District (“District”). On October 24, 2025, Parents requested a due process hearing on behalf Student under Chapter 16 contesting the result of the District’s gifted evaluation that resulted in Student’s ineligibility for gifted education programming. As remedy Parents requests that Student be identified as gifted and receive a Gifted Individualized Education Plan (GIEP).

One hearing session was held on November 17, 2025.

### **Procedural Issues**

#### **Admission of Exhibits**

The following Parent exhibits are admitted:

P1, P2, P3, P4, P6, P7, P8

The following District exhibits are admitted:

S1

The following Joint exhibits are admitted:

J1, J2, J3, J4, J5, J6, J7, J8

### **ISSUE(S):**

The issue for hearing was established on the record as follows:

Did Student meet the definition of a gifted student under Chapter 16 and should the Student therefore be included in the District’s gifted program?

### **Stipulations**

The following facts are stipulated by parties and are accepted as true:

1. Parent’s witness is an expert in gifted education (J-3).

### **FINDINGS OF FACT**

1. Student has been a resident in the District since Kindergarten (J-8).

2. Student is a -[redacted] year-old, [redacted] grade student who receives regular education in the District (N.T. 15; 96).

**Academic Year 2023-24 ([redacted] Grade)**

3. The District screens students for gifted education in the [redacted] grade with the District wide screener (N.T. 69), the Cognitive Ability Test (CogAT)<sup>2</sup>. The school psychologist testified that the District has a cutoff score on the CogAT of 120 (N.T. 270) to be recommended for a full gifted evaluation. Student scored a 114 within the 81<sup>st</sup> percentile and was not recommended for a full gifted evaluation.

**Academic Year 2024-25 ([redacted] Grade)**

4. In May 2025 Parent's requested that the District complete a second gifted screener (N.T. 34) outside of regular District screening time. The District complied and reported the results of Student's CogAT score as 125 (P-1; N.T. 146; 149; 162; 247) resulting in the District recommending a full gifted evaluation (N.T. 16; 33-34; 330).
5. The District performed a Gifted Multidisciplinary Team Evaluation (GMTE) at the end of the Student's [redacted] grade year (J-2; N.T. 17; 175; 332) On September 15, 2025 (J-2).
6. On September 15, 2025 (J-2) the District provided the family with the Gifted Written Report (GWR) which concluded that the Student was not in need of gifted services (N.T. 334).

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<sup>2</sup>The CogAT is a standardized assessment which measures a student's reasoning and problem-solving abilities in Verbal, Nonverbal and Quantitative domains. It measures cognitive reasoning abilities.

7. On September 15, 2025, the District issued a Notice of Recommended Assignment (NORA) indicating that Student was not in need of gifted education (N.T. 186; P-8).

Following the issuance of the NORA, Parents requested a Gifted Multi-disciplinary Team Meeting (GMDT) (N.T. 187).

8. The GWR (J-2) Students results on the Weschler Individual Achievement Test-Fourth Edition) (WIAT-4)<sup>3</sup> (P-7) in Word Reading were in the extremely high range, in Reading Comprehension; in the high average range in Reading Comprehension and Math Problem Solving; and in the very high range in Essay Composition and average in Numerical Operations. Overall, in Reading, Student was categorized in the Extremely High Range (Standard Score of 131, 98th Percentile rank, confidence interval of 124-138) and for Mathematics, Student was categorized in the High Average Range (Standard Score 114, 82<sup>nd</sup> Percentile Rank, confidence interval of 108-120). All subtests except two were above grade level. (P-7; N.T 179). Results of eight subtests of subtests were performed to obtain the FSIQ score (N.T. 194).
9. On the Wechsler Intelligence Scale for Children-Fifth Edition (WISC-V<sup>4</sup>) (J-7) Student was administered the subtests comprising the General Ability Index (GAI). Student scored very advanced for [student's] age (GAI=120, percentile rank= 92 and confidence interval =114-125) (J-7).

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<sup>3</sup> The WISC-V is standardized intelligence test use to measure a student's cognitive abilities. It provides a FSIQ and multiple index scores, one of which being the General Ability Index which reflects higher-level reasoning skills without the influence of working memory and processing speed.

