



STATE OF WASHINGTON  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
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**MAILED**  
 JAN 13 2017  
**SEATTLE-OAH**

January 13, 2017

Parent



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 Tacoma School District  
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**In re: Tacoma School District**  
**OSPI Cause No. 2016-SE-0066**  
**OAH Docket No. 06-2016-OSPI-00090**

Dear Parties:

Enclosed please find the Findings of Fact, Conclusions of Law, and Order in the above-referenced matter. This completes the administrative process regarding this case. Pursuant to 20 USC 1415(i) (Individuals with Disabilities Education Act) this matter may be further appealed to either a federal or state court of law.

After mailing of this Order, the file (including the exhibits) will be closed and sent to the Office of Superintendent of Public Instruction (OSPI). If you have any questions regarding this process, please contact Administrative Resource Services at OSPI at (360) 725-6133.

Sincerely,

Anne Senter  
 Administrative Law Judge

cc: Administrative Resource Services, OSPI  
 Matthew D. Wacker, Senior ALJ, OAH/OSPI Caseload Coordinator

**RECEIVED**

**JAN 18 2017**

STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

MAILED  
JAN 13 2017  
SEATTLE-OAH

IN THE MATTER OF:

OSPI CAUSE NO. 2016-SE-0066

TACOMA SCHOOL DISTRICT

OAH DOCKET NO. 06-2016-OSPI-00090

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER**

A hearing in the above-entitled matter was held before Administrative Law Judge (ALJ) Anne Senter in Tacoma, Washington, on December 14, 2016. The Parent of the Student whose education is at issue<sup>1</sup> did not appear. Alton McDonald, the Parent's advocate who had previously accompanied and advised her during this case and a related case, also did not appear. The Parent and Mr. McDonald had notice of the hearing and knew that the Parent's request for a continuance had not been granted as they participated in the prehearing conference at which that decision was made. The Tacoma School District (the District) was represented by Renee Hemmasi, District assistant general counsel. Ann Jones Amlie, District director of student services, and Felipe Mendez, District deputy general counsel, also appeared.

**STATEMENT OF THE CASE**

The District filed a Due Process Hearing Request (the Complaint) with the Office of Superintendent of Public Instruction (OSPI) on June 13, 2016. The Complaint was assigned Cause No. 2016-SE-0066 and was forwarded to the Office of Administrative Hearings (OAH) for the assignment of an ALJ. A Scheduling Notice was entered June 15, 2016, which assigned the matter to ALJ Anne Senter.

Prehearing conferences were held on August 16, September 13 and 28, October 25, November 30, and December 13, 2016. Prehearing orders were entered August 17, September 13 and 29, October 25, November 30, and December 13, 2016. The Parent did not appear for any of the regularly-scheduled prehearing conferences, and only appeared for the two prehearing conferences related to her requests for continuances of the hearing.

**Due Date for Written Decision**

As set forth in the Fifth Prehearing Order, the due date for a written decision in this matter was continued at the District's request to 30 days after the record of the hearing closes. As the record closed at the end of the hearing on December 14, 2016, the due date for a written decision in this case is **January 13, 2017**.

<sup>1</sup>In the interests of preserving the family's privacy, this decision does not name the parents or student. Instead, they are each identified as "Parent," "Mother," and/or "Student."

## Evidence Relied Upon

### Exhibits Admitted:

**District's Exhibits:** D1 - D3, D5, D6, D8, and D9.

**Parent's Exhibits:** None.

### Witnesses Heard (in order of appearance):

Laura Staples, District school psychologist.

## ISSUES

As set forth in the Seventh and Ninth Prehearing Orders, the issues for the due process hearing are whether the District's March 17, 2016 reevaluation of the Student was appropriate and, if not, whether the District should pay for an independent educational evaluation of the Student.

