

This is a redacted version of the original decision. Select details have been removed from the decision to preserve 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. 27628-22-23

Child's Name:

D.M.

Date of Birth:

[redacted]

Parents:

[redacted]

Counsel for Parents:

Pro se

Local Education Agency:

Haverford Township School District
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Hearing Officer:

Cheryl Cutrona, Esquire

Date of Decision:

May 5, 2023

INTRODUCTION AND PROCEDURAL HISTORY

The Student, D.M. (hereafter Student),¹ [redacted], regular education student, is enrolled in the Haverford Township School District (District). The District conducted an initial evaluation of the Student that resulted in a finding that the Student is not eligible for special education supports and services. The Parents disagreed with the Evaluation Report (ER) dated January 2, 2023. On January 25, 2023, the Parents requested an Independent Educational Evaluation (IEE) at the public's expense. The District denied the Parents' request and filed a due process Complaint on February 14, 2023.

The Complaint proceeded to a one-day, closed, due process hearing that was convened via video conference on March 27, 2023, in which the Parents presented their case *pro se*.

All evidence including the exhibits admitted to the record and transcripts of the testimony was considered by the Hearing Officer. The only findings of fact cited herein are those needed by the hearing officer to explain the issues. All exhibits and all aspects of each witness's testimony are not explicitly referenced below.

For the reasons set forth below, the District claim is upheld in regard to timeliness. The District claim is denied in regard to the appropriateness of the ER.

ISSUES

1. Whether the District met the 60-day timeline for providing the ER; and
2. Whether the District ER is appropriate, and if not, should the District conduct an IEE at the public's expense?

¹ In the interest of confidentiality and privacy, Student's name, gender, and other potentially identifiable information are not used in the body of this decision. All personally identifiable information, including the details on the cover page, will be redacted prior to the decision's posting on the website of the Office for Dispute Resolution in compliance with its obligation to make special education hearing officer decisions available to the public pursuant to 20 U.S.C. § 1415(h)(4)(A) and 34 C.F.R. § 300.513(d)(2).

FINDINGS OF FACT

1. The Mother, who has been an educator for 18 years, including as a principal (S-12, p. 5, NT 210, 217), recognized that her child needed help to reduce anxiety, be more confident, and be successful at school. As concerned Parents, they have taken their child to a pediatrician, a psychologist, and tutors seeking assistance (NT 211).
2. On October 21, 2022, the Parents requested in writing, via email, that the School conduct a psychoeducational evaluation of their child to assess the need for special education services and supports. The Parents cited concerns about academics and the Student's "behaviors relating to anxiety" (P-3, p. 1).²
3. On November 2, 2022, the District emailed the Parents a Permission to Evaluate (PTE), which the Parents signed electronically and returned on the same day (S-3; P-4).
4. The School Psychologist who completed the Evaluation of the Student has more than 20 years of experience with the District. Her primary responsibility is conducting psychoeducational evaluations (NT 42-43). She does not work out of the school that the Student attended. She was assigned to conduct the evaluation because the school psychologist assigned to the school that the Student attended was about to go out on maternity leave (NT 130).
5. The District evaluation included (1) input from the Parents; (2) input from teachers; (3) report cards; (4) testing data including statewide assessment data and the school's Aimsweb test scores, benchmark literacy unit assessments and Eureka math scores; (5) an ELA classroom observation; (6) Behavior Assessment System for Children (BASC-3)

² References to the record throughout this decision will be to the Notes of Testimony (NT), School Exhibits (S-), Parent Exhibits (P-) and Hearing Officer Exhibits, followed by the exhibit number and the page number(s).

rating scales completed by the Mother and the [redacted] teachers; and (7) standardized testing results including the Weschler Individual Achievement Test (WIAT-4), the WIAT-4 Dyslexia Index, the Kaufman Test of Educational Achievement (KTEA-3), and the Wide Range of Memory and Learning assessment (WRAML-2) (S-12; P-15). Notably, the ER did not include input from the School Counselor that had worked with the Student in the past in regard to anxiety issues.