<sup>4</sup>The WIAT-4 is a standardized test of academic achievement for students measuring what students have learned and their strengths and areas of need across reading, writing, mathematics and oral language.

10. Confidence intervals for the WISC-V indicated that the Student's FSIQ was in the very high range (FSIQ=123, percentile rank=94, confidence interval between 116-128 and Student's General Ability Index (GAI) was 120.

11. The GWR (J-2) reported on results from regular education [redacted] grade teachers and Parents that completed the Scales for Identifying Gifted Students, Second Edition (SIGS-2<sup>5</sup>) (J-1). Teachers rated [student] as very likely to be gifted in Mathematics (131), somewhat likely to be gifted in English Language Arts (ELA) (118), likely to gifted in Social Studies (125) and a General Intellectual Ability (GAI) (121). Parents also completed the SIGS-2 and rated their child as very likely to be gifted in Mathematics (142), Science, (130), Creativity (136), and Leadership (137); and likely gifted in GAI (128) and Social Studies (128) and somewhat likely to be gifted in ELA (115).

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<sup>5</sup>The SIGS is a behavioral rating scale designed to help identify students who may be gifted or talented across multiple domains of functioning. It relies on teacher and parent observation.

12. On the GWR (J-2) Student's -[redacted] grade regular education teachers reported that Student had strengths in the areas of writing and communication (J-2), noted as being a hard worker (N.T. 47) and exhibiting high rates of retention and acquisition compared to peers (N.T. 48). Student is motivated (J-2; N.T. 266-268). Student's (ELA) teacher

reported that Student was ready for instruction in Grade 5 literacy work. [Student's] Math and Science teacher indicated that Student performs in higher-level grouping (J-2). All - [redacted] grade teachers reported that Student is a "strong student, hard worker with lots of background knowledge, a great writer and has strong vocabulary" (N.T. 30); report card grades indicated that Students meets all expectations.

13. During the 2024-25 school year on the i-Ready Diagnostic<sup>6</sup> assessment Student scored in the 79% or higher for Reading and in the 86<sup>th</sup> percentile or higher in Math, ending the - [redacted] grade year in the 92nd percentile. The School Psychologist in reviewing all i Ready scores (beginning of year, middle and end) noted that the Student was on track in the beginning and middle of the year (exhibiting third great material) either on level or above peers but not above grade level achievement (N.T. 201).

14. Students [redacted] grade ELA/Social Studies teacher reported that Student' participated in Dynamic Indicators of Basic Literacy Skills (DIBELS) (P-2) and scored "above goal" in two out of the four areas assessed and at goal for two; that Student was in her WIN Reading group and was reading on and above grade level (N.T. 40); that Writing was a strength (N.T. 40).

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<sup>6</sup> The i-Ready Diagnostic is a computerized assessment that measures student's current instructional skills in Reading and Mathematics, to identify specific skill gaps and proficiencies.

<sup>7</sup>DIBELS is a standardized, curriculum-based assessment used to monitor progress in Reading .

15. Student demonstrated in the proficient range for ELA and the advanced range for Math on the [redacted] grade PSSA's (P-6).

#### **Academic Year 2025-26 ([redacted] Grade)**

16. Following completion of the GWR (J-2), two NORAs were generated to Parents. The first one was sent to Parents September 15, 2024, 2025 (J-4) indicating that Student did

