

██████████,

STUDENT

v.

MONTGOMERY COUNTY

PUBLIC SCHOOLS

BEFORE RACHAEL BARNETT,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-MONT-OT-23-11976

DECISION

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STATEMENT OF THE CASE

On a date not in the record, ██████████ (Parent) requested an Independent Educational Evaluation (IEE) of her child ██████████ (Student).¹ On May 3, 2023, the Montgomery County Public Schools (MCPS) filed a Due Process Complaint with the Office of Administrative Hearings (OAH) requesting a hearing to show that its evaluations of the Student were appropriate and that the Parent did not have a right to an IEE at public expense under the Individuals with Disabilities Education Act (IDEA).²

I held a prehearing conference (Conference) in this case on May 24, 2023, by Webex. The Parent attended the Conference; the MCPS and its representative attended as well. At the

¹ The mother and her daughter have ██████████.

² 20 U.S.C.A. § 1415(f)(1)(A) (2017).

Conference, the parties and I discussed the timeframe for issuing this decision and no modifications were made.³

I held the hearing on June 26, 2023. The Parent was self-represented. Stacy Reid Swain, Esquire, represented the MCPS. As set out herein, the MCPS proved by a preponderance of the evidence that its evaluations were proper. Thus, the MCPS is not required to fund an IEE at its own expense.

Procedure is governed by the contested case provisions of the Administrative Procedure Act; the Education Article; the Maryland State Department of Education (MSDE) procedural regulations; and the Rules of Procedure of the OAH.⁴

ISSUES

1. Did the MCPS conduct appropriate educational and psychological assessments of the Student under the IDEA in October, November, and December, 2022?⁵
2. If not, should the MCPS be required to pay for an IEE at public expense?

SUMMARY OF THE EVIDENCE

I have attached a complete Exhibit List as an Appendix.

Testimony

The Parent testified on the Student's behalf and did not present any other witnesses.

The MCPS presented the following witnesses:

- [REDACTED], Special Educator, MCPS, who was accepted as an expert in Special Education

³ A discussion calculation of the deadline for issuing the decision is included in the pre-hearing conference report.

⁴ Md. Code Ann., Educ. § 8-413(e)(1) (2022); Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021); COMAR 13A.05.01.15C; COMAR 28.02.01.

⁵ The Student underwent educational, psychological, and speech and language evaluations; however, the Parent is only challenging the educational and psychological evaluations.

- [REDACTED], School Psychologist, who was accepted as an expert in School Psychology.

JOINT STIPLUATIONS

On June 13, 2023, the parties submitted the following joint stipulations to the OAH:

1. The Student's name is [REDACTED].
2. The Student's MCPS identification number is [REDACTED].⁶
3. The Student's date of birth is [REDACTED],⁷ 2012.
4. The Student's address is [REDACTED]⁸ [REDACTED], Maryland [REDACTED].
5. The Student's mother's name is [REDACTED].
6. The Student currently attends [REDACTED] Elementary School ([REDACTED]).
7. As of the 2022 – 2023 school year, the student was a fifth grader.
8. On or around November 30, 2017, the Student was found eligible for special education services and subsequently received special education services through the MCPS.⁹
9. The Student's primary disability code is Speech or Language Impairment.
10. The Student's special education teacher's name is [REDACTED].
11. The last documented IEP meeting was held on February 21, 2023.
12. On April 24, 2023, the MCPS sent an acknowledgement letter to the Student's mother regarding her request for an IEE.

⁶ This information is redacted to protect the Student's privacy interests.

⁷ This information is redacted to protect the Student's privacy interests.

⁸ This information is redacted to protect the Student's privacy interests.

⁹ I had to modify one of the stipulations, which incorrectly stated the Student is eligible for special education services under the IDEA. This is no longer the case, since the MCPS terminated the Student's Individualized Education Program (IEP) and placed the Student on a 504 Plan.

