

Fully Adjudicated

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

**Enfield Board of Education v. Student**

Appearing on behalf of Parents: Pro-Se (*Non-appearing*)

Appearing on behalf of the Board: Christine Chinni  
Chinni & Associates, LLC  
14 Station Street  
Simsbury, CT 06070

Appearing before: Jane Ford Shaw, Esq.  
Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUE:**

Are the psychoeducational, speech and language, VB Mapp, physical therapy and occupational therapy evaluations performed by the Board appropriate?

**STATEMENT OF JURISDICTION:**

This matter was heard as a contested case pursuant to Connecticut General Statutes (C.G.S) §10-76<sup>th</sup> and related regulations, 20 United States Code §1414(f) and related regulations, and in accordance with the Uniform Administrative Procedure Act (U.A.P.A), C.G.S §§ 4-176e to 4-178, inclusive, §§4-181a and 4-186.

**FINDINGS OF FACT:**

After considering all of the evidence, including documentary evidence and testimony of witnesses, I find the following facts:

1. The Student was born on March 7, 2014 and is in the 2nd grade at Henry Barnard School at the time of this decision. Historically, the Student has had a complex medical history with noted allergies and feeding issues. The academic record shows that the Student was referred to Birth to Three services in June of 2015 due to concerns regarding the Student’s communication and social-emotional development. The Student was found eligible for services and was diagnosed with Autism Spectrum Disorder Level 3 (requiring very substantial support). The Student received intervention services using Applied Behavioral Analysis (ABA) methodology prior to transitioning to public school services. (B-1)

2. Prior to living in Enfield, the Student and family lived in East Windsor. In February 2019, at an annual review, the Student was found eligible for special education services under the disability category of Autism and began attending special education preschool program in East Windsor. The Student attended the East Windsor STRIVE program in the morning and an integrated preschool program in the afternoon; received one hour of speech/language services, one hour of occupational therapy, and thirty minutes of physical therapy per week, additional adult support throughout the day, specialized transportation and extended school year. (Records are not available for 2016-17, 2017-18 school years). (B-1)

3. In the summer of 2019, the Student and family moved to Enfield from East Windsor. The Student attended a self-contained program at Henry Barnard School with opportunities for inclusion during morning meeting, snack time, literacy and math centers, specials and recess. (B-1)

4. The Student began Kindergarten at the Henry Barnard school in August of 2019. The Student attended Henry Barnard school from late August 2019 through October 2019 when he stopped attending school due to reported medical issues. (B-1)

5. At the October 30, 2019 PPT the Parent requested outplacement for the Student. The PPT met on November 21, 2019 where the Team proposed evaluations to be conducted in an alternative location and Parent for the Student consented. Evaluations were attempted but not completed between November 2019 and March 2020. On March 21, 2020, school buildings were closed due to COVID-19 pandemic. The Student did not participate in virtual special education or related service session offered during the spring semester of 2020. (B-1)

6. During the fall of 2020, the student continued with the remote learning model offered by the Enfield Board of Education but did not participate in scheduled session and attempts to conduct evaluations were not successful. The student did participate in one in-person evaluation session. In November 2020, the Student was withdrawn to homeschool. (B-1)

7. In the fall of 2021, the Student re-enrolled at the Henry Barnard school. Due to the lapse of the Student's IEP, the PPT met on September 1, 2022, and proposed a diagnostic placement in the district's self-contained Developmental Learning Program ("DLP") and comprehensive evaluations to be conducted. The Student's evaluations were conducted as an initial referral due to the amount of time which had expired. (B-1) (B-6)

8. On October 26, 2021, the PPT met and reviewed the diagnostic placement in the Developmental learning program and shared the Student's progress. (B-6) The Student began his attendance at Barnard School on September 15, 2021 and has attended consistently. The Student receives 18.65 hours of special education services, one hour of speech/language therapy and one hour of occupational therapy per week as part of the diagnostic placement. In addition, the Student receives one fifteen minute physical therapy session per month, consultative services from the district's Board Certified Behavioral analyst (BCBA), access to additional adult support throughout the school day and specialized transportation. (B-1) (B-6)

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9. On November 1, 2021, the PPT met and reviewed the evaluation results. Evaluations were conducted in the areas of psychoeducational, speech and language, occupational therapy, physical therapy and VB-Map. (B-6)