- not meet the qualifications for gifted education. The second followed the meeting on September 26, 2025 (P-8) and indicated that Student was not eligible for gifted education.
17. On September 26, 2025, a meeting was held to discuss the GWR (J-4) which included the Parents, the Parent's advocate, the School Psychologist and another District School Psychologist that did not work with the Student (N.T. 213), and the Director of Special Education and Pupil (N.T. 189; 279; 341). Parents indicated that this meeting did not constitute a full Gifted Multidisciplinary Team (GMDT) meeting as no teachers were present (N.T. 187).
  18. Following the meeting on September 26, 2025, on October 13, 2025 (P-8) a second NORA was sent to Parents indicating the same results as the first that Student did not meet the qualifications for gifted education (J-4).
  19. At the beginning of the Student's [redacted] grade year, Student scored in the 79% in Reading and 86% in Math on the i-Ready Diagnostic assessment (J-2) indicating that [student] is performing above average compared to [student's] peers as well performing at the early [redacted] grade level. According to [redacted] grade teacher, The School Psychologist, in interpreting these scores indicated that the Student is right where [student] should be or slightly above. in both reading and math currently (N.T. 200).
  20. Report card grades for the beginning of this academic year indicate that Student scored within the 90-100% range in all classes (P-3).
  21. Student's [redacted] grade science and social studies teacher reported that Student is in the above grade level WIN group (N.T. 97). Student is hard working, intelligent, conscientious and driven (N.T. 97). In November 2025, Student scored a 102 in science (due to extra credit) and within this quarter was meeting expectations in all subjects (P-

3). [Student] has a high rate of retention (N.T. 115). The teacher reported that Student is not in need of gifted education (N.T. 126).

## **DISCUSSION AND CONCLUSIONS OF LAW**

### **Burden of Proof:**

The burden of proof consists of two distinct components: the burden of production, which determines which party must present its evidence first, and the burden of persuasion, which determines which party must ultimately convince the fact finder—in this case, the hearing officer—that its position is correct. Although Chapter 16 of the Pennsylvania Code does not expressly address the allocation of the burden of proof in gifted education due process proceedings, Pennsylvania precedent has clearly established that the burden rests with the party initiating the request for due process. *See E.N. v. M. Sch. Dist.*, 928 A.2d 453 (Pa. Commw. Ct. 2007); *see also D.Z. v. Bethlehem Area Sch. Dist.*, 2 A.3d 712 (Pa. Commw. Ct. 2010); *D.V. v. Conrad Weiser Sch. Dist.*, ODR No. 20107-17-18 at \*7 (Apr. 10, 2018) (holding that the moving party bears the burden of proof); *J.S. v. Mt. Lebanon Sch. Dist.*, ODR No. 17229-15-16 at \*5 (May 13, 2016) (citing *E.N.* and *D.Z.*). Accordingly, in this matter, both the burden of persuasion and the burden of production rest with the Parents, as they are the party that initiated these proceedings.

### **Credibility Determinations:**

As the fact finder, the hearing officer is charged with resolving any conflicts in the testimony and determining the weight and credibility to be accorded to each witness's statements. Credibility determinations are based on the witness's demeanor, consistency, plausibility of testimony considering the entire record, and the presence or absence of corroborating evidence. *See, e.g., In re A.J.R.-H.*, 188 A.3d 1157, 1167 (Pa. 2018) (fact finder entitled to believe all, part, or none of

*a witness's testimony*); *Commonwealth v. Johnson*, 180 A.3d 474, 479 (Pa. Super. Ct. 2018) (*credibility determinations within province of fact finder*). Where conflicts exist between witnesses' accounts, the hearing officer weighs the totality of the circumstances to determine which evidence is most persuasive and reliable. This hearing officer found the witnesses who testified did so to best of their ability, thus, they were all generally credible. The weight accorded the evidence, was equally placed. Parent's testimony was earnest and reflected a sincere belief in Student's potential.

### **Chapter 16:**

Gifted education in Pennsylvania is governed by 22 Pa. Code §16.1–16.65 (“Chapter 16”). The purpose of Chapter 16 is to ensure that each identified gifted student receives an education based on the student's unique needs. Such education may include acceleration, enrichment or both, beyond what is available in the general education program. 22 Pa. Code §16.41(b)(3). While a school district must provide an appropriate placement and plan with specially designed instruction reasonably calculated to confer meaningful—not merely trivial—educational benefit and progress, it is not required to “maximize” the student's potential. *Id.*; see also 22 Pa. Code §§ 16.1(vii), 16.41(b)(2).

Under Chapter 16, a “gifted student” is:

- (i) A student who is exceptional under §1371 of the Pennsylvania School Code, 24 P.S. § 13-1371) because the student meets the definition of “mentally gifted” and requires specially designed instruction beyond that provided under Chapter 4 (relating to academic standards and assessment); and
- (ii) A student who is of “school age” as defined in 22 Pa. Code §11.12.