FINDINGS OF FACT

Based upon the evidence presented, I find the following facts by a preponderance of the evidence:

1. The Student enrolled in [REDACTED] during her second-grade year, and the MCPS conducted assessments of her during that academic year.
2. The Student previously worked with an English as a Second Language (ESOL) provider but was dismissed from ESOL in 2019 after making progress with her language skills.
3. The Student has experience with English, [REDACTED] and [REDACTED].
4. The Student receives therapy outside of school for anxiety.
5. The Student predominantly scores As and Bs on her report card, but scores Cs in mathematics.
6. The Student has a problem with absenteeism. She was absent nearly twenty days in Fall 2022.
7. At an October 4, 2022 IEP meeting, the Parent provided written consent for the MCPS to assess the Student.

The Psychological Assessment

8. Based on a recommendation of the Student's IEP team, and with the consent of the Student's mother, Mr. [REDACTED] conducted a psychological assessment of the Student over three dates – October 4, 11, and 18, 2022. He had assessed her three years prior, when she was in second grade.
9. Mr. [REDACTED] initially observed the Student in math class. During the observation, the Student did not understand the directions correctly but worked on the math problems based on her own understanding of the task. She demonstrated good behavior.

10. Mr. [REDACTED] then progressed to formal testing, which he conducted in a break room and a conference room, both environments familiar to the Student.

11. Over the course of the three testing sessions, the Student attended to the test and answered the questions asked of her. There were no testing barriers, such as student illness. Mr. [REDACTED] did not deviate from testing protocols.

12. The Student had the following scores on the Reynolds Intellectual Assessment Scale (Second Edition):

- Verbal Intelligence Index – 80 – in the low average range,
- Nonverbal Intelligence Index – 105 – in the average range,
- Composite Intelligence Index¹⁰ – 91 – in the average range,
- Composite Memory Index – 95 – in the average range, and
- Speeded Processing Index – 103 – in the average range.

13. The Student’s nonverbal and verbal skills have developed at different rates.

14. Mr. [REDACTED] concluded the Student has mild verbal reasoning processing deficits.

15. In an October 18, 2022 report, Mr. [REDACTED] recommended that the Student’s teacher check the Student’s understanding prior to her commencing independent work.

The Educational Assessment

16. The Student’s special educator, Ms. [REDACTED], conducted the educational assessment of the Student over the course of the following dates: October 26, 2022, October 27, 2022, November 9, 2022, November 11, 2022, and December 12, 2022. Ms. [REDACTED] used the Woodcock-Johnson IV Test of Achievement (the Woodcock-Johnson).

17. The Student attended to the test. There were no testing barriers, and Ms. [REDACTED] did not deviate from the testing protocols.

¹⁰ This is known as “IQ.” The Student’s IQ was in the twenty-seventh percentile.

18. The Student had the following scores on the Woodcock-Johnson:

- Reading
 - Letter-Word Identification – 105 – average range
 - Passage Comprehension – 89 – low-average range
 - Word Attack – 111 – high average range
 - Oral Reading – 119 – high average range
 - Sentence Reading Fluency – 101 – average range
 - Reading Recall – 97 – average range
- Mathematics
 - Applied Problems – 104 – average range
 - Calculation – 97 – average range
 - Math Facts Fluency – 91 – average range
 - Number Matrices – 93 – average range
- Written Expression
 - Spelling – 110 – high average range
 - Writing Samples – 126 – superior range
 - Sentence Writing Fluency – 95 – average range
 - Spelling of Sounds – 97 – average range

19. Ms. [REDACTED] also considered informal assessment data, including the Student’s MAP-R and MAP-M¹¹ scores, teacher reports, and grades.