## EVIDENTIARY ISSUES

Parents have the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to them at least five business days before the hearing. Washington Administrative Code (WAC) 392-172A-05100(1)(c). The Parent's advocate questioned, at the prehearing conference prior to the hearing, whether the Parent had timely received the District's proposed exhibits. The Parent stated, at the prehearing conference, that she did not know when she had received the proposed exhibits. She did not state an objection to the admission of the District's exhibits at the prehearing conference. Nor did she appear at the hearing to object then. Accordingly, the District's exhibits were admitted, without a determination of when the Parent received them, as the Parent did not establish that she had not timely received the District's proposed exhibits or exercise her right to seek to prohibit their admission.

Some of the evidence presented was hearsay. In administrative hearings, hearsay evidence is admissible if, in the judgment of the presiding officer, it is the kind of evidence on which reasonably prudent people are accustomed to rely in the conduct of their affairs. Revised Code of Washington (RCW) 34.05.452(1). Findings of fact may not be based exclusively on hearsay unless the presiding officer determines that doing so would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence. RCW 34.05.461. To the extent any findings of fact below are based on hearsay, it is concluded that such findings did not unduly abridge the Parent's opportunity to confront witnesses and rebut evidence because she did not appear for the hearing to exercise those rights.

## FINDINGS OF FACT

### Background

1. The District initially evaluated the Student and found him eligible for special education and related services in December 2011, when he was in kindergarten. Exhibit D3, p. 5.
2. The Student began attending Northwest School of Innovative Learning (NWSOIL) as his District placement in January 2014. Exhibits D3, p. 10; D1, p. 6; Staples testimony. NWSOIL is a private school for students with emotional and behavioral difficulties. *Id.*
3. The Student was reevaluated in March 2014. Exhibit D3. The evaluation summary for the 2014 reevaluation states that the evaluation group meeting date was March 20, 2013, rather than 2014. Exhibit D3, p. 5. However, the evaluation summary was signed by the IEP team members on March 20, 2014, the report indicates the assessments were conducted in 2014, and the evaluation summary itself refers to a hospitalization of the Student in October 2013 and the Student's then-current behavior intervention plan (BIP) dated February 27, 2014, demonstrating that the evaluation summary incorrectly identified the reevaluation as having taken place in 2013. Exhibit D3.
4. The March 2014 reevaluation resulted in the determination that the Student was eligible for special education and related services under the emotional/behavioral disability eligibility category. Exhibit D3, p. 6. The reevaluation recommended that he receive specially designed instruction (SDI) in written expression, reading, and social/emotional/behavioral. *Id.*
5. The 2014 evaluation summary stated that the Student's next three-year evaluation would be due on March 20, 2016. Exhibit D3, p. 5. This appears to have been calculated based on the incorrect evaluation group meeting date of March 20, 2013, as three years from the actual evaluation group meeting in 2014 would have been March 20, 2017. *See id.*

### The District's March 2016 Reevaluation of the Student

6. Prior to March 2016, Laura Staples, District school psychologist, was informed that the Student was due for his triennial evaluation. Staples testimony. Presumably the District employee informing Ms. Staples of the need to reevaluate the Student was relying on the erroneous due date for the next three-year reevaluation on the 2014 evaluation summary. *See Exhibit D3, p. 5.*
7. Ms. Staples was responsible for conducting the Student's reevaluation. Staples testimony. Ms. Staples has a bachelor's degree in psychology and an educational specialist degree in school psychology. *Id.* She is certificated as a school psychologist by the State of Washington and also holds a national certification through the National Association of School Psychologists (NASP). She has worked as a school psychologist for approximately 12 years and worked at the District for three years.
8. To determine the areas in which to reevaluate the Student, Ms. Staples reviewed the Student's previous evaluation, talked to his teachers and case manager at NWSOIL, reviewed NWSOIL's data showing the Student's progress, and talked with the Student's Parent. Staples testimony.

9. Ms. Staples determined that the reevaluation would consist of a review of existing data, academic testing in reading, math, and writing, social/emotional/behavioral testing, a medical/physical review, and observation of the Student in the classroom. Staples testimony.

10. Ms. Staples had a phone conversation with the Parent on or about February 16, 2016, in which Ms. Staples shared the areas in which she was planning to reevaluate the Student. The Parent did not offer any other suggested area for reevaluation. Ms. Staples also told the Parent that she would be sending her a consent form and a medical release form for her to sign and a behavioral ratings scale for her to complete.