“Mentally gifted” is defined as outstanding intellectual and creative ability, the development of which requires specially designed programs or support services, or both, not ordinarily provided in the regular education program. 22 Pa. Code §16.1. Thus, eligibility for gifted education requires (1) identification as mentally gifted and (2) a determination that the student requires specially designed instruction.

Relevant screening and evaluation for gifted education are set forth at 22 Pa. Code § 16.21(c)–(d). An IQ score cannot serve as the sole basis for determining giftedness. “Multiple criteria” may be considered for students with IQ scores below 130. A student with an IQ below 130 may still be admitted to gifted programs if other educational criteria strongly indicate gifted ability. Determination of mentally gifted must include an assessment by a certified school psychologist. 22 Pa. Code § 16.21(d). *In E.N. v. M. Sch. Dist.*, 928 A.2d 453 (Pa. Commw. Ct. 2007), the Commonwealth Court interpreted §16.21(d) as using permissive (“may be admitted”) rather than mandatory (“shall”) language for students with IQ scores below 130, leaving admission in such cases to district discretion, even when multiple criteria of giftedness are present. By contrast, students with IQ scores of 130 or above who meet multiple criteria must be admitted. Under §16.21, multiple criteria indicatives of gifted ability include:

1. Achievement a year or more above grade level in one or more subjects, as measured by nationally normed, validated tests yielding instructional levels for all academic areas.
2. An observed or measured rate of acquisition and retention of new academic content or skills that reflects gifted ability.
3. Demonstrated achievement, performance, or expertise in one or more academic areas, evidenced by excellence of products, portfolios, or research, and supported by criterion-referenced team judgment.
4. Early and measured use of high-level thinking skills, academic creativity, leadership, intense

academic interest areas, advanced communication skills, foreign language aptitude, or technology expertise.

5. Documented, observed, validated, or assessed evidence that intervening factors (e.g., English as a second language, disability, gender or race bias, or socio-cultural deprivation) are masking gifted abilities.

Chapter 16 prescribes a detailed screening and evaluation process to ensure all eligible and potentially eligible gifted students are identified and served. The Gifted Multidisciplinary Evaluation (GMDE) must be sufficiently broad and deep to assess suspected giftedness, including academic functioning, learning strengths, and educational needs, and must include parental input. See 22 Pa. Code §16.1, 16.22(e)–(f). The GMDE must be:

1. Free from racial, cultural, or disability bias;
2. Administered to yield valid measures of aptitude, achievement, or other relevant factors;
3. Professionally validated for the purposes used;
4. Administered by certified school psychologists under standardized conditions; and
5. Designed to assess specific educational needs and abilities, not merely a general IQ score. 22 Pa. Code §16.22(3)(i)–(v).

Following the GMDE, the district must issue a Gifted Written Report (GWR) containing a determination of gifted status, the basis for the determination, programming recommendations, and the names of the multidisciplinary team members. The GWR must be provided to parents within 60 calendar days of receiving consent for evaluation.

In this matter, the Parents raise a single, central issue: whether the Student meets the Chapter 16 definition of a gifted student. If so, they request that the Student be placed in the

District's gifted program. The District contends the Student does not meet the regulatory criteria and therefore is not eligible for placement in its gifted program.

**Parent's Complaint:**

In their complaint, Parent's allege that the:

1. District's School Psychologist did not conduct a complete and "correct" gifted evaluation of the Student at the end of Student's [redacted] grade year resulting in denial of gifted education.
2. District relied solely on the FSIQ score of 123 from the WISC-V, disregarding the multiple criteria requirements under Chapter 16.
3. District-wide gifted policy which relies on utilization of confidence intervals of testing was rejected by the School Psychologist in determining Student's eligibility for gifted education.

As relief, Parents request immediate provision of gifted education services.

