

ART WANG
Chief Administrative
Law Judge



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OFFICE OF ADMINISTRATIVE HEARINGS

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In re: **Shoreline School District - Special Education Cause No. 2001-SE-0021**

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(e) (Individuals with Disabilities Education Act) or RCW 34.05.510-598 (State Administrative Procedure 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 the Legal Services office at OSPI at (360) 725-6133.

Sincerely,

Mary L. Radcliffe
Administrative Law Judge

c: Legal Services, OSPI
Deputy Chief ALJ, Jan Grant
Mary Radcliffe, OAH/OSPI Coordinator



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

IN THE MATTER OF:

SHORELINE SCHOOL DISTRICT

SPECIAL EDUCATION
CAUSE NO. 2001-SE-0021

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

A hearing in the above-entitled matter was held before Administrative Law Judge Mary L. Radcliffe in Shoreline, Washington, on June 25 and 26, 2001. The interested parents, [REDACTED] and [REDACTED] ("Parents") were represented by Lise Ellner, attorney at law. The Shoreline School District ("District") was represented by Lester "Buzz" Porter, attorney at law. The Administrative Law Judge, having sworn the witnesses, heard testimony, and considered the admitted exhibits and arguments of the parties, hereby enters the following:

STATEMENT OF THE CASE

On March 14, 2001, the District filed a request for due process hearing with the Superintendent of Public Instruction. On March 15, 2001, the Office of Administrative Hearings mailed to the parties a Notice of Prehearing Conference and a Notice of Hearing, with attachments. A prehearing conference was held, as scheduled, on March 22, 2001, and a Prehearing Order entered the same day. The hearing, scheduled for April 4, 2001, was continued to April 12, 2001, so that the Parents could obtain counsel. The forty-five day deadline for issuance of a written decision, originally April 28, 2001, was continued to May 7, 2001. On April 5, 2001, an unscheduled but agreed, prehearing conference was held so that the Parents' new counsel, Lise Ellner, could request a continuance. By Prehearing Order dated April 5, 2001, the hearing was continued to May 30, 2001. The 45 day deadline was continued to June 25, 2001. On May 22, 2001, a Prehearing Order was entered after a prehearing conference, continuing the matter to June 25 and 26, 2001. The 45 day deadline was continued to July 22, 2001. July 22, 2001, a Sunday, moves the deadline to Monday, July 23, 2001, pursuant to computation of time rule, WAC 10-08-080.

The hearing took place as scheduled, beginning on June 25 and concluding on June 26, 2001, including the parties' closing argument and submission of post-hearing briefs.

On July 5, 2001, the Parents submitted a Reply Brief. On July 9, 2001, the District moved to strike the Reply Brief. On July 12, 2001, the ALJ issued a letter granting the District's motion.

Findings of Fact, Conclusions of Law and Order

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ISSUES

The parties agree that as part of the District's evaluation the Student should have a psychological evaluation to evaluate his social and emotional state. The District selected Dr. Michael Golden to conduct the evaluation. The Parents object to Dr. Golden because they have concerns about the efficacy of his evaluation of the Student's sibling, and because he testified in the sibling's due process hearing, taking a position contrary to the Parents' position. The Parents are of the view that Dr. Golden cannot conduct a fair and impartial evaluation, that the evaluation would be fruitless, and would cause harm to the Student. The District is of the view that it may select any qualified evaluator to conduct the evaluation and that Dr. Golden is qualified and appropriate to conduct the evaluation.

The issue for hearing is:

Whether the District's request to proceed with the evaluation of the Student by Dr. Michael Golden, over the objection of the Parent, should be granted.

STIPULATIONS

1. The Student needs a psychiatric evaluation as part of his initial evaluation.

FINDINGS OF FACT

1. The Student resides with his family within the boundaries of the District.
2. In September 2000, the Parents referred the Student to the District for evaluation.
3. In October 2000, the Parents removed the Student from the District and enrolled him in a private school in Edmonds, Washington.
4. In November 2000, the District agreed to conduct a special education eligibility evaluation of the Student. Sometime later, the Parents and District agreed that the Student's evaluation would include a social/emotional evaluation by a child psychiatrist.
5. Previously, the District proposed, and the Parents agreed, to have the Student's sibling evaluated by Dr. Golden. That evaluation was completed in the [REDACTED]. The Parents disagree with the efficacy of the evaluation for a variety of reasons.