11. Ms. Staples sent the Parent prior written notice (PWN) on or about February 16, 2016, that the Student would be reevaluated, including a list of the areas in which Ms. Staples intended to reevaluate the Student. Exhibit D1, pp. 2, 4. The PWN stated that the testing would begin on February 24, 2016, to meet the testing deadline. *Id.* at 4. Ms. Staples also sent the Parent a consent form to sign, which included an opportunity for the Parent to identify additional areas in which she believed the Student should be assessed. Staples testimony.

12. Ms. Staples did not receive the consent form, medical form, or behavioral ratings scales back from the Parent. She called the Parent several times trying to obtain this information, including on March 1, 7, and 10, 2016, because she wanted to receive it before the evaluation meeting. Exhibit D1, pp. 2-3; Staples testimony. The Parent never told Ms. Staples that she did not want the Student to be reevaluated. Staples testimony.

13. The District conducted the reevaluation even though it never received the Parent's written consent. Staples testimony. There is no evidence of the date Ms. Staples began conducting the reevaluation.

14. With respect to the medical-physical portion of the evaluation, Ms. Staples reviewed the prior evaluation to obtain the Student's health and developmental history, noting that an independent psychiatric evaluation had resulted in the diagnosis of "AD/HD, R/O Bipolar Disorder, and PTSD probably by history." Exhibit D1, p. 9. The Student's history also included a psychiatric evaluation while the Student was hospitalized, resulting in a working diagnosis of disruptive mood dysregulation disorder and a secondary diagnosis of attention deficit hyperactivity disorder, combined presentation. *Id.* Ms. Staples also spoke with the Parent and learned that the Student was hospitalized in the psychiatric area of the hospital at the time of their conversation and had a recent medication change. Ms. Staples had hoped to also communicate with the Student's doctors but the Parent never provided the written authorization for her to do so. Staples testimony. While that information may have been useful, Ms. Staples did not believe she needed more information about the Student's medical condition in order to complete the reevaluation. Staples testimony.

15. Ms. Staples received input from the Student's teachers and case manager at NWSOIL and reviewed his grades for the 2015-2016 and 2014-2015 school years. Exhibit D1, p. 10. His grades were mostly Bs and Cs and he continued to have difficulty with anger and outbursts. Staples testimony. Teachers reported that he had four suspensions so far in the 2015-2016 school year and had episodes of anger with yelling, leaving the room, knocking over furniture, and throwing objects. Exhibit D1, p. 10. Antecedents to this behavior included directions from staff, a "no" directive from staff, and peer interactions. *Id.*

16. Ms. Staples observed the Student at NWSOIL as part of the evaluation. Exhibit D1, p. 11. In a math class, the students were participating in a coloring activity rather than math. The Student expressed that he did not want to color, so a staff person suggested that he "take a lap" around the school. Ms. Staples learned that he had gone to PE after his walk. In PE, Ms. Staples observed the Student playing football with a group of students and staff. As a result of her observations, Ms. Staples noted that the Student needed frequent movement breaks mixed in with classroom instruction, and needed to increase his task completion and amount of time working. *Id.*

17. Ms. Staples did not conduct cognitive testing because cognitive ability is typically stable after age eight and she had no reason to believe that new testing would result in significantly different scores than those produced in the 2014 reevaluation. Staples testimony. Those scores demonstrated the Student to have average or higher cognitive abilities. Exhibit D1, p. 12; Staples testimony.

18. For academic testing, Ms. Staples used portions of the Wechsler Individual Achievement Test - Third Edition (WIAT-3). She used only selected portions of the test because of the Student's frustration level. Staples testimony.

19. In reading, the Student had significant difficulty decoding many words. He could not use context to understand words. Staples testimony. He read at the fourth-grade level but scored less than the first percentile for comprehension. Exhibit D1, p. 15; Staples testimony. The Student's NWSOIL teacher reported that the Student was currently reading 44 words per minute at the third-grade level and able to answer four out of ten multiple choice comprehension questions correctly at the third-grade level. Exhibit D1 at 13.