**Response to Parent's Claims:**

**Did the District conduct a complete and "correct" gifted evaluation that included consideration of a District-wide practice of utilizing of confidence intervals and multiple criteria, or was the Student's FSIQ score of 123 the sole determining factor?**

The District testified that it administered the appropriate WISC-V subtests contributing to the Student's FSIQ of 123, and that the chosen subtests were consistent with the District's standard

practice for all gifted students (N.T. 195). According to testimony, the District places greater emphasis on Reading Comprehension, Reasoning, as well as Math Problem Solving when determining gifted eligibility. In fact, the District testified that these are the same subtests evaluations that are performed on all students that are evaluated for gifted education.

With respect to achievement, the Reading Composite and Word Reading results reflected stronger performance in isolated word reading and phonological awareness. However, the School Psychologist testified that Reading Comprehension is given greater weight for gifted determinations (N.T. 198, 226), and the Student scored in the 90th percentile in that area. In Math Problem Solving, the Student scored in the 82nd percentile—described as an expected outcome for [student’s] cognitive profile (N.T. 198, 226) and as “high average” by the School Psychologist (N.T. 199).

Regarding cognitive functioning, the Student’s Verbal Comprehension Index (VCI) was interpreted as typical for age, reflecting relative weakness when compared to the Student’s stronger reasoning skills. The School Psychologist testified that individual VCI subtests were “similar to other children [student’s] age” and represented one of the Student’s lowest composite areas. For the Visual Spatial Index (VSI), visual-spatial processing was also identified as a relative weakness; although the Student performed block design and puzzle tasks quickly and accurately, performance in this domain was lower when compared to [student’s] logical reasoning strengths. By contrast, the Fluid Reasoning Index (FRI) was in the *very high* range, representing a significant cognitive strength.

In addition to these Index scores, the Student demonstrated above average to strong performance on several ancillary cognitive measures. Notably, the Student’s Digit Span (DS) performance was described as “advanced” (J-2), further supporting pockets of cognitive strength.

Collectively, the testimony and documentation indicate that the District considered multiple criteria, consistent with its gifted identification practices, and did not rely solely on the Student's FSIQ score of 123 in making its eligibility determination.

Pearson, the publisher of the WISC-V developed the assessment with established norms and procedures to support reliable measurement of cognitive intellectual ability. The Parent's expert witness (advocate) testified that "during COVID, Pearson indicated that Districts could use a "shortcut" if needed (N.T. 295), and thus testing utilizing the three subtests was an acceptable practice and **"the School Psychologist did exactly what she was supposed to do (N.T. 296)** even though this may not be best practice". Furthermore "what became a problem was that within the PSI and the Working Memory Index (WMI) subtests, both were not completed in their entirety. Thus, **if** both scores come up high, the potential mathematical algorithm **may** increase a student's FSIQ". In interpreting the results, the District noted that the GAI and FSIQ scores were reportedly close, and that the inclusion of the WMI and PSI **would not significantly suppress or distort** the Student's overall FSIQ. In this case, the School Psychologist's use of the GAI **may** have been appropriate, and the exclusion of the WMI and PSI **may not** have negatively impacted the FSIQ (N.T. 197). As the decision to exclude components of the WMI and PSI subtests, administration and interpretation may have followed Pearson's recommendation in this case and was consistent with standard practice in the District, it is thus speculative as to whether their exclusion compromised the accuracy of the gifted evaluation for the Student. Additionally, The School Psychologist indicated that the Student's FSIQ and GAI were not significantly different, indicating that reducing the impact of working memory and processing speed resulted in little or no difference in overall performance.

**Accordingly, the evidence does not support a finding that the District's administration of the WISC-V failed to comply with required professional standards or that any procedural irregularity occurred that would invalidate the gifted evaluation.**

Throughout the due process hearing, Parents asserted that the District either disregarded or misapplied its District-wide Gifted Policy and Gifted Education Assurances when determining Student's eligibility for gifted education. Parents specifically argued that the District relied exclusively on the Student's FSIQ score of 123, improperly disregarded multiple criteria, and failed to apply the policy's reference to confidence intervals. The GWR (J-2) contains the District's written criteria for gifted eligibility, which provide that eligibility is generally established when a student attains an overall cognitive ability score of 130 or greater, considering the standard error of measurement/confidence intervals and evidence of gifted characteristics assessed through multiple criteria. The policy further permits consideration of students with cognitive scores of 125 or above where additional local criteria are met, including achievement at or above the 90th percentile in math and/or reading, SIGS-2 ratings of 120 or above in at least one area, and strong demonstrated academic performance.