20. In a December 9, 2022 report, Ms. [REDACTED] included the following recommendations to the Student’s teacher:

- a. Encourage the Student to apply active reading strategies when reading text to think deeper and make inferences,
- b. Apply learned math strategies to solve multistep problems and word problems,
- c. Encourage the Student to continue learning multiplication facts for automaticity to aid in problem solving, and
- d. Encourage the Student to continue to add and define details in her writing to support elaboration and organization of paragraphs.

¹¹ MAP is an abbreviation for Measure of Academic Performance. The testing occurs in the areas of mathematics (M) and reading (R).

21. On February 21, 2023, the MCPS convened an IEP meeting for the Student. The IEP team removed the disability code for Speech or Language Impairment, and since that was the Student's only disability code, the IEP team determined that she was no longer eligible for IEP services.

22. On April 20, 2023, the MCPS determined that the Student was eligible for Section 504 services, and a Section 504 Accommodation Plan¹² was developed.

DISCUSSION

Legal Framework

A local education agency (LEA) generally must ensure a child with a disability is reevaluated at least once every three years.¹³ Parents who disagree with a school evaluation may, under certain circumstances, obtain an IEE at public expense.¹⁴ An IEE is defined as “an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.”¹⁵ Public expense means that “the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.”¹⁶

Parental rights to an IEE at public expense are established by the IDEA and its implementing regulations. Under the IDEA, “[a] parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency.”¹⁷ In Maryland, a parent may also obtain an IEE if the LEA fails to respond within thirty days of the parent's request; or approves the request but fails to convene an

¹² Section 504 is part of the Rehabilitation Act of 1973, and ensures that students receive reasonable accommodations in the classroom, even if those accommodations are not part of an IEP. Pub. L. 93-112 (1973).

¹³ 20 U.S.C.A. § 1414(a)(2) (2017); 34 C.F.R. § 300.303; COMAR 13A.05.01.06E.

¹⁴ 34 C.F.R. § 300.502(a)(1) (2022); COMAR 13A.05.01.14B.

¹⁵ 34 C.F.R. § 300.502(a)(3)(i).

¹⁶ 34 C.F.R. § 300.502(a)(3)(ii).

¹⁷ 34 C.F.R. § 300.502(b)(1); *see also* Educ. § 8-405(b)(4)(i)(1); COMAR 13A.05.01.14B(1).

evaluation IEP meeting within sixty days of receipt of the parent’s request, or within ninety days during a state of emergency.¹⁸ Upon receiving a request for an IEE at public expense, an LEA has one of two choices: provide the evaluation at public expense¹⁹ or file a special education due process complaint to defend its evaluation.²⁰

For the LEA’s evaluation to be appropriate, it must “use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining” the student’s eligibility, educational disability, and the content of the student’s IEP.²¹ Furthermore, the LEA shall “not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child” and must “use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.”²²

In addition, the LEA is obligated to ensure that assessments and other evaluation materials:

- (i) are selected and administered so as not to be discriminatory on a racial or cultural basis;
- (ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;
- (iii) are used for purposes for which the assessments or measures are valid and reliable;
- (iv) are administered by trained and knowledgeable personnel; and

¹⁸ Educ. § 8-405(b)(4)(i)(2).

¹⁹ “When a parent requests an [IEE] at public expense, the public agency shall provide a written response approving or denying the request within 30 days of the date the request was made.” COMAR 13A.05.01.14B(2); *see also* Educ. § 8-405(b)(4)(ii).

²⁰ 34 C.F.R. § 300.502(b)(2)(i)-(ii); Educ. § 8-405(b)(4)(iii)-(iv).

²¹ 20 U.S.C.A. § 1414(b)(2)(A); 34 C.F.R. § 300.304(b)(1); COMAR 13A.05.01.05B(2); *see also* 34 C.F.R. §§ 300.15, 300.304 - .311; COMAR 13A.05.01.06.

²² 20 U.S.C.A. § 1414(b)(2)(B)-(C); 34 C.F.R. § 300.304(b)(2), (3); COMAR 13A.05.01.05B(3), C.