6. Prior to winter break, about December 22, 2000, the District proposed that Dr. Golden conduct the Student's psychiatric evaluation. The Parents requested other options and were told that Dr. Golden was the only choice.

7. On or about January 21, 2001, the Parents completed and faxed to Dr. Golden a lengthy history form he asked to be completed. In preparation for the appointment, the District mailed the Student's educational records to Dr. Golden. The District did not have a parent-signed consent for release of records. The District is of the view it does not need one. The Parents see this release of records without consent as a violation of their privacy.

8. The Parents did not formally object to Dr. Golden until after a January 24, 2001 meeting. By letters dated January 28, 2001 and January 31, 2001, the Parents, through their educational consultant, withdrew consent for Dr. Golden to conduct the evaluation. They explained that he was not neutral and that there was a conflict of interest based on his evaluation of the Student's sibling. The Parents were not entirely forthright about their lack of trust and confidence in Dr. Golden because they felt they were being put in a position to hurt one child while protecting the other. The District's unwillingness to agree to another evaluator caused the Parents to worry that the District had some ulterior motive behind its decision.

9. The Parents' reasons for not wanting Dr. Golden to conduct the evaluation did not really matter because the District was of the view that it was entitled to select its own evaluator without agreement of the Parents. After receiving the Parents' letters, the District reflected on its choice and came to the same conclusion - that Dr. Golden had the right qualifications, skills, and knowledge about the family that would be valuable to the evaluation. The District notified the Parents that it disagreed with the Parents' position, that the Parents' had not objected earlier, and that if the Parents did not change their view by March 9, 2001, the District would request a due process hearing.

10. When the Parents did not agree to Dr. Golden by March 9, 2001, the last day of the 35 day evaluation period, the District requested a hearing.

11. The Student's [REDACTED] has been the subject of a recent lengthy and contentious special education due process hearing between the Parents and the District. The Parents are seeking reimbursement for a residential placement which the District asserts is unnecessary. Dr. Golden provided expert testimony in the hearing in support of the District's position and contrary to numerous experts' testimony for the Parents.

12. Over the course of the sibling's lengthy due process hearing, the Parents discussed freely with the family (the Student and [REDACTED] sibling) their opinions about Dr. Golden. Namely, that Dr. Golden's evaluation process is not professional, that his evaluation and

resulting opinions are incorrect and inappropriate, and that the family has no faith in his evaluation of the Student's sibling.

13. The Student is also aware of the purpose of this due process hearing, and that his Parents do not want him to be evaluated by Dr. Golden. The Parents report that the Student supports their decision.

14. Dr. Golden is appropriately credentialed and professionally qualified to conduct the evaluation of the Student.

15. The District selected Dr. Golden because he is familiar with the family, which is, by the nature of the evaluation, part of the evaluation.

16. Dr. Bartlett Vincent, a board certified child psychiatrist, who testified on behalf of the Parents, was extremely persuasive. He is well qualified to speak to the issue raised by the Parents. Dr. Golden was not called as a witness by either party in this matter. His willingness to conduct an evaluation and views on this subject are not known.

17. Based on Dr. Vincent's testimony and other evidence, the ALJ finds that:

A) The relationship between a psychiatrist and the person who is the subject of an evaluation requires rapport and trust in order to obtain accurate and candid information. In the absence of trust, the person evaluated may be guarded and not discuss feelings and relationships. The person would fear that the information could come back at them in a negative way. Therefore, the resulting evaluation could have limited utility.

B) A person subjected to an evaluation with someone whom they do not trust could become cynical about the safety of confiding in an evaluator and become uncooperative in future therapeutic relationships.

C) Any benefit Dr. Golden derives from having already developed a family history and insights into the family is outweighed by the adversarial nature of the relationship between the family and Dr. Golden. Any appropriately credentialed child psychiatrist can obtain such information.

D) Given the information provided the Student by ██████ Parents, it is unlikely the Student will establish the trust and rapport with Dr. Golden necessary to be candid and cooperative in the evaluation process, so that, it is unlikely that the outcome of such an evaluation would be useful.

18. Based on Dr. Vincent's and the District's contact with Dr. Golden over the years, there is no reason to doubt his ethics or competency.