Although Parents contend that the District disregarded these procedures and relied solely on the Student's FSIQ score, the hearing record does not support that claim. Chapter 16 requires that gifted eligibility determinations be based on a **comprehensive evaluation** incorporating **multiple data sources**, including standardized cognitive measures, academic achievement, instructional performance, rate of acquisition and retention, and other relevant factors. See **22 Pa. Code §§ 16.21(d), 16.22**. As the Commonwealth Court explained in **Montour School District v. S.T., 805 A.2d 29 (Pa. Cmwlth. 2002)**, while a cognitive score of 130 or above

establishes *prima facie* evidence of giftedness, lower cognitive scores call for a multi-criteria analysis consistent with the regulatory framework.

Consistent with these requirements, the District's written policies and the testimony of the School Psychologist demonstrate that the District relied on a multi-criteria approach. In addition to cognitive testing, the District considered Student's academic achievement data, classroom performance, SIGS-2 rating scales, teacher and Parent input, and instructional observations. The evidence establishes that the District evaluated all relevant criteria required under Chapter 16 rather than relying exclusively on Student's FSIQ.

**Accordingly, Parents' characterization of the District's policy as relying "solely on IQ" is not supported by the record.**

Regarding the use of confidence intervals, Chapter 16 does not mandate that a school district elevate an obtained cognitive score to the upper bound of a confidence interval for purposes of determining gifted eligibility, nor does it require the use of confidence intervals to convert a non-qualifying score into a qualifying score. While the Parent's expert testified that incorporating confidence intervals, as referenced in the District's Gifted Policy and Assurance Plan approved by PDE, represents "best practice" (N.T. 284), such use is discretionary rather than compulsory under 22 Pa. Code § 16.21–16.24.

The evidence establishes that the District considers confidence intervals as part of its evaluative judgment but does not automatically adjust IQ scores based on those intervals. This is consistent with accepted assessment principles, which recognize confidence intervals as interpretive guides rather than score substitutes, and with Chapter 16, which does not prescribe any specific methodology for applying confidence intervals in eligibility determinations.

**Accordingly, I cannot conclude—by a preponderance of the evidence—that the District relied solely on the Student’s FSIQ score or that it improperly disregarded confidence intervals in contravention of its Gifted Education Policy or Chapter 16. Rather, the record demonstrates that the District’s evaluation procedures and eligibility determination fell within the bounds of professional judgment contemplated by gifted education regulations and were consistent with applicable legal standards.**

The District, in both its closing statement, asserted that the Parents were “attempting to make this matter more complicated than it is.” While the record reflects that Parents raised several concerns, this Hearing Officer finds the matter to be complex because the District completed what appears to be an appropriate and substantively correct gifted evaluation, and yet there is difference on how the District’s Gifted Education Policy should be interpreted in relation to multiple-criteria eligibility. The evidence demonstrates that multiple criteria—quantitative and qualitative—were considered by the District; however, the interpretation of the District’s policy, particularly about the role of various data points (e.g., confidence intervals, SIGS-2 ratings, teacher testimony), may be point of dispute.

As a note, even though the [redacted]-grade teachers (ELA/SS and Math/Science) filled out the SIGS-2 together, rather than independently as recommended via SIGS-2 administration and is not consistent with best practice, there is insufficient evidence to conclude that it did not materially affect the overall validity of the gifted evaluation, particularly given the consistency of the teachers’ observations of the Student and testimony that if the teachers disagreed on ratings (N.T 81) a conversation would have occurred. The School Psychologist’s explanation for her

reliance on the SIGS-2 results, even considering this procedural irregularity, was credible and aligned with accepted evaluative standards.

The record reflects meaningful variability across the Student's historical academic performance and current gifted-evaluation data, including both quantitative and qualitative sources. For example, although some areas reflected high acquisition skills, the -[redacted] grade teacher described the Student as "a little quicker" in learning new material rather than demonstrating exceptional, outlier-level performance (N.T. 101). While the School Psychologist appropriately noted that grade-equivalency scores are not psychometrically reliable for determining giftedness, it remains significant that the Student performed above grade level on only some measures. The [redacted]-grade teacher also testified that the Student was instructed at both on-level and above-level expectations in ELA, Social Studies, and vocabulary (N.T. 39; 66; 103).