(v) are administered in accordance with any instructions provided by the producer of such assessments.²³

Finally, the LEA must assess a student in “all areas of suspected disability.”²⁴

The MCPS bears the burden of showing that its evaluations are appropriate under the IDEA.²⁵ The standard of proof in this case is a preponderance of the evidence.²⁶ To prove an assertion or a claim by a preponderance of the evidence means to show that it is “more likely so than not so” when all the evidence is considered.²⁷

The Court in *E.P. ex rel. J.P. v. Howard County Public School System* adopted the language of previous courts and stated:

In challenging an evaluation, courts have found that a parent “cannot simply argue that the evaluation was inappropriate because they disagree with its findings.” In [*West Chester Area School District v. G.D.*], the court explained: “Because IDEA evaluations depend on the exercise of professional judgment, they are entitled to a reasonable degree of deference. Accordingly, when plaintiffs challenge a decision reached by an educational professional, they must show more than simple disagreement with the conclusion; they must show the professional judgment rendered is actually wrong, and not just in doubt. For example, a plaintiff must show evidence of a flawed evaluation process, by failing to follow regulatory requirements, or if the district failed to investigate an area of suspected disability with little or no explanation why.”²⁸

The MCPS maintains that the issue here is a narrow one; specifically, whether the evaluations of the Student administered by the MCPS over the course of several dates in October, November and December 2022 met the IDEA requirements outlined above. The MCPS contends that the evaluations were comprehensive, appropriate, and consistent with the

²³ 20 U.S.C.A. § 1414(b)(3)(A); *see also* 34 C.F.R. § 300.304(c)(1); COMAR 13A.05.01.05.

²⁴ 20 U.S.C.A. § 1414(b)(3)(B); *see also* 34 C.F.R. § 300.304(c)(4); COMAR 13A.05.01.05B(1).

²⁵ *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 56-58 (2005); 34 C.F.R. § 300.502(b)(2)(i).

²⁶ State Gov’t § 10-217; COMAR 28.02.01.21K(1).

²⁷ *Coleman v. Anne Arundel Cnty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002).

²⁸ 2017 WL 3608180, at *28 (D. Md. Aug. 21, 2017), *aff’d per curiam*, 727 F. App’x 55 (4th Cir. June 19, 2018) (citations and footnotes omitted).

requirements of the IDEA and its accompanying regulations, thereby warranting denial of the Parent's request for an IEE at public expense.

The Parent asserts that the educational and psychological assessments did not capture the full picture of the Student, because they did not take into account her issues with anxiety. Specifically, the Parent argued that the assessments failed to take into account the Student's pattern of absences, which the Parent contends were attributable to anxiety. The Parent testified that the Student often went to the school nurse for anxiety symptoms. The Parent further argued that since the Student has transitioned from an IEP plan to a 504 Plan, her academic performance has deteriorated, which demonstrates her need for IEP services.

Analysis

The Psychological Assessment

The evidence presented by the MCPS establishes that Mr. [REDACTED] had the proper education, training, licensing, and qualifications to administer the psychological assessment and interpret the results in accordance with federal regulations.²⁹ Mr. [REDACTED] has worked as a School Psychologist for the MCPS for nineteen years, and previously worked in the same position for [REDACTED] Public Schools for six years. He received his B.A. in Psychology from [REDACTED] (now known as [REDACTED]) in 1995. He received a Master of Arts in School Psychology from [REDACTED] in 1998, as well as a Certificate of Advanced Study in School Psychology from [REDACTED] in 1999.

The evidence also clearly establishes that Mr. [REDACTED] is appropriately trained and knowledgeable to conduct assessments of students in accordance with the requirements of the IDEA and federal regulations.³⁰ Mr. [REDACTED] has been a school psychologist in Maryland

²⁹ 34 C.F.R. § 300.304(c)(1)(v).