Findings of Fact, Conclusions of Law and Order

19. Dr. Vincent is of the view that professional ethics should prevent Dr. Golden from accepting the District's request to evaluate the Student, based on the litigation related to the Student's sibling and the Parents' lack of trust and confidence in him, which they have conveyed to the Student. If in the same circumstances as Dr. Golden, Dr. Vincent would not accept the referral. There is no ethical rule on point by which Dr. Golden would be required to refuse the evaluation request.

20. Dr. Vincent is of the view that the Student may be harmed by an evaluation by Dr. Golden. The harm is the potential damage to the Student's understanding of a relationship between a psychiatrist and patient. He opines that the Student could become cynical about such relationships and become uncooperative.

21. Currently, the Student is open, engaging and cooperative.

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction over the parties and subject matter of this action for the Superintendent of Public Instruction as authorized by 20 U.S.C. Section 1401 et seq. (Individuals with Disabilities Education Act (IDEA)), Chapter 28A.155 RCW, Chapter 34.05 RCW, Chapter 34.12 RCW, and the regulations promulgated thereunder, including 34 CFR 300 et seq., and Chapter 392-172 WAC.

2. The Individuals with Disabilities Education Act (IDEA) (formerly the Education for All Handicapped Children Act) 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 Hendrick Hudson District Board of Education vs. Rowley, 458 U.S. 176, 102 S. Ct. 3034 (1982), the Supreme Court established both a procedural and a substantive test to evaluate a state's compliance with the Act, as follows:

First, had 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. 103 S. Ct. at 3051.

Parties' Positions

3. The District asserts it has the right to select the evaluator of the Student. It also asserts that the Parents' refusal to cooperate with the District's proposed

evaluator is the same as a refusal to consent to the evaluation. The District relies on WAC 392-172-304 and WAC 392-172-350, as the basis for its request for hearing. The District seeks to establish that it has complied with the regulations regarding initial evaluation and that it has the right to select Dr. Golden, who is qualified and appropriate, to conduct the evaluation.

4. The Parents assert that the District has no right to request a hearing in this matter because the Parents have not refused consent to an evaluation, only to one evaluator: There is no provision in the IDEA for a district to seek a hearing to sustain its choice of an outside evaluator. The Parents assert that one of the fundamental values of the IDEA is collaboration between a parent and district. Therefore, they argue, this matter should be dismissed and the District required to consider other qualified evaluators agreeable to the Parents.

Parents' Motion to Dismiss

5. On the issue of whether the District has a right to seek due process in this matter, the ALJ first looks to the regulation upon which it relies, WAC 392-172-304. It provides, in relevant part:

(1) Informed parental consent must be obtained in writing (using mediation if appropriate), or denial of consent must be overridden by a due process hearing before:

(a) Conducting an initial evaluation, or reevaluation consistent with WAC 392-172-185; . . .¹

6. Here, it is undisputed that the Parents consented to an initial evaluation of the Student and that the District should include a psychiatric evaluation as part of that evaluation. The District asserts, by refusing its proposed evaluator, the Parents have effectively withdrawn their consent, thereby invoking review under the above provision. The Parents assert, by failing to collaborate with the Parents, the District has inappropriately halted the evaluation and it should be required to propose additional evaluators. The ALJ concludes that she must resolve the question of the

¹ WAC 392-172-304 (4) does not apply in this situation. It provides: " A public agency may not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this chapter." It has not been argued, nonetheless the ALJ concludes, that section (4) does not apply to this situation because the evaluation is a single "service, benefit, or activity" of the school district.

District's right to select its own evaluator in order to address the Parents' motion to dismiss.

Does the District Have A Right to Select the Outside Evaluator?

7. Under basic principles of statutory construction, the ALJ must begin by applying the appropriate regulation. Only if the statute or regulation is unclear or ambiguous does the ALJ examine the language surrounding the ambiguity or the overall statutory/regulatory scheme to find its intended meaning. *Norfolk & W.Ry. Co. v. American Train Dispatchers' Ass'n*, 499 U.S.117, 128, 111 S.Ct. 1156 (1991) and *Massachusetts v. Morach*, 490 U.S. 107, 115, 109 S.Ct. 1668 (1989).