6. The School Psychologist reported that during her observation of the Student in English and Language Arts class (ELA), there were no “visible displays of anxiety or worry” (P-15; S-12, p. 4).
7. According to the WRAML-2, the Student’s overall working memory results were at the low-average range and the School Psychologist determined that the Student had some difficulty remembering information after a delay (P-15; S-12, p. 9-10; NT 62-63).
8. The WISC-5 full-scale IQ score was 86. Most of the Student’s index scores ranged in the low-average range, with some average scores. The Student’s General Ability Index was in the average range (P-15; S-12, p. 7-9; NT 61).
9. The results of the WIAT-4 and the KTEA-4 subtest results found no evidence indicating dyslexia, and indicated that the Student’s overall reading and math skills were similar to that of most children of the same age. The School Psychologist noted that the Student’s performance in writing was diverse and “difficult to summarize,” yet concluded the Student’s writing skills “were proficient” in the regular classroom (P-15; S-12, p. 10-12).
10. The ER lists “Specially Designed Instruction” (SDI) and regular education supports to address the Student’s “weaknesses” (P-15; S-12, p. 16) and recommended SDI techniques to support the Student’s

continued ability to meet and/or develop grade level writing skills (P-15; S-12, p. 17).

11. On January 2, 2023, the School Psychologist emailed what she believed to be the final version of the Student's ER to the Parents (S-6; NT 55). Later, it was discovered that she had mistakenly emailed an incomplete, draft version of the report (S-7; NT 54).
12. The draft version of the ER did not include the School Psychologist's narratives of the scores collected through the standardized assessments, the classroom observation, the final edits or revisions to many of the sections, including a summary at the end. All assessment scores and raw data were consistent with the information in the final report (P-7; S-12; NT 48).
13. In the final version of the ER, the School Psychologist concluded that the Student did not display any "significant" learning, behavioral or emotional needs, and that the Student's "relative weaknesses" in written expression, working memory, and "worry/self-confidence" could be addressed through Specially Designed Instruction (SDI) within the regular classroom and the Student does not qualify for special education (P-15; S-12, p.14; NT 111, 113, 114).
14. Following winter break, the School Psychologist submitted the completed ER to the Pupil Services Office. When it was finalized on January 6, 2023, IEP Writer triggered an auto-generated ER and NOREP that were emailed to the Parents (NT 55-56).
15. On January 6, 2023, the Parents returned the NOREP, disapproved the recommendation, and requested an informal meeting (S-8, p. 3).
16. On January 18, 2023, the day before the scheduled meeting, the School Psychologist emailed the correct version of the ER to the Parents (S-11; S-12; NT 57-58). At that time, she still did not realize that she

had mistakenly attached the wrong file to her January 2, 2023 email to the Parents (NT 58).

17. On January 19, 2023, when the School Psychologist, along with the rest of the multi-disciplinary team (MDT), had a brief meeting with the Parents to review the ER (NT 85-86), she became aware of her mistake (NT 120).
18. On January 25, 2023, the Parents stated their disagreement with the District's ER, because they had received two versions of the ER, and requested an IEE at public expense (S-22).
19. On February 6, 2023, the District denied the Parent's request for an IEE at the public's expense (S-19).
20. On February 9, 2023, the Parents sent the District a letter that reiterated and expanded on their disagreement with the ER and renewed their request for an IEE (S-20).
21. On February 14, 2023, without unnecessary delay, the District filed a Complaint requesting a due process hearing (S-21).
22. The School Psychologist indicated that she spoke with both of the Student's teachers (NT 104) to determine the best time to observe the Student in the classroom. The English and Language Arts (ELA) Teacher testified that the School Psychologist did not ask her when it would be best to observe the Student (NT 186).
23. Both the ELA and the Math and Social Studies teachers testified that the School Psychologist did not ask to meet and discuss any concerns regarding the Student's social or academical needs (NT 163, 183).
24. Even before the ER, the Student's Math and Social Studies teacher's practice was to move the Student to a table in the back of the classroom during tests and for small group instruction to meet the Student's needs without a formal Section 504 Plan or an IEP (NT 168). Most of those students who are in the small group have an IEP (NT 175).