³⁰ 34 C.F.R. § 300.304(c)(1)(iv).

since 1998 and performs, on average, fifty psychological assessments per school year, and he performed sixty in 2022 – 2023 school year. I accepted Mr. [REDACTED], without objection, as an expert in School Psychology.

Mr. [REDACTED] testified that he has known the Student since she entered [REDACTED] three years ago and that he performed her 2019 psychological assessment, as well as her 2022 psychological assessment. Mr. [REDACTED] testified that he conducted the 2022 psychological assessment with the Parent’s written consent and upon the recommendation of the IEP team. Mr. [REDACTED] noted that the Student had made good progress on her IEP goals over the last three years and the IEP team wanted to determine if she still exhibited an educational disability.

Mr. [REDACTED] employed a number of data collection methods as part of his assessment from October 2022 through December 2022. He performed a classroom observation in mathematics, the subject area where the Student struggles most. Mr. [REDACTED] reviewed the Student’s school records, staff information, parent information, performed a student interview, and conducted the Reynolds Intellectual Assessment Scales – II (RIAS-2), which he described as a commonly accepted test of intelligence for ages three through ninety-four, and one which he has administered many times.

As a result of his data collection, analysis, and his classroom observation, Mr. [REDACTED] had sufficient data to find that the Student has average intellectual abilities with greater strengths in nonverbal than verbal abilities. The Student has made significant gains in speech and language since she entered [REDACTED]. Based on his testing data, Mr. [REDACTED] concluded the Student shows no sign of an intellectual disability and does not have any disabilities that affect her learning that relate to special education services. Furthermore, he noted in his report that the Student’s attention to formal testing using the RIAS-2 was “excellent” and that she seemed

“comfortable” in the testing environment (rooms she was familiar with in her school).³¹ He stated that she seemed to work to the best of her ability during testing. Mr. [REDACTED]’s description of the Student as “comfortable” is indicative of a lack of any obvious interfering anxiety symptoms during testing. Rather, Mr. [REDACTED] was more concerned with the Student’s ability to process oral directions in class. Based on his evaluation, Mr. [REDACTED] recommended that the Student would benefit from checks for understanding prior to commencing independent work, because when he observed her in class she did not seem to understand the teacher’s directions.

The Parent’s contention regarding the assessment was not supported by any expert witnesses. The Parent’s argument focused on the assertion that anxiety was interfering with the Student’s learning and was not adequately accounted for on the assessment. However, the Parent did not offer for admission any documentation of an anxiety disorder diagnosis, classroom observations noting anxiety, nor did she call the school nurse to testify about any observations of the Student when she went to the nurse’s office. While the record reflects that the Student sees a counselor or therapist for anxiety, no anxiety symptoms that interfered with her learning were noted during the formal or informal portion of the psychological testing. I found the opinion provided by Mr. [REDACTED] to carry substantially more weight than the Parent’s opinion regarding the sufficiency of Mr. [REDACTED]’s assessment of the Student.

The Educational Assessment

The evidence presented by the MCPS establishes that Ms. [REDACTED] had the proper education, training, licensing, and qualifications to administer the educational assessment and interpret the results, in accordance with the federal regulations.³² She testified that she is

³¹ MCPS Ex. 7.

³² 34 C.F.R. § 300.304(c)(1)(iv).

qualified to conduct this assessment as a special educator. She has worked for the MCPS as a special educator for nearly ten years and previously worked in the same capacity for ██████ County Public Schools from 1998 to 2014. She received a B.A. in Special Education, as well as a Master's Degree in Reading Specialty from ██████. The evidence clearly establishes that Ms. ██████ is appropriately trained and knowledgeable to conduct educational assessments of students in accordance with the requirements of the IDEA and federal regulations.³³ Ms. ██████ was accepted, without objection, as an expert in special education.