8. In relevant part, **WAC 392-172-108 Evaluation procedures** provides:

The evaluation or reevaluation of a special education student or any student being considered for special education services shall be performed using the procedures established in this chapter. Each school district or other public agency shall establish and implement evaluation procedures which meet the requirements of this chapter.

- (1) Before the initial provision of special education and any necessary related services, a full and individual initial evaluation of the student's educational needs must be conducted.
- (2)(a) The evaluation of a student with a suspected disability will be conducted by a group of qualified professionals selected by the district or other public agency and knowledgeable about the student and the suspected areas of disabilities.
 - (b) For a student suspected of having a learning disability, the determination of whether the student is eligible under this chapter shall be made by child's parent(s) and a group of qualified professionals which must include:
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- (3) Each professional member of the evaluation group shall be licensed, registered, credentialed, or certificated according to his or her professional standards in accordance with state statutes and rules.
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- (13)(a) Medical evaluations at the expense of a school district or other public agency shall be obtained if:
 - (i) The group described in WAC 392-172-108(2) suspects a student of having a health problem which may affect his or her eligibility and need for special education and any necessary related services; and

(ii) In accordance with criteria established by the school district or other public agency.

9. The ALJ finds the reading of this regulation to be unambiguous and clear. Moreover, the ALJ finds that the plain meaning of the regulation is consistent with the section of regulations on evaluation procedures, WAC 392-172-102 through WAC 392-172-111.

10. WAC 392-172-108(2)(a) clearly provides that the school district selects the professionals who will conduct the evaluation. This is not in conflict with the next provision, (2)(b), which pertains to the group who will determine the ultimate question of eligibility, *after* the evaluation activities are completed, for a student suspected of having a learning disability. The provisions are not posed in the alternative. Provision (2)(a) applies regardless of the suspected disability being evaluated.

11. The purpose of provision (2)(b) is to identify the professionals, as well as the parents, who must participate in an eligibility decision related to a suspected learning disability.

12. Provision (2) is a restructuring of the 1995 WAC 392-172-108. The restructuring divided the evaluation into two parts: the conducting of the evaluation and the determination of eligibility for a learning disability. The parents were specifically included in the determination part.² This provision may be redundant given that a new regulation, within the evaluation procedures, defines the parents role in the evaluation process.³ The

² Under the 1995 regulations, WAC 392-172-108(2) provided: "The evaluation of a student ... shall be made by a multi disciplinary team. The multi disciplinary team is a group of professionals selected by the district . . and knowledgeable about the student and the areas(s) of suspected disability(ies)." The MDT did not include the parents.

³ WAC 392-172-111 provides, in relevant part:

(1) Upon completing the administration of tests and other evaluation materials:

(a) Consistent with WAC 392-172-105 [parent participation in meetings] and 392-172-15705 [parent as member of placement team], a group of qualified professionals and the parent of the student shall determine whether the student is a special education student . . .

reference to parents in WAC 392-172-108(2)(b) may have been to avoid any uncertainty as to which portion of the evaluation process a parent was to participate.

13. Such a reading of provision (2)(a) is consistent with provision (13) which relates to a medical evaluation. In the case of a medical evaluation, once the team decides the need for a medication evaluation, the reader is referred back to Section (2) for the process of selecting the medical evaluator.

14. The importance of parent participation and collaboration in the IDEA cannot be overstated. Congress has, on every occasion of the IDEA's Reauthorization, increased the role of the parent. This has been manifested at the state level in our regulations. Therefore, when a provision specifically and clearly leaves a decision to the province of the school district, it cannot be read as unintended. Just as provision (2)(b) includes the parent as a cautionary inclusion, (2)(a) does not include the parents. This is consistent with the role of the parent participation as provided in regulation WAC 392-172-111.

15. It is also consistent with the larger purpose of the IDEA - to obligate school districts receiving federal funds to comply with its obligations to identify, evaluate, and serve, eligible students. 20 U.S.C. Sec.1412(a). Although parents participate in the process they do not become responsible and accountable for the procedural and substantive requirements for child find, appropriate evaluations and/ or, IEPs.