10. At the PPT meeting, the team looked at the findings of Catherine D'Agostino, physical therapist. Ms. D'Agostino is employed by Stepping Stones Group, an agency which contracts with the district to provide therapy services. She is a licensed physical therapist in both Massachusetts and Connecticut with a doctorate in physical therapy, an education specialist degree and a bachelor's degree in occupational therapy. (Testimony of D'Agostino) (B-8)

11. The physical therapy evaluation consisted of record review, clinical observation of functional and gross motor skills and classroom staff interview. Clinical observations were conducted of the Student within the school environment including the gross motor room, playground and Physical Education class. (B-3) (Testimony of D'Agostino) These observations were made on September 27, October 4, 18 and 22, 2021. (B-3)

12. While the Student exhibited basic foundation skills, especially in the area of ball skills and jumping, he demonstrated a deficit in strength and coordination and somewhat of a delayed development progression in those areas. (Testimony of D'Agostino) (B-3) As a result of the assessment conducted, it is recommended that the student receive physical therapy.

13. Ms. D'Agostino has worked with the Student during the 2021-2022 school year. She did not conduct the assessment but has similar qualification as the individual who conducted the assessment and believes that it is an appropriate evaluation for the Student. (Testimony of D'Agostino) (B-3)

14. At the PPT meeting, the team looked at the findings of Caryn Rosenberg, a certified school psychologist. Ms. Rosenberg is employed by the Enfield Public School as school psychologist at Henry Barnard school. Ms. Rosenberg conducted the psychoeducational evaluation of the Student and utilized several instruments. Ms. Rosenberg has a bachelor's degree in psychology and a master's degree/ Sixth Year Certificate in school psychology. She has been employed as a school psychologist with the Enfield Public schools since 2013 and has conducted over 500 evaluations of Students in this capacity. (Testimony of Rosenberg)

15. Ms. Rosenberg implement certain techniques and procedures in her evaluation of the Student which included the review of records, direct observation, Kaufman Assessment Battery for Children- Second Edition Normative Update (KABC-II NU), Vineland Adaptive Behavioral Scales -Third Edition (Vineland-III) and Autism Spectrum Rating Scales (ASRS) and Parent/teacher Rating Scales. (B-1) (Testimony of Rosenberg) (B-1)

16. The Kaufman Assessment Battery for Children assessment is a non-verbal cognitive measure. Ms. Rosenberg used this assessment with the Student to allow her to assess the Student's cognitive or intellectual abilities in a nonverbal manner. The Student utilizes an Ipad as an augmentative alternative communication device. (Testimony of Rosenberg) (B-1)

17. The Student scored an overall 99 on the Kaufman Assessment Battery for Children assessment which is within the average range. This score is indicative that if the demands of language and fine motor are removed, the Student is able to reason very similarly to same age peers and is a predictor of the Student's ability to learn new skills. (Testimony of Rosenberg) (B-1)

18. The Vineland Adaptive Behavior Scales- Third Edition assess adaptive skills in the areas of communication, daily living skills, socialization and motor skills. Given the Student's diagnosis of autism and apraxia, adaptive skills are an area of weakness and the Vineland Adaptive Behavior Scales help assess the severity of weakness and pinpoint areas of relative strength. (Testimony of Rosenberg) (B-1)

19. The average range for the Vineland Adaptive is between 85 to 115. The student scored overall in the low range from both the Parent (50) and teacher (62) rating scales. (Testimony of Rosenberg) (B-1)

20. The ASRS looks at behaviors associated with autism. Ms. Rosenberg chose this assessment because the Student had an outside diagnosis of Autism and Parent and Teacher reported behaviors associated with Autism. In addition to direct observation, rating assessments from Parent and teachers, Ms. Rosenberg reviewed the Student's records. (Testimony of Rosenberg)

21. Ms. Rosenberg observed the Student in different settings and noted particular difficulties in peer socialization, social-emotional reciprocity, ability to interact with peers, his ability to detect social cues, eye contact deficiency and stereotypy – e.g., restricted interest and repetitive behaviors. (Testimony of Rosenberg) (B-1)

22. As a result of the assessment conducted by Ms. Rosenberg, certain goals and objectives were created to accommodate the student's strengths and weaknesses. (B-7)