20. With respect to writing, Ms. Staples gave only one of three portions of the test because of the Student's frustration. Staples testimony. She could not score the portion of the evaluation she conducted because the Student left the room during the testing. Staples testimony. She observed that he was struggling with writing and that he should continue to receive SDI in this area. *Id.* The Student's NWSOIL teacher reported that the Student was working on writing three sentences to respond to a journal prompt and that he could complete that task in two out of five opportunities. Exhibit D1, p. 13. He was also working to complete sentences with correct beginning capitalization and ending punctuation, and could accomplish this in three out of five sentences. *Id.*

21. With respect to math, Ms. Staples administered the math calculation portion of the WIAT-3 because she thought it would be less frustrating for him than other portions. The Student's scores placed him in the eighth percentile. Exhibit D1, p. 14. Staples testimony.

22. During the academic testing, Ms. Staples observed that the Student had a difficult time understanding questions and that he wanted to leave the room when he became frustrated. Exhibit D1, p. 13; Staples testimony.

23. To evaluate the Student in social/emotional, Ms. Staples administered the Behavior Assessment System for Children, Second Edition (BASC-2), a behavioral rating scale. Exhibit D1, p. 18; Staples testimony. He was rated as average on the internalizing problems scales, as clinically significant on the externalizing problems and behavior symptoms index scales, and "at risk" on the adaptive skills scales. Exhibit D1, p. 19. Ms. Staples also administered the

Connors Third Edition rating scales (Connors-3), which are designed to assess attention deficit hyperactivity disorder (ADHD). The Student's scores showed average scores for learning problems, elevated scores for inattention and executive functioning, and very elevated scores for hyperactivity/impulsivity and defiance/aggression. Exhibit D1, p. 19; Staples testimony. The scores from both tests were consistent with Ms. Staples's observation of the Student and teacher reports from NWSOIL of the Student's atypical behavior and hyperactivity. Staples testimony. The Student's classroom teacher at NWSOIL, Meagan Jennings, completed rating scales for both the BASC-2 and Connors-3. Ms. Staples had asked the Parent to complete rating scales as well, but she did not do so. The teacher ratings are most significant to the reevaluation because they reveal how the Student functions at school. Ms. Staples did not believe further assessment was necessary for the Student in the social/emotional area.

24. Ms. Staples administered each of the assessments in accordance with their instructions. Staples testimony.

25. An evaluation group meeting was held on March 17, 2016. Exhibit D1, p. 5. Ms. Staples was present as well as the Student's teacher and case manager and a building administrator from NWSOIL. *Id.* The Parent participated in the meeting by phone. *Id.* Neither the Parent nor any of the NWSOIL staff expressed any disagreement with the reevaluation or identified other areas in which the Student should have been reevaluated during the meeting. Staples testimony.

26. The reevaluation team determined and stated in its report that the Student continued to meet eligibility criteria for special education and related services under the emotional/behavioral disability eligibility category. Exhibit D1, p. 6. The evaluation report contained a discussion of the assessments described above and the review of the data supporting its conclusion regarding eligibility, including Ms. Staples's documentation of her assessments and observations. *Id.* at pp. 6-20. The report included the date and signature of each of the professional members of the group, certifying that the report represented his or her conclusion. *Id.* at 5. The report described the effects of the Student's disability on his involvement and progress in the general curriculum by stating that his mental health conditions make him miss instruction due to hospitalizations and his inability to focus and remain in class.

27. The team recommended in the evaluation report that the Student continue to receive SDI in written expression and social/emotional/behavioral. The team also recommended that he continue to receive SDI in reading, although it made more specific recommendations than in the prior evaluation, identifying his need for SDI in basic reading skills and reading comprehension. The team also recommended that he receive SDI in mathematics calculation, a service he had not previously received. The reevaluation report described the Student's specific needs in each area. *Id.* at 8-20. The report also recommended a number of accommodations and modifications that may be helpful for the Student, including movement breaks at regular intervals, a behavior plan, shortened assignments, and the ability to work standing up. *Id.* at 19.