25. The Student's ELA Teacher observed the Student behaving nervously during assessments and believed that at the beginning of the semester the Student lacked confidence. After the ELA Teacher started placing the Student into small groups for support, the Student participated more, asked for help as needed, and achieved greater success (NT 187-188). The majority of the students who work in small groups in the ELA classroom have an IEP (NT 202). The Student went home sick on the day of a planned writing assessment. During the rescheduled assessment, the Student seemed very upset (NT 190-194). The ELA teacher permitted the Student to use the voice-to-type accommodation to write a report (NT 195). The ELA Teacher regularly used the following strategies to support the Student: working in small groups, positive praise, frequent check-ins, pre-writing strategies, graphic organizers, sentence starters, and model texts (NT 196).

Parents' Claim

The Parents claim that an IEE is warranted because the District failed to talk to the appropriate people, did not review records, did not dig deep enough into the Student's file, and failed to submit an ER in the sixty-day time-frame, as is legally required.

District's Claim

The District contends that its evaluation and resulting ER meet the requirements in the regulations. The District argues that the evidence presented shows that while a clerical error resulted in sending an incomplete draft of the evaluation to the Parents, the report was completed on time, considered all relevant data necessary to conclude that the Student is meeting success within the regular education curriculum, and is not in need

of special education supports and services. Therefore, the District argues that its evaluation was appropriate and that the Parents are not entitled to an IEE at public expense.

GENERAL LEGAL PRINCIPLES AND DISCUSSION

Burden of Proof

In general, the burden of proof essentially consists of two elements: the burden of production and the burden of persuasion. The burden of persuasion lies with the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Board of Education*, 435 F.3d 384, 392 (3d Cir. 2006).

The burden of persuasion must be established by a preponderance of the evidence. *Jaffess v. Council Rock School District*, 2006 EL 3097939 (E.D. Pa. October 26, 2006). A “preponderance” of evidence is a quantity or weight of evidence that is greater than the quantity or weight of evidence produced by the opposing party. *Comm. v. Williams*, 532 Pa. 265, 284-286 (1992).

This rule can decide the issue when neither side produces a preponderance of evidence – when the evidence on each side has equal weight, which the Supreme Court in *Schaffer* called “equipoise.” On the other hand, whenever the evidence is preponderant (i.e., there is weightier evidence) in favor of one party, that party will prevail, regardless of who has the burden of persuasion. See *Schaffer*, above.

In the present matter, the burden rests upon the District as the filing that initiated the due process hearing.

Credibility Determinations

Special education hearing officers, in the role of factfinders, are charged with the responsibility of making credibility determinations of the witnesses who testify. See *J. P. v. County School Board*, 516 F.3d 254, 261

(4th Cir. Va. 2008); see also *T.E. v. Cumberland Valley School District*, 2014 U.S. Dist. LEXIS 1471 *11-12 (M.D. Pa. 2014); *A.S. v. Office for Dispute Resolution (Quakertown Community School District)*, 88 A.3d 256, 266 (Pa. Commw. 2014).

This hearing officer found that the Student's Mother and teachers provided testimony demonstrating consistent perceptions of the Student's nervousness and anxiety that contradict that of the School Psychologist. The hearing officer credits the perspectives of the individuals who observe the Student on a daily basis over that of the School Psychologist, albeit a competent professional, who only spent a few hours with the Student during one classroom observation and the administration of the standardized tests. While the perceptions of parents who see their child in the home setting and the teachers who see the child in the school setting often differ, this hearing officer was not persuaded by the School Psychologist's ER conclusions, particularly because she did not interview the school counselor or the teachers who had worked with the Student. The hearing officer found the Mother's testimony that her child regularly demonstrates anxiety about school performance by crying and feigning illness to avoid testing to be credible, especially in light of the fact that the Mother is an experienced educator.

Evaluations

When the District receives a written request for an evaluation from parents and the District agrees to conduct an evaluation, it must provide a Permission to Evaluate (PTE)/Consent form and a Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN) to the parents within a reasonable time. 34 C.F.R. 300.503(a); 34 C.F.R. 300.300(a).

After the LEA receives written parental consent, the initial evaluation must be completed and a copy of the Evaluation Report presented to the parent within 60 calendar days, not including summer break.

The IDEA establishes requirements for evaluations. 20 U.S.C. § 1414. The IDEA sets forth two purposes of a special education evaluation: to determine whether or not the child is a child with a disability as defined in the law, and to “determine the educational needs of such child[.]” 20 U.S.C. §1414(a)(1).