22. At the PPT meeting, the team looked at the findings of Lisa Desautels, speech and language pathologist. Ms. Desautels has been employed by the Enfield Public School as a licensed speech and language pathologist for approximately 18 years. She has a Bachelors Degree in communication disorders and a Masters Degree in Speech and Language Pathology. She holds an educator license in speech- language pathology from the State of Connecticut, a certificate of clinical competence from the American Speech-Language Hearing Association. (Testimony of Desautels)(B-2) (B-8)

23. Ms. Desautels is experienced working with a variety of communication disorders including but not limited to autism, apraxia. She has conducted approximately hundreds of evaluation (Testimony of Desautels) (B-8)

24. Ms. Desautels implemented certain techniques and procedures in her evaluation of the Student which included the Functional Communication Profile-Revised, The Goldman Fristoe Test of Articulation-2, The Kaufman Speech Praxis Test, the Pre-school language scale-5, the Expressive Vocabulary Test-2, the Peabody Picture Vocabulary Test-4 and informal observation and assessment. (B-2) (Testimony of Desautels)

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25. The Functional Communication Profile-Revised assessment does not require a standardized procedures or tasks but looks at the Student's receptive language skills, expressive language skills and social skills through behavioral observations. The assessment demonstrated that the Student's receptive skills was a relative strength in that he was able to understand things in a school environment. (Testimony of Desautels) (B-2)

26. The Preschool Language Scale-5 is a standardize assessment of both receptive and expressive language skills. It tests through the age of 7 years and 11 months and was within the age of the Student at the time of the assessment. The Student scored just below the average range in the area of auditory comprehension skills and much lower in the area of expressive language. (Testimony of Desautels) (B-2)

27. The Expressive Vocabulary Test is an assessment that looks solely at his vocabulary labeling skills to provide an idea of what words the Student is able to say without having to put them in an entire sentence or an explanation. The Expressive Vocabulary Test has an average range of 85-115. The Student scored a 79 which is slightly below average but it was higher than the Student's expressive language score and indicated that the Student was closer to age appropriate levels. (Testimony of Desautels) (B-2)

28. The Peabody Vocabulary Test -4<sup>th</sup> Edition is an assessment which looks at what the Student is able to understand, e.g., receptive language skills. The Student score was an 82 which was just below the average score. (Testimony of Desautels) (B-2)

29. The Kaufman Speech Praxis Test for Children assess Apraxia in a Student. Ms. Desautels chose this assessment given concern for the presence of Apraxia or childhood apraxia. The results of this assessment were consistent with a diagnosis of Apraxia. (Testimony of Desautels)

30. The Goldman Fristoe Test of Articulation-2 is a measure of sound production. It is a standardized test. The Student scored a 40 which is significantly below the average range. In addition, the Student is a total communicator which means he uses his own vocal communication, along with a communication device. The Student uses iPad communication apps, Proloquo2Go and Accent 1000. As a result of Ms. Desautels evaluation, an additional thirty minutes of speech and language therapy was added to the Student's IEP at the November 1, 2021 PPT. (Testimony of Desautels) (B-2) (B-6)(B-7)

31. At the PPT meeting, the team looked at the findings of Constance Mazzetta, a Connecticut Board Certified Behavioral Analyst employed by the Enfield Public Schools. She has a bachelor's degree in special education and a Master's degree in education and curriculum instruction and autism studies. (Testimony of Mazzetta) (B-4) (B-7) (B-8)

32. Ms. Mozzetta completed the Verbal Behavioral Milestone and Placement Program assessment (VB-MAPP) with the Student. The VB-MAPP is a criterion referenced assessment which provides information on how a Student performs relative to specific objectives that align with verbal behavior operants and a wide range of early learning skills. It is used with any individual with language delays and provides a baseline measurement which can guide a Student's progress over time because general progression of language acquisition does not change for individuals. (Testimony of Mazzetta) (B-4)

33. Ms. Mozzetta utilized the VB-MAPP assessment in order to determine the Student's skill level and craft primarily language based goals and objectives. The assessment identified both strengths current levels of performance and is used to develop goals and objectives which will meet the Student's skills. It was chosen to assess the Student because while the Student he has an uneven learning profile and assists in determining the degree of intensity of the Student's behavioral intervention. In addition, Ms. Mazzetta consulted with the speech and language pathologist in completing the assessment of the Student. As a result of Ms. Mazzatta's assessment goals and objectives were created for the Student. (Testimony of Mazzetta) (B- 4)