28. In a letter dated May 31, 2016, the Parent requested an independent educational evaluation (IEE) of the Student because she disagreed with the District's evaluation. Exhibit D5. The letter did not indicate the reasons for the Parent's disagreement and the record does not otherwise contain the Parent's arguments as to why the District's evaluation is not appropriate. *See id.*

## CONCLUSIONS OF LAW

### Jurisdiction and Burden of Proof

1. The Office of Administrative Hearings (OAH) has jurisdiction over the parties and subject matter of this action for the Superintendent of Public Instruction as authorized by 20 United States Code (USC) §1400 *et seq.*, the Individuals with Disabilities Education Act (IDEA), Chapter 28A.155 Revised Code of Washington (RCW), Chapter 34.05 RCW, Chapter 34.12 RCW, and the regulations promulgated thereunder, including 34 Code of Federal Regulations (CFR) Part 300, and Chapter 392-172A Washington Administrative Code (WAC).

2. The burden of proof in an administrative hearing under the IDEA is on the party seeking relief. See *Schaffer v. Weast*, 546 U.S. 49 (2005). As the District is the party seeking relief in this case, the District has the burden of proof.

### Default

3. The Parent failed to appear for the due process hearing. She received notice of the hearing and she was aware her request for a continuance was denied. Accordingly, the Parent is in default due to her failure to appear, and the hearing proceeded without her participation. RCW 34.05.440.

### The IDEA

4. The IDEA and its implementing regulations provide federal money to assist state and local agencies in educating children with disabilities, and condition such funding upon a state's compliance with extensive goals and procedures. In *Board of Education of Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 102 S. Ct. 3034 (1982) (*Rowley*), the Supreme Court established both a procedural and a substantive test to evaluate a state's compliance with the Act, as follows:

First, has the state complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.

*Id.* at 206-207 (footnotes omitted).

5. A "free appropriate public education" consists of both the procedural and substantive requirements of the IDEA (formerly the EHA). The *Rowley* court articulated the following standard for determining the appropriateness of special education services:

[A] "free appropriate public education" consists of educational instruction specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child "to benefit" from the instruction. Almost as a checklist for adequacy under the Act, the definition also requires that such instruction and services be provided at public expense and under public supervision, meet the State's educational standards, approximate



the grade levels used in the State's regular education, and comport with the child's IEP. Thus, if personalized instruction is being provided with sufficient supportive services to permit the child to benefit from the instruction, and the other items on the definitional checklist are satisfied, the child is receiving a "free appropriate public education" [FAPE] as defined by the Act.

*Id.* at 188-189.

#### Independent Educational Evaluations (IEEs)

6. Parents have the right to obtain an IEE if they disagree with a school district's evaluation under certain circumstances. WAC 392-172A-05005(1); 34 CFR 300.502(a)(1). An IEE is an evaluation conducted by a qualified examiner who is not employed by the school district at district expense. WAC 392-172A-05005(1)(c)(i); 34 CFR 300.502(a)(3). If a parent requests that a district provide an IEE, the district must either ensure that an IEE is provided at public expense without unnecessary delay or initiate a due process hearing within 15 days to show that its evaluation is appropriate. WAC 392-172A-05005(2)(c).

#### Reevaluations

7. A reevaluation must be conducted at least every three years unless the parent and the district agree that a reevaluation is unnecessary. WAC 392-172A-03015(2)(b); 34 CFR §300.303(b)(2). Reevaluations must also be conducted when a school district determines that a student's educational or related services needs warrant a reevaluation or when a student's parent or teacher requests a reevaluation. WAC 392-172A-03015(1). A reevaluation may not occur more than once a year unless the student's parent and the district agree otherwise. WAC 392-172A-03015(2)(a).

8. The District reevaluated the Student because it erroneously believed he was due for his triennial reevaluation. There is no evidence that the Parent or any of the Student's teachers requested a reevaluation or that the District believed the Student's educational needs warranted an early reevaluation. Thus, the District was not obligated to reevaluate the Student when it did. The reevaluation did not take place less than a year from the prior reevaluation so it was not prohibited. The District did not violate the IDEA by reevaluating the Student when it was not obligated to do so. Nor does reevaluating the Student early make the reevaluation itself inappropriate such that the Parent would be entitled to an IEE.