IDEA and its implementing regulations sets out procedural requirements designed to ensure that all of the child’s individual educational needs are examined: (1) the District must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information; (2) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and (3) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. 20 U.S.C. § 1414(b)(2); see also 34 C.F.R. §§ 300.303(a), 304(b).

The evaluation must assess the child “in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities[.]” 34 C.F.R. § 304(c)(4); see also 20 U.S.C. § 1414(b)(3)(B).

And, the evaluation must be “sufficiently comprehensive to identify all of the child’s special education and related-service needs, whether or not commonly linked to the disability category in which the child has been classified,” and utilize “[a]ssessment tools and strategies that provide relevant information that directly assists persons in determining the

educational needs of the child[.]” 34 C.F.R. §§ 304(c)(6) and (c)(7); see also 20 U.S.C. § 1414(b)(3).

Independent Educational Evaluation

An Independent Educational Evaluation (IEE) is an evaluation of a student conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question. 34 C.F.R. § 300.502 (a)(3)(i). Parents have the right to obtain an IEE at any time. 34 C.F.R. § 300.502 (a)(1).

If parents disagree with a District’s evaluation of their child, the parents may request a publicly funded IEE. IDEA § 615(d)(2)(A); 34 C.F.R. § 300.502(b)(1); *PP by Michael P and Rita P v. Westchester Area School District*, 585 F.3d 727, 53 IDELR 109 (3d Cir. 2009).

When parents request a publicly funded IEE, the District must, without unnecessary delay, either: (i) File a due process complaint requesting a hearing to show that its evaluation is appropriate; or (ii) Ensure that an IEE is provided at public expense, unless the agency demonstrates in a hearing pursuant to §300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria. 34 C.F.R. § 300.502 (b) (2).

Specially Designed Instruction

In general, IDEA defines Special Education as “specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability” 34 C.F.R. § 300.39 (a)(1).

IDEA defines Specially Designed Instruction as “adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction— (i) To address the unique needs of the child that result from the child’s disability; and (ii) To ensure access of the child to the general curriculum, so that the child can meet the

educational standards within the jurisdiction of the public agency that apply to all children 34 C.F.R. § 300.39 (b) (3).

Discussion

The hearing officer's authority in this matter does not extend to determining if the student meets the disability criteria for special education. The hearing officer is limited to determining if the District's evaluation is timely and whether or not it is appropriate under the law.

Was the ER Timely?

The Parents allege that the ER was not timely because they believe that the ER they initially received from the School Psychologist within the 60-day time limit was incomplete. By the time the correct, final version of the evaluation was received by them a few weeks later, the 60-day time limit had lapsed. They suspect that the ER was modified and not complete until the final version was sent to them. As such, they claim the ER was untimely.

The District counters that the School Psychologist made an honest mistake when she attached the draft version of the ER to the Parents, did not work on the report after that date, and was not aware of it until later. The District argues that the ER was completed within the 60-day period despite the clerical error.

As anyone who works with computer files knows, attaching the wrong file to an email is not unusual and happens for a variety of reasons. Neither party produced a preponderance of evidence to prove that the ER was not complete by the deadline, albeit the clerical error. Therefore, the hearing officer credits the District's defense that the ER was completed by January 2, 2023 and that the within the 60-day time frame and that sending the wrong

file was simply a clerical error; therefore, the ER is timely. In any case the delay was brief and caused no harm to the child.³

Was the ER appropriate?

Based on the regulatory language cited above, three conditions are required for an IEE to be publicly funded: (1) the parents must disagree with the district's evaluation; (2) the district must file for due process without unnecessary delay; (3) the district must demonstrate that its evaluation is appropriate. If an IEE has already been conducted and the parents are seeking reimbursement, the district must also show that the IEE is not appropriate. In this matter, the Parents have not yet obtained an IEE.

The hearing officer finds that the evidence proves that the first two conditions have been met: the Parents clearly disagree with the District's evaluation and the District filed a timely Complaint seeking a due process hearing. In order to satisfy the third condition, the District must prove that its evaluation is appropriate. IDEA and the related regulatory language do not clearly define "appropriateness" and the courts have interpreted it broadly⁴ giving the hearing officer discretion to determine appropriateness at it pertains to this individual matter.