Ms. ██████ testified that she has known the Student since she started school at ██████ in 2019. Ms. ██████ conducted the Student's educational assessment in response to her mother's permission to assess the Student, granted on October 4, 2022. Ms. ██████ employed a number of data collection methods as part of her assessment of the Student between October and December 2022. She spoke with Mr. ██████ about his classroom observation of the Student. Ms. ██████ reviewed the Student's MAP-R and MAP-M scores, spoke with the Student's teacher about her performance, and conducted the Woodcock-Johnson. As a result of her data collection and analysis, Ms. ██████ had sufficient data to share with the IEP team and to make recommendations to promote the Student's achievement.

Ms. ██████ believed the Student's performance on the Woodcock-Johnson was "an accurate reflection of her achievement."³⁴ She described the Student's performance in the formal testing as "work[ing] consistently throughout this subtest," "worked with confidence," and (with respect to a timed subtest) "did not seem anxious regarding the timing aspect of this subtest."³⁵ Clearly, Ms. ██████ was aware of concerns that the Student may suffer from anxiety

³³ 34 C.F.R. § 300.304(c)(1)(iv).

³⁴ MCPS Ex. 8.

³⁵ *Id.*

and looked for signs of anxiety during testing; however, she remarked that it was not present during a timed test, which is a form of testing that can feel stressful to some students.

In terms of performance, the Student performed between the low-average range to superior across the subtests. Her reading scores were in the low-average to high average range (with only one score in the low-average range). On her most recent MAP-R score, the Student working below grade level in reading. In the classroom, the Student's teacher reported she was able to read grade-level content. There is variability in the Student's reading data, but Ms. [REDACTED] did not identify a reading-related disability in her report. In mathematics, the Student performed in the average range. In written language, the Student performed in the average to superior range. In fact, Ms. [REDACTED] offered the Student a supplemental test in composition after noting her ease with the grade-level test content. The supplemental test was in the middle school to high school range for content, and after asking clarifying questions, the Student was able to produce writing consistent with the call of the questions. The Student demonstrated her academic talents, as well as her weaknesses, during testing.

Ms. [REDACTED] summarized the Student's performance over the last few years, saying she has made good progress and now shows good understanding of grade level material in the area of reading and does well reading fifth grade level text and answering comprehension questions. She does well with math concepts and using effective math strategies. She is also able to think through strategies. In mathematics, the Student has demonstrated the ability to work in a small group and apply math strategies.

The Parent's contention regarding the assessment was not supported by any expert witnesses. The Parent's argument focused on the assertion that anxiety was interfering with the Student's learning and she may have a disability in the area of mathematics. The Parent did not

take issue with how Ms. [REDACTED] administered the test or question any scores. Rather, the Parent's dispute focused on not getting the outcome she wanted from the assessments, meaning that the Student was discontinued from an IEP and placed on a 504 Plan. The Parent felt her daughter was benefiting from the IEP and would do better, academically, with these supports.

Ms. [REDACTED] addressed the Parent's concerns that the Student's academic achievement was impacted by a possible disability in mathematics and an anxiety disorder. Regarding the assertion of a mathematics disability, Ms. [REDACTED] noted that the Student used scrap paper to do some math problems during testing, and a home report noted that her mother worked on mathematics and understanding money with the Student. The Student's scores on the MAP-M and the Woodcock-Johnson are in the average range. Ms. [REDACTED] did not note any learning disabilities in the area of math. Additionally, Ms. [REDACTED] was clearly alert to the possibility that anxiety could interfere with testing; however, she noted that the Student actually did not demonstrate any anxiety during the timed subtest. For these reasons and due to Ms. [REDACTED]'s extensive experience as a special educator and knowledge of the Student (as her special educator), I found the opinion provided by Ms. [REDACTED] to carry substantially more weight than the Parent's opinion regarding the sufficiency of Ms. [REDACTED]'s assessment of the Student. In sum, the Student has learned to navigate her academics, yet may still benefit from learning strategies suggested by Ms. [REDACTED] and incorporated into the 504 Plan.