34. At the PPT meeting, the team looked at the findings of Jennifer Crowley, occupational therapist. Ms. Crowley has been employed by the Enfield Public School as a licensed occupational therapist for approximately 19 years. Ms. Crowley has a bachelors degree in occupational therapy and has an occupational therapy certification. (Testimony of Crowley)(B-8)

35. Ms. Crowley performed the Observation of Functional Abilities (Checklist), the Beery Buktenica Development Test of Visual Motor Integration (VMI), the Beery Buktenica Development Test of Motor Coordination and Sensory Processing Measure (SPM) – Main School Form (Miller Kuhareck, Henry & Glennon). Ms. Crowley conducted observations of the Student in a variety of settings in order to get a better insight into the Student's sensory functioning. She determined that the Student had difficulty with bilateral coordination, reduced upper body postural and hand and finger strength. (Testimony of Crowley) (B-5)

36. The Beery Buktenica Development Test of Visual Motor Integration (VMI) was chosen to provide a baseline score for the Student's functional or visual abilities given his communication profile. The Student scored within the average range with visual perceptual skills but score below average in the areas of visual motor piece and motor coordination. Ms. Crowley concluded that these scores indicated that impacted how he could perform in an educational setting. (Testimony of Crowley) (B- 5)

37. The Sensory Processing Measure was chosen as an assessment because it provides a good overview of the Student's sensory functioning in the natural school environment. The assessment indicated that the Student had typical performance in the area of vision but some weakness in the other four sensory areas. The testing indicated that the Student has reduced fine motor and visual motor skills as well as sensory difficulties in a school setting. As a result of the assessment, Ms. Crowley recommended that the Student continue to receive Occupational therapy services. (Transcript of Crowley)

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38. The team agreed to the recommendations listed in connection with the evaluations conducted and proposed at the November 1, 2021 PPT and an implementation date of November 9, 2021. (B- 7)

39. The parent requested an independent evaluation and the Board denied the Parent's request citing the appropriateness of the evaluations. On November 15, 2021 the Board filed this due process request seeking an order that the evaluations are appropriate and that the Board need not grant the Parent's request for an independent educational evaluation.

**CONCLUSIONS OF LAW AND DISCUSSION:**

1. Under the IDEA and Connecticut state law, a school district must reevaluate a student who receives special education services at least once every three years. This triennial reevaluation's purpose is to evaluate a student's relevant functional, developmental, and academic skills to determine whether the student continues to be eligible for special education services and to provide any necessary updates to the student's IEP. 20 U.S.C. §1414(a)(2)(B)(ii); 34 C.F.R. §300.305(a)(2)(1)(B)(iv), R.C.S.A Sec. 10-76d-9.
2. If a student receives an evaluation with which the parent disagrees, a parent has a right to an independent educational evaluation ("IEE") at public expense, which means at no cost to the parent. 34 C.F.R. § 300.502, R.C.S.A Sec. 10-76d-9(c)(1) and (2). If a parent requests an IEE provided at public expense, the school district must, without unnecessary delay, ensure either an IEE is provided at public expense or initiate an impartial hearing to show that its evaluation is appropriate or that the evaluation obtained by the parent does not meet the school district criteria. If the impartial hearing officer finds that a school district's evaluation is appropriate, a parent may not obtain an IEE at public expense. 34 C.F.R § 300.502; R.C.S.A Sec. 10-76d-9(a)
3. The IDEA only requires "the door of public education [to] be opened for a disabled child in a "meaningful" way." *Walczak v Florida Union Free School District*, 27 IDELR 1135, 142 F.3d at 130 (2d Cir 1998), *citing Rowley, supra*. However, it does not guarantee "everything that might be thought desirable by loving parents." *Id.* At 132. An "appropriate" reevaluation is one that complies with IDEA and Connecticut regulations to produce information Student's relevant functional, developmental, and academic skills, to determine whether the student continues to be eligible for special education services and to determine to provide any necessary updates to the student's IEP. 34 C.F.R. §300.301-§300.305; R.C.S.A. Sec. 10-76d-9.
4. The purpose of reevaluation under the IDEA is to determine continuing eligibility and to provide necessary updates and modifications for the Student's IEP. A particular eligibility classification is immaterial to providing a free and appropriate public education so long as the IEP is tailored to the unique needs of the student. 20 U.S.C. §1414(a)(2)(B)(ii); 34 C.F.R. §300.305(a)(2)(1)(B)(iv), R.C.S.A. Sec. 10-76d-9; *Fort Osage R-1 School District v. Sims*, 56 IDELR 282 (8<sup>th</sup> Cir. 2011); see also *Torda v.*

*Fairfax County School Board*, 61 IDELR 4 (4<sup>th</sup> Circ. 2013, unpublished), cert. denied (U.S 03/24/14) (No. 13-6908).