Of evidentiary weight, all teachers who testified indicated **that they did not recommend** the Student for gifted evaluation and/or did not believe the Student demonstrated the characteristics typically associated with giftedness (N.T. 33; 68; 90). The [redacted]-grade teacher testified that, based on her current knowledge of the Student, **she would "probably not" recommend** [student] for gifted programming (N.T. 126). Thus, even if the School Psychologist were the sole decision-maker—which the record does not support—the broader educational team did not view the Student as demonstrating the level of need contemplated under Chapter 16 for gifted education. Rather, the totality of testimony depicts the Student as an intelligent, hard-working, competitive, and motivated learner, but not one who consistently displays the exceptional performance required for gifted eligibility.

The testimony also clarifies the District's internal procedures: information from the GMDT is collected (e.g., SIGS-2 ratings, classroom performance indicators, achievement data), and the

School Psychologist synthesizes and interprets this information when determining eligibility (N.T. 41). The [redacted]-grade teacher explained that she is invited to a team meeting only if the student qualifies for gifted education (N.T. 111); otherwise, only Parents participate. This testimony further illustrates that the District relies on a multi-source model of data collection followed by professional interpretation, rather than teacher recommendation alone, although the absence of teacher support for identification is a relevant component of the overall evaluation.

Although the District did not convene a GMDT meeting following the presentation of the GWR, in this matter as may be best practices, **Chapter 16 does not require that a GMDT to convene in a formal meeting at any point in the evaluation process.** Under 22 Pa. Code §§ 16.22–16.23, the District is obligated to conduct a GME through a multidisciplinary *team process*, which includes the collection and consideration of data from qualified professionals, the Student’s teacher(s), and the Parent(s). The regulations prescribe the *components* of the evaluation and the required participants in preparing the GWR but contain **no** mandate that the GMDT meet in person or virtually.

**The District therefore complied with its obligations by gathering and integrating the required multidisciplinary information, even absent a formal GMDT meeting. If the District was to follow up with any recommendations at this time it would be to have GMDT meetings with or without recommended eligibility.**

As an aside, since it was brought up in testimony, although holds no bearing in my decision, there was questioning and testimony on the School Psychologists possible use of a matrix (S-1). Although the District does not use a formal matrix (N.T. 154), the evidence establishes that the District School Psychologist consulted gifted identification matrices used by other school districts. that she reviewed these external matrices out of concern that the Parent, who is

[redacted], might have concerns with the evaluation's outcome. Her purpose in consulting these matrices was to better understand how other districts structure their eligibility criteria and to ensure her own analysis was thoughtful and informed.

I find nothing improper in the School Psychologist's consultation of these materials. Chapter 16 does not prohibit evaluators from reviewing comparative models or professional resources, as this Hearing Officer did and such consultation can reasonably support professional judgment. Each school district retains discretion to develop its own written criteria for identifying gifted students, so long as those criteria comply with 22 Pa. Code §§ 16.21–16.23. Reviewing other districts' matrices does not supplant a district's responsibility to apply its own criteria, but it can provide context or confirm that the district's approach is consistent with broader professional practice.

There is no evidence that the School Psychologist relied on a draft District (S-1) matrix or external matrices in place of the District's own written criteria. Instead, the consultation served as a professional reference point.

Accordingly, I conclude that the psychologist's review of outside matrices was a reasonable and permissible practice and had no adverse impact on the integrity of the Student's evaluation or on the District's compliance with Chapter 16.

**ORDER**

In accordance with the proceeding findings of fact and conclusions of law, it is hereby ORDERED as follows:

1. The District is not required to take any further action for the students [previous] grades.
2. The District does not provide any other relief under these claims as such IT IS

FURTHER ORDERED that any claims not specifically addressed in this Decision and Order is DENIED and DISMISSED.

/s/ Vicki A. McGinley, Ph.D.  
HEARING OFFICER