The MCPS proved by a preponderance of the evidence that it conducted a comprehensive assessment that complied with the IDEA and applicable federal and State regulations. Thus, the Parent is not entitled to an IEE at public expense.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the psychological and educational evaluations of the Student conducted by the MCPS were appropriate because the MCPS proved, by a preponderance of the evidence, that the qualified examiners used a variety of testing data, including formal and informal data, to assess the Student in all areas of suspected disability.³⁶

I further conclude as a matter of law that the MCPS is not required to pay for an Independent Educational Evaluation at the public's expense.³⁷

ORDER

I **ORDER** that the Montgomery County Public Schools is not required to pay for an Independent Educational Evaluation of the Student at the public's expense.³⁸

July 14, 2023
Date Decision Issued

Rachael Barnett
Administrative Law Judge

RAB/emh
#206095

³⁶ 20 U.S.C.A. § 1414(b)(2) (2017); 34 C.F.R. § 300.304(c)(1)(v) (2021); *E.P. ex rel. J.P. v. Howard County Public School System*, 2017 WL 3608180, at *28 (D. Md. Aug. 21, 2017).

³⁷ 34 C.F.R. § 300.502(a)(1), (b)(2) (2021); COMAR 13A.05.01.14B(3).

³⁸ "(a) If an impartial hearing officer determines that the evaluation obtained by the public agency is appropriate, the parent may not obtain an independent educational evaluation of the student at public expense. (b) If an impartial hearing officer determines that the evaluation obtained by the public agency is not appropriate, the public agency shall provide an independent evaluation of the student at public expense. (c) If an impartial hearing officer requests an independent educational evaluation as part of a due process hearing, the cost of the independent educational evaluation shall be at public expense." COMAR 13A.05.01.14B(3).

REVIEW RIGHTS

A party aggrieved by this final decision may file an appeal within 120 days of the issuance of this decision with the Circuit Court for Baltimore City, if the Student resides in Baltimore City; with the circuit court for the county where the Student resides; or with the United States District Court for the District of Maryland. Md. Code Ann., Educ. § 8-413(j) (2022). A petition may be filed with the appropriate court to waive filing fees and costs on the ground of indigence.

A party appealing this decision must notify the Assistant State Superintendent for Special Education, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, in writing of the filing of the appeal. The written notification must include the case name, docket number, and date of this decision, and the court case name and docket number of the appeal.

The Office of Administrative Hearings is not a party to any review process.

Copies Mailed to:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

██████████,

STUDENT

v.

* MONTGOMERY COUNTY

PUBLIC SCHOOLS

BEFORE RACHAEL BARNETT,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-MONT-OT-23-11976

EXHIBIT APPENDIX

The MCPS offered and I admitted into evidence the following exhibits³⁹:

- MCPS Ex. 1 - Individualized Education Program, December 20, 2022
- MCPS Ex. 2 - Individualized Education Program, February 21, 2023
- MCPS Ex. 7 - Report of School Psychologist, October 4, 2022
- MCPS Ex. 8 - Educational Assessment Report, December 9, 2022
- MCPS Ex. 10 - 504 Accommodation Plan, April 20, 2023
- MCPS Ex. 11 - Section 504 Eligibility Determination, April 20, 2023
- MCPS Ex. 12 - Resume of ██████████, undated
- MCPS Ex. 13 - Resume of ██████████, undated

The Parent offered and I admitted into evidence the following exhibits:

- Student Ex. 1 - Reynolds Intellectual Assessment Scales, RIAS-2 Interpretive Report, Second Edition, 2016

³⁹ The MCPS did not offer into evidence some of the exhibits that were mailed to the OAH in its numbered exhibit binder.

Student Ex. 2 - MAP-Reading & MAP-Math scores for the Student, 2021-2022 – 2022-2023

Student Ex. 3 - Summary of Re-evaluation meeting, February 21, 2023