The hearing officer was not persuaded that the District used a sufficient variety of strategies to gather relevant information about the Student's struggles with anxiety.

In terms of comprehensiveness, the ER includes the typical indicia: written input from the Parents and the teachers; report cards; PSSA scores; Aimsweb assessments; a litany of standardized tests including the BASC rating scales, and a summary of findings and recommendations. There are a

³ The hearing officer believes the error did, however, adversely impact the Parent's faith in the ER and trust in the School Psychologist's ability to competently evaluate their child.

⁴ See Zirkel, Perry A., "Independent Evaluations at District Expense under the Individuals with Disabilities Education Act," in 38 *Journal of Law & Education* 2, p. 223-244.

few things that are notably missing. There is nothing on the record to demonstrate that the School Psychologist did a review of the Student's records prior to the current school year beyond the Parents' input statement describing the Student's background. There is no evidence to indicate that the School Psychologist reviewed any of records before the current school year. The School Psychologist was not familiar with any of the Exhibits regarding the Student prior to the current school year that were presented to her by the *pro se* Parent during the hearing. The School Psychologist also did not meet with or ask for input from the School Counselor who had previously worked with the Student. Furthermore, the School Psychologist's testimony conflicts with that of the teachers who claimed that she did not ask them to meet or discuss the Student during the evaluation. While not definitive in and of itself, the hearing officer credits the Parents' claim that the process would have been more comprehensive if the examiner had spoken to more sources and reviewed the Student's educational history and social and emotional background.

The School Psychologist concluded that the standardized tests she administered indicate that the Student's weaknesses are working memory and overall writing skills, and that they were "difficult to summarize." In regard to the Student's academic/cognitive ability, the School Psychologist concluded that there are classroom strategies to support the Student's working memory deficits, such as: (1) repeated exposure to new information; (2) pairing auditory with visual information; (3) previewing new information; and (4) chunking new information in smaller segments. In regard to the Student's writing skills, the ER recommends these supports: (1) spelling aids; (2) prewriting strategies; and (3) editing techniques to produce written output that is more in line with the Student's learning potential. There is nothing on the record demonstrating that these supports

which contribute to the Student's ability to successfully access the educational programming will continue beyond this school year.

The disparity between the Mother's BASC ratings and the teachers' differed in the areas of: (1) internalizing problems; (2) anxiety; (3) depression; (4) somatization; and (5) withdrawal. The teachers' ratings indicate that at school, the Student shows age-appropriate levels of internalizing, externalizing, adaptive behaviors; however, the Student does not work well under pressure. Furthermore, the evidence demonstrates that the Student's current teachers regularly provide SDI strategies and techniques to enhance the Student's ability to be successful. In the home, the Parent sees the Student exhibiting clinically significant levels of anxiety and somatization, and an at-risk level of withdrawal. The School Psychologist concluded that, overall, the ratings do not indicate that the Student is in need of formal social-emotional or behavioral intervention in school; however, the Student's ability to cope with worries and fears about academic demands should be "closely monitored." In regard to the Student's emotional-social needs, the School Psychologist suggested including periodic check-ins with the School Counselor to explore feelings of performance-based anxiety, and the opportunity to complete work in small groups. The Student's teachers had already realized that to be successful the Student needs these supports as evidenced by their instructional decisions to provide them to the Student to assuage anxiety and build self confidence.

The hearing officer finds the District ER to be inherently dissonant. In one section, the ER indicates that the Student's performance in writing and memory were diverse and difficult to summarize. The ER states that the Student's writing skills *were proficient* in the regular classroom then goes on to recommend a litany of SDI to address the Student's weaknesses and to support the Student's continued ability to *meet and/or develop* grade level writing skills. This incongruency raises two questions: (1) How can a student

be labelled “proficient” while at the same time have a need to “meet and/or develop grade-level” writing skills?; and (2) If the IDEA definition of “Special Education” is “specially designed instruction” and the Student requires a long list of SDI, why did the ER conclude that the Student is not eligible for special education supports and services? The School Psychologist did nothing to “dig deeper,” as the Mother put it, in an attempt to resolve these incongruencies.