9. A school district must obtain informed parental consent prior to conducting a reevaluation of a student eligible for special education services unless it can demonstrate that it made "reasonable efforts" to obtain consent and the parent failed to respond. WAC 392-172A-03000(3)(a). Here, the District requested the Parent's consent and she did not provide it. Ms. Staples sent the consent form, along with a behavioral rating form and release for medical information, to the Parent and called the Parent to tell her she was sending them. This alone, without any follow-up efforts when the Parent did not respond, does not constitute reasonable efforts. Ms. Staples called the Parent at least three other times, requesting the documents. However, Ms. Staples called the Parent because she wanted to have the documents before the reevaluation team meeting, which would have taken place at the conclusion of the reevaluation. There is no evidence in the record as to when the reevaluation began. Accordingly, the District has not demonstrated that it that it made reasonable efforts to obtain the Parent's consent

before it conducted the reevaluation without it. However, even if the District conducted the reevaluation without the requisite consent, this would not necessarily make the reevaluation itself inappropriate for purposes of the Parent's right to obtain an IEE. Here, the Parent had the opportunity to suggest additional areas for testing and the evaluation team considered input from the Parent. That the District may not have made reasonable efforts to obtain the Parent's consent prior to beginning the reevaluation did not affect the quality or appropriateness of the evaluation itself.

10. The District is required to follow the requirements for evaluations set forth in WAC 392-172A-03020, which provides:

**Evaluation procedures.**

(1) The school district must provide prior written notice to the parents of a student, in accordance with WAC 392-172A-05010, that describes any evaluation procedures the district proposes to conduct.

(2) In conducting the evaluation, the group of qualified professionals selected by the school district must:

(a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, that may assist in determining:

(i) Whether the student is eligible for special education as defined in WAC 392-172A-01175; and

(ii) The content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum, or for a preschool child, to participate in appropriate activities;

(b) Not use any single measure or assessment as the sole criterion for determining whether a student's eligibility for special education and for determining an appropriate educational program for the student; and

(c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(3) Each school district must ensure that:

(a) Assessments and other evaluation materials used to assess a student:

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally unless it is clearly not feasible to so provide or administer;

(iii) Are used for the purposes for which the assessments or measures are valid and reliable. If properly validated tests are unavailable, each member of the group shall use professional judgment to determine eligibility based on other evidence of the existence of

a disability and need for special education. Use of professional judgment shall be documented in the evaluation report;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments.

(b) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(c) Assessments are selected and administered so as best to ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(d) If necessary as part of a complete assessment, the school district obtains a medical statement or assessment indicating whether there are any other factors that may be affecting the student's educational performance.

(e) The student is assessed 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.

(f) Assessments of students eligible for special education who transfer from one school district to another school district in the same school year are coordinated with those students' prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

(g) In evaluating each student to determine eligibility or continued eligibility for special education service, the evaluation is sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified.

(h) Assessment tools and strategies are used that provide relevant information that directly assists persons in determining the educational needs of the student.

*See also* 34 CFR 300.304.

11. Here, the Parent was provided with prior written notice of the reevaluation. The reevaluation team was composed of qualified professionals, including professionals from NWSOIL and Ms. Staples, who conducted the assessments. The team used a variety of assessment tools and strategies to gather relevant information about the Student, including multiple standardized assessment tools appropriate to the areas evaluated as well as reviewing records, observing the Student in his classroom, and obtaining information from the Student's teacher, case manager, and the Parent. Accordingly, the team did not use any one measure to as the sole criterion to determine the Student's eligibility. The team used technically sound instruments or measures to evaluate the Student that were valid and reliable. The measures were administered by trained and knowledgeable personnel in accordance with the instructions

provided by the producers of the evaluation materials. The District assessed the Student in all areas related to his suspected disability as understood from his prior evaluations and reports from his NWSOIL teacher and case manager. Neither the Parent nor the NWSOIL staff suggested any other areas of reevaluation. Similarly, the reevaluation was sufficiently comprehensive to identify all of the Student's special education and related services needs. After consideration of the record, it is concluded that the District's evaluation of the Student met the requirements of WAC 392-172A-03020.