16. The IDEA also contains dispute resolution processes for those inevitable conflicts that arise between a school district and a parent. Specifically, as it relates to disputes about evaluation, it provides for the right of the parent to obtain an independent educational evaluation at public expense. 34 C.F.R. Sec. 300.502 and WAC 392-172-150. The right to an independent educational evaluation at public expense is a specific remedy to address the potential for disagreement with the district's evaluation, due to bias or other reasons that may result in an inappropriate district evaluation. As the court stated in *Andress*: "It would be incongruous under the statute to recognize that the parents have a reciprocal right to an independent evaluation, but the school does not." *Andress v. Cleveland Indép. Sch. Dist.* 64 F.3d 176, 178 (5th Cir. 1995).

17. The ALJ concludes that the District's position is correct, the regulation clearly provides that the District has the discretion to select the evaluator, notwithstanding the obvious efficacy of a collaborative process envisioned in the IDEA. That being said, the ALJ concludes that the Parents halted the evaluation by their refusal to agree to the District's selected evaluator. (See *DuBois v. Connecticut State Bd. of Ed.*, 727 F.2d 44, (2d Cir. 1984), in which the court found the parents' rejection of six proposed evaluators to be a revocation of consent.) The ALJ further concludes that the District's request for hearing to pursue its evaluation over the Parents objection is properly before the ALJ

pursuant to the provisions of WAC 392-172-350 and -304. The Parents' motion to dismiss is denied.

Intervention in the District's Selection Process

18. Having held that the District is seeking to override the Parents objection to the evaluation, the issue becomes whether the District has complied with the regulations in conducting that portion of the evaluation in dispute and whether, over the Parents objection, the ALJ should allow the District to proceed with its intended evaluation.

19. Turning first to the regulation at issue, WAC 392-172-108, the ALJ notes that constraints that operate against a school district's discretion in the selection of its evaluators are found in provision (3) and (13)(a)(ii). The first provides that the selected evaluator must be appropriately credentialed, etc. Here, the credentials and qualifications of Dr. Golden are not at issue.⁴

20. The second constraint, (13)(a)(ii), provides that if a medical evaluation is obtained it must be in accordance with criteria established by the school district. Generally, such criteria would relate to qualifications and costs, a discussion seen more often in the context of an independent educational evaluation (IEE) regulation. (See WAC 392-172-150(10) related to agency criteria.) Hypothetically, a district might have a policy that includes parents in the selection process. In such an instance, a parent may be able seek to enforce that policy through invocation of WAC 392-172-108(13).⁵ That not being an issue here, the ALJ does not address it further.

Is there a basis for intervening in the District's selection to avoid harm to the Student?

21. There being no other regulation that constrains the District's selection process, the ALJ turns to the Parents' argument that waiting for the completion of the District's evaluation will result in harm to the Student, and that they should be able to intervene to avoid that harm, and not wait to obtain an appropriate evaluation in the form of an IEE.

22. The Parents rely on *Burlington v. Dept. of Ed. of Mass.*, 471 U.S. 359, 105 S.Ct.

⁴ The Parents presented evidence related to the substantive concerns they had about Dr. Golden's evaluation of the Student's sibling. However, they agree that Dr. Golden's qualifications are not at issue here. Moreover, it is not appropriate for the ALJ to render an opinion about the efficacy of an evaluation of a student not before her and pending before another ALJ.

⁵ The ALJ is not rendering any opinion as to whether jurisdiction would exist under the IDEA under such a scenario.

1996 (1985), which establishes a parent's right to reimbursement for private placement. The Parents also rely on numerous examples in the IDEA requiring collaboration between school districts and parents. However, the Parents cited no authority for the proposition that the District is required to collaborate with the Parents in the selection of its evaluator or that the Parents can intervene in the selection process to avoid potential harm to the Student.

23. On the other hand, the District cited several examples in support of the District's right to conduct its own evaluation on its own terms. None of the cases are exactly on point, but many are much closer to this situation than cases cited by the Parents.