The hearing officer understands that the SDI strategies and techniques listed in the ER can be implemented in the regular education classroom and are not limited to children who have been identified with a disability under the IDEA; however, it is significant to note that the Student’s current teachers have chosen to use many of them with the Student along with the special education students in the class. Without a legally binding document formalizing the strategies and techniques currently supporting the Student’s needs, there is no guarantee that future teachers will choose to implement those supports.

CONCLUSION

The ER was timely despite the clerical error which delayed the submission of the correct version of the ER to the Parents briefly. The delay was *de minimis* and did no harm to the Student.

The District did not meet its burden of proving by a preponderance of the evidence that the ER was appropriate based on (1) the discrepancies within the ER; (2) the testimony of the professionals who work with the Student every day and the variety SDI supports they have wisely implemented to ensure the Student’s success – which align with the Mother’s testimony about her child’s anxiety despite the difference between their BASC rating scales; and (3) the fact that available resources regarding the

Student's anxiety and self-confidence were not accessed or considered by the examiner.

ORDER

The District's claim is denied. The District is ordered to conduct an IEE at the public's expense forthwith.

With the goal of offering the independent evaluator the opportunity to observe the Student in the classroom, if desired, before the end of the semester and completing the IEE report in time for the parties to review it and make any necessary educational decisions, if needed, prior to the start of the 2023-2024 school year, the following timeline for the Parents and the District is ordered.

On or before May 19, 2023, the District shall provide, via email communication through its counsel to Parents' counsel, the names and complete curricula vitae/resumes, of at least three independent evaluators who are licensed in the Commonwealth of Pennsylvania and experienced in providing psychoeducational evaluations with screening and assessment of anxiety disorders in children and adolescents.

On or before May 26, 2023, the Parents shall indicate their selection via email communication through their counsel to District counsel. When the Parents have indicated to the District the independent evaluator they have selected, the cost of the independent evaluation shall be at the selected independent evaluators' rate or fee and shall be borne by the District at public expense.

The arrangements with the independent evaluator will be made immediately thereafter. The selected independent evaluator shall be made to understand that it is hoped, but not required or ordered, that the IEE report will be issued as soon as practicable, but no later than August 1, 2023, so that the parties will have time to review the IEE and make appropriate

educational decisions, if needed, prior to the beginning of the 2023-2024 school year.

The selected independent evaluator shall also be made to understand, but not required or ordered, that the findings and recommendations, if any, in the IEE report shall be made with a view toward identifying the Student's need for special education supports and services. The record review, input, observations, assessments, testing, consultation, scope, details, findings, recommendations, and any other content in the IEE report, shall be determined solely by the selected independent evaluator.

The District and the Parents shall provide the independent evaluator with the Student's educational records requested and permission to observe the Student in the classroom, if there is time before the end of the semester.

If, by May 26, 2023, the Parents do not wish to select any of the independent evaluators identified by the District, have not requested additional names of independent evaluators, or they have not communicated, by email through counsel, their selection, this lack of choice and/or communication by the Parents will grant the District the authority to select the independent evaluator from the list it provided to the Parents. The same timelines for the suggested completion and issuance of the IEE report apply where the District has selected the independent evaluator.

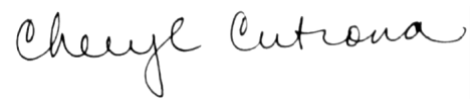
After the selected independent evaluator has issued their IEE report, the Parents and the District shall meet to consider the findings. At the IEE review meeting, the District shall invite and include the independent evaluator as a participant in the IEE meeting, making scheduling accommodations for the participation of the evaluator, in person or by telephone, as necessary. The District shall bear any cost or rate for the participation of the independent evaluator at the IEE review meeting.

The terms of this order regarding the involvement of the independent evaluator shall cease after their attendance at the IEE review meeting.

However, nothing in this order should be read to limit or interfere with the continued involvement of the independent evaluator, as both parties may mutually agree.

Nothing in this order should be read to interfere with or limit the ability of the parties to agree otherwise, so long as such agreement is in writing and specifically references this order.

Any claim not specifically addressed in this decision and order is denied and dismissed.



Cheryl Cutrona, J.D.
Hearing Officer

Date of Decision

May 5, 2023

ODR 27628-22-23