12. The District must also follow the requirements for evaluations set forth in WAC 392-172A-03025, which provides in pertinent part:

**Review of existing data for evaluations and reevaluations.**

As part of an initial evaluation, if appropriate, and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate, must:

(1) Review existing evaluation data on the student, including:

(a) Evaluations and information provided by the parents of the student;

(b) Current classroom-based, local, or state assessments, and classroom-based observations; and

(c) Observations by teachers and related services providers.

(2)(a) On the basis of that review, and input from the student's parents, identify what additional data, if any, are needed to determine:

(i) Whether the student is eligible for special education services, and what special education and related services the student needs; or

(ii) In case of a reevaluation, whether the student continues to meet eligibility, and whether the educational needs of the student including any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum; and

(b) The present levels of academic achievement and related developmental needs of the student.

See also 34 CFR 300.305.

13. In this case, Ms. Staples observed the Student in his NWSOIL classroom and reviewed existing evaluation data on the Student including his prior evaluations, information from the Parent, and documentation and observations by his NWSOIL teacher and case manager in order to determine what new data would be necessary to complete the Student's reevaluation. The District complied with the requirements of WAC 392-172A-03025.

14. In conducting reevaluations, the District is required to follow the requirements for evaluation reports set forth in WAC 392-172A-03035, which provides:

**Evaluation report.**

(1) The evaluation report shall be sufficient in scope to develop an IEP, and at a minimum, must include:

(a) A statement of whether the student has a disability that meets the eligibility criteria in this chapter;

(b) A discussion of the assessments and review of data that supports the conclusion regarding eligibility including additional information required under WAC 392-172A-03080 for students with specific learning disabilities;

(c) How the student's disability affects the student's involvement and progress in the general education curriculum or for preschool children, in appropriate activities;

(d) The recommended special education and related services needed by the student;

(e) Other information, as determined through the evaluation process and parental input, needed to develop an IEP;

(f) The date and signature of each professional member of the group certifying that the evaluation report represents his or her conclusion. If the evaluation report does not reflect his or her conclusion, the professional member of the group must include a separate statement representing his or her conclusions.

(2) Individuals contributing to the report must document the results of their individual assessments or observations.

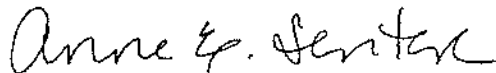
15. It is concluded that the District's reevaluation report complies with WAC 392-172A-03035 as it includes each of the minimum requirements.

16. After consideration of the evidence of record, it is concluded that the March 2016 reevaluation of the Student was appropriate. Accordingly, the Parent's request for an IEE at the District's expense should be denied.

**ORDER**

The Tacoma School District's March 2016 reevaluation of the Student was appropriate. The Parent's request for an independent educational evaluation of the Student at the District's expense is DENIED.

Signed at Seattle, Washington on January 13, 2017.



Anne Senter  
Administrative Law Judge  
Office of Administrative Hearings

**Petition to Vacate Default**

Any party who is held in default may file a written motion requesting that the order be vacated and stating the grounds relied upon pursuant to RCW 34.05.440(3). The motion must be filed with the ALJ within seven (7) days of the date of mailing of the order of default.

**Right To Bring A Civil Action Under The IDEA**

Pursuant to 20 U.S.C. 1415(i)(2), any party aggrieved by this final decision may appeal by filing a civil action in a state superior court or federal district court of the United States. The civil action must be brought within ninety days after the ALJ has mailed the final decision to the parties. The civil action must be filed and served upon all parties of record in the manner prescribed by the applicable local state or federal rules of civil procedure. A copy of the civil action must be provided to OSPI, Administrative Resource Services.

**CERTIFICATE OF SERVICE**

I certify that I mailed a copy of this order to the within-named interested parties at their respective addresses postage prepaid on the date stated herein.



Parent



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cc: Administrative Resource Services, OSPI  
Matthew D. Wacker, Senior ALJ, OAH/OSPI Caseload Coordinator