5. IDEA regulations provide standards for the manner in which evaluations are to be conducted. These standards are set forth in 34 C.F.R. §300.300 to 34 C.F.R §300.311. Connecticut state regulations implement IDEA regulations in R.C.S.A. Sec. 10-76d-9(a).
6. The evaluation must include a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent. The tools used must be nondiscriminatory on a racial or cultural basis and be administered in a language or form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally and be geared to providing relevant information to assist in determining the educational needs of the child. 20 U.S.C. §1414(a)(2)(B)(ii), (3)(A)(i-ii); 34 C.F.R. §304; R.C.S.A. Sec. 10-76d-9(a).
7. No single measure or assessment may be used as the sole criterion for determining eligibility for special education services and for determining the appropriate program. Evaluators must be trained and knowledgeable and appropriately certified and/or licensed to administer assessments and measures and administer the assessments in accordance with the test producer's instructions. 34 C.F.R. §300.304(b)(1) and (2) and (c)(iv); R.C.S.A. Sec. 10-76d-9(a).
8. The instruments used for assessments must be technically sound and may be used to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. See 34. C.F.R. §300.304(b)(3). "Technically sound instruments generally refers to assessments that have been shown through research to be valid and reliable." 34 C.F.R. §300.304 *Comments* (2006).
9. The chosen assessments may be tailored to assess specific areas of educational need of the child and not merely those that are designed to provide a single general intelligence quotient. See 34 C.F.R. §300.304(b)(2).
10. Assessments must be selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are factors that the test purports to measure). 34 C.F.R. §300.304(c)(3).
11. Applying the IDEA and Connecticut regulations cited above, this Hearing Officer finds that the evaluations performed on the Student were appropriate for the following reasons:
12. In compliance with the IDEA, evaluations of the Student were conducted by Karen Rosenberg, Constance Mazzetta, Lisa DeDautels, Catherine D'Agostino, and Jennifer Crowley, certified and licensed professional and evaluators who were trained,



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knowledgeable and appropriately certified and who employed a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the Student, including information provided by the Student to determine whether Student continued to be eligible for special education services and to update Student's IEP. R.S.C. Sec 10-76-9(a) 34 C.F.R. 300.304(b)(4). (See Findings of Fact)

13. No single measure or assessment was the sole criterion for determining eligibility for special education services and the determination of eligibility did not rest on an intelligence quotient. The determination of continuing eligibility also took into account factors such as the Student's functional physical, medical and developmental history and student's present academic performance. 34 C.F.R. 300.304(b)(1) and (2); 34 C.F.R. 300.304(c)(2) and (3). (See Findings of Fact)
14. All five Board employees who evaluated the Student are experienced professionals who are trained and knowledgeable and appropriately experienced and certified to conduct the assessments and administered the assessments in accordance with the test producer's instructions. 34 C.F.R. 300.304(c)(1)(iv) and (v). (See Findings of Fact)
15. The testing instruments were used to determine whether the Student remained eligible for special education services. (See Findings of Fact)
16. The Board's evaluations were in compliance with 34 C.F.R. 300.301-305 and R.C.S.A. Sec. 10-76d-9(a).

## FINAL DECISION AND ORDER:

1. The Board's evaluations are appropriate and therefore, there is no entitlement to an Independent Education Evaluation.

If the local or regional board of education or the unified school district responsible for providing special education for the student requiring special education does not take action on the findings or prescription of the hearing officer within fifteen days after receipt thereof, the State Board of Education shall take appropriate action to enforce the findings or prescription of the hearing officer.

Appeals from the hearing decision of the hearing officer may be made to state or federal court by either party in accordance with the provisions of Section 4-183, Connecticut General Statutes, and Title 20, United States Code 1415(i)(2)(A).

  
Hearing Officer Signature

Jane Ford Shaw  
Hearing Officer Name in Print