24. It has been consistently held that a district is entitled to conduct its own evaluation. See *Gregory K. v. Longview Sch. Dist.*, 811 F.2d 1307 (9th Cir. 1987). In California, reviewing a regulation with similar language to WAC 392-172-108(2), a hearing officer decided that neither a parent's mistrust nor an evaluator's opinion about a student were a sufficient basis to limit a district's discretion in its selection of an evaluator. *Ventura Unif. Sch. Dist.*, 33 IDELR 80 (SEA CA 2000). In *Andress, id*, the parents attempted to prevent the district's evaluation of the student in order to prevent harm to the student. The fifth circuit court of appeals reversed the lower court's creation of an exception to the rule that a school district has a right to test a student itself in order to evaluate the student. It held that there was nothing in the statutes, regulations or case law that supports an exception in order to avoid harm to the student. The court in *Andress*, cited *Vander Malle v. Ambach* 673 F.2d 49 (2d Cir. 1983), in support of its decision. In *Vander Malle* the main issue was one of injunctive/stay put relief, however, it did address the district's request to evaluate the student over the objection of the parents. The court held that the district was entitled to have the student examined by a qualified psychiatrist of its choosing. (at pg. 53).

25. Here, the Parents assert that the Student may be harmed by an evaluation by Dr. Golden. The evidence in this case establishes that the Student has already learned that there are evaluators to be trusted and those not to be trusted, and that Dr. Golden is in the latter category. The Student is already armed with his self-protection, which may include being uncooperative with the evaluation. However, the evidence here establishes that Dr. Golden is otherwise appropriately credentialed and qualified to conduct this evaluation. The ALJ is in no position to determine the proposed appropriateness of Dr. Golden's evaluation based on the potential violation of ethical guidelines for child psychiatrists.

26. The Parents also assert that they have no trust in Dr. Golden because he violated their privacy by reviewing records sent to him without a consent for release of information. The ALJ points out that it is the District, not Dr. Golden, who released the records. The ALJ finds the Parents' evidence that the District sent these records to Dr. Golden in May 2001 as opposed to January, 2001. Moreover, it is not an activity attributable to Dr. Golden. Whether it was a violation of law is not determined here. The evidence does not

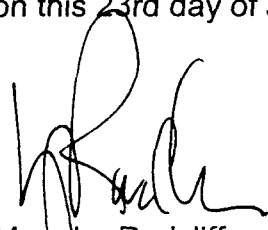
support concluding that meaningful harm might have come from Dr. Golden reviewing records for a student he thought he would be evaluating. The ALJ has no authority over the sibling's due process matter, and makes no finding as to any use the Student's records could have been put to in that matter. Moreover, the ALJ is not deciding whether the Parents have a good reason not to trust Dr. Golden. That may become an issue in a subsequent due process hearing in the event the Parents seek an IEE at public expense, pursuant to WAC 392-172-150. Here, the ALJ concludes that the District has a right to select its evaluator and that there is no basis to alter that right based on the law and evidence as presented.

27. In summary, the ALJ concludes that WAC 392-172-108 is clear and unambiguous: the District is entitled to select its own evaluator, with or without the benefit of the Parents' opinion. It will also have the duty to defend the appropriateness of the resulting evaluation in the event the Parents seek an IEE at public expense.

ORDER

1. The District is entitled to make its own selection of an outside child psychiatrist in order to conduct its initial evaluation of the Student.
2. The Parents' motion to dismiss is denied.

Dated at Seattle, Washington this 23rd day of July, 2001.



Mary L. Radcliffe
Administrative Law Judge
Office of Administrative Hearings

APPEAL RIGHTS

This is a final agency decision subject to a **petition for reconsideration** filed within ten days of service pursuant to RCW 34.05.470. Such a petition must be filed with the administrative law judge at his/her address at the Office of Administrative Hearings. The petition will be considered and disposed of by the administrative law judge. A copy of the petition must be served on each party to the proceeding and the Superintendent of Public Instruction. The filing of a petition for reconsideration is not required before seeking judicial review.

Pursuant to 20 U.S.C. Section 1415 (i) (Individuals with Disabilities Education Act) and Chapter 34.05.542 RCW, this matter may be further appealed to a court of law. The **Petition for Judicial Review** of this decision must be filed with the court and served on the Superintendent of Public Instruction, the Office of the Attorney General, all parties of record, and this office within thirty days after service of the final order. If a petition for reconsideration is filed, this thirty-day period will begin to run upon the disposition of the petition for reconsideration pursuant to RCW 34.05.470(3). Otherwise, the 30-day time limit for filing a petition for judicial review commences with the date of the mailing of this decision.

Certificate of Mailing

This certifies that a copy of the above Findings of Fact, Conclusions of Law and Order was served upon the parties or their representatives on 7/23/01, by depositing a copy of same in the United States mail, postage prepaid, addressed to the following:



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