

<b>MONTGOMERY COUNTY PUBLIC</b>	<b>*</b>	<b>BEFORE KATHLEEN A. CHAPMAN,</b>
<b>SCHOOLS</b>	<b>*</b>	<b>AN ADMINISTRATIVE LAW JUDGE</b>
<b>v.</b>	<b>*</b>	<b>OF THE MARYLAND OFFICE</b>
<b>XXXX XXXX,</b>	<b>*</b>	<b>OF ADMINISTRATIVE HEARINGS</b>
<b>STUDENT</b>	<b>*</b>	<b>OAH No.: MSDE-MONT-OT-15-20849</b>

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### **DECISION**

STATEMENT OF THE CASE  
ISSUES  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSIONS OF LAW  
ORDER

### **STATEMENT OF THE CASE**

On June 19, 2015, the Montgomery County Public Schools (MCPS) filed a due process complaint with the Office of Administrative Hearings (OAH) requesting a hearing to review the identification, evaluation, or placement of XXXX XXXX (Student) by MCPS under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C.A. § 1415(f)(1)(A) (2010).

MCPS sought a ruling that the psychological, educational and speech-language assessments<sup>1</sup> it administered to the Student in May 2015 were appropriate, and that the request by the Student's parent, XXXX XXXX (Parent), for an independent educational evaluation (IEE) of the Student at public expense is not warranted.

The relevant procedural history of this dispute, prior to the June 19, 2015 hearing request, is as follows: from May 21, 2015 through May 27, 2015, the MCPS performed the assessments

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<sup>1</sup> MCPS completed three separate assessments, including psychological, educational and speech-language. At the time MCPS filed the due process complaint, all three evaluations were at issue. However, at the merits hearing held on July 23, 2015, the Parent withdrew her request for an IEE with respect to the psychological evaluation.

for the Student. On June 12, 2015, during an Individualized Education Program (IEP) meeting, the Parent requested an IEE at MCPS' expense. In a letter dated June 18, 2015, the MCPS notified the Parent that her request for an IEE at MCPS' expense was denied.

On July 8, 2015, I conducted a telephone pre-hearing conference (Conference) in the above-captioned matter. I was located at the OAH, 11101 Gilroy Road, Hunt Valley, Maryland and the following individual participated via telephone: Zvi Greismann, Esquire, represented MCPS. No one appeared on behalf of the Parent or her child, the Student. I scheduled a merits hearing to take place on Thursday, July 23, 2015.

On July 23, 2015 and August 12, 2015, I conducted a due process hearing at the offices of MCPS, 850 Hungerford Drive, Rockville, MD 20850.<sup>2</sup> MCPS was represented by Mr. Greismann. The Student and Parent were represented by the Parent.

Federal regulations require that the due process hearing be held, and a decision issued, within forty-five days of certain triggering events described in the federal regulations. OAH received the due process complaint on June 19, 2015. Neither party requested mediation and a resolution session was not required because the school system filed the hearing request. 34 Code of Federal Regulations (C.F.R.) § 300.510(a) (2014);<sup>3</sup> Code of Maryland Regulations (COMAR) 13A.05.01.15C(11)(d)(iii).<sup>4</sup> Therefore, the triggering event for the forty-five-day time period in this case was the filing of the due process complaint. 34 C.F.R. § 300.510(b) and (c); 34 C.F.R.

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<sup>2</sup> The Parent appeared for the July 23, 2015 hearing, but claimed that she did not receive any information regarding the Conference or the due process hearing, and learned of the July hearing date by telephoning MCPS. After some discussion on this topic, it was discovered that MCPS did not have a correct home address or telephone number for the Parent. In addition, MCPS hand-delivered the hearing exhibits, leaving them on a door step, at the wrong address. While the post office box address the OAH used in sending Notices is correct, the Parent claimed to have not received any mailings at that address. I granted the Parent's request for a postponement to allow her time to review the hearing exhibits and consult/hire counsel. The hearing was continued to August 12, 2015.

<sup>3</sup> All C.F.R. citations are to the 2014 volumes.

<sup>4</sup> The regulations provide that when a public agency requests the due process hearing, the otherwise mandatory resolution meeting, which would extend the time for the decision, is not necessary. COMAR13A.05.01.15C(11)(d)(iii).

§ 300.515(a) and (c). Forty-five days from June 19, 2015, when MCPS filed its due process hearing request, was Monday, August 3, 2015. Due to the Parent's request for postponement on July 23, 2015, which I granted, the subsequent hearing date (August 12, 2015) could not be scheduled within the time frame for issuing a decision. As a result, on July 23, 2015, the parties expressly waived the timeframe requirements of sections 300.515(a) and (c), and agreed to an extension of time to permit the decision in this matter to be issued within thirty days after the close of the record. 34 C.F.R. § 300.515; Md. Code Ann., Educ. § 8-413(h) (2014). The due process hearing concluded on August 12, 2015 and thirty days from the close of the record is Friday, September 11, 2015.

The legal authority for the hearing is as follows: IDEA, 20 U.S.C.A. § 1415(f) (2010); 34 C.F.R. § 300.511(a); Md. Code Ann., Educ. § 8-413(e)(1) (2014); and COMAR 13A.05.01.15C.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act; Maryland State Department of Education (MSDE) procedural regulations; and the Rules of Procedure of the OAH. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014); COMAR 13A.05.01.15C; COMAR 28.02.01.

### **ISSUES**

The issues are as follows:

- 1) Whether the speech-language and educational assessments of the Student conducted by MCPS staff in May 2015 were appropriate; and if not
- 2) Whether MCPS should be required to pay for a speech-language and/or educational assessment of the Student at public expense.

## **SUMMARY OF THE EVIDENCE**

### **Exhibits**

MCPS offered the following exhibits, which I admitted into evidence:

- MCPS Ex. #1 - Report of School Psychologist, prepared by XXXX XXXX, MCPS School Psychologist, dated May 21, 2015
- MCPS Ex. #2 - Educational Assessment Report, prepared by XXXX XXXX, MCPS Resource Teacher, dated May 27, 2015
- MCPS Ex. #3 - Speech-Language Re-Assessment, prepared by XXXX XXXX, MCPS Speech-Language Pathologist, dated May 25, 2015
- MCPS Ex. #4 - *Curriculum Vitae* (resume) of XXXX XXXX, undated
- MCPS Ex. #5 - *Curriculum Vitae* (resume) of XXXX XXXX, undated
- MCPS Ex. #6 - *Curriculum Vitae* (resume) of XXXX XXXX, undated
- MCPS Ex. #7 - Documentation from the June 2 & 12, 2015 IEP meetings

The Parent did not offer any exhibits to be admitted into evidence.

### **Testimony**

MCPS presented the following witnesses:<sup>5</sup>

- XXXX XXXX, Resource Teacher, [SCHOOL 1] ([SCHOOL 1]), accepted as an expert in the field of special education; and
- XXXX XXXX, MCPS Support Speech-Language Pathologist, accepted as an expert in the field of speech-language pathology.

The Parent testified behalf of the Student and called no other witnesses.

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<sup>5</sup> XXXX XXXX, MCPS School Psychologist, was present on Day 1, July 23, 2015. After the Parent withdrew her request for an IEE with respect to the psychological evaluation, MCPS released Ms. XXXX from testifying.

## **FINDINGS OF FACT**

I find the following facts by a preponderance of the evidence:

1. The Student is 13-years-old (born XXXX, 2002).
2. In 2011, the Student was identified as a student with a disability in the 3<sup>rd</sup> grade while attending school in [State], and was given an IEP which identified her disability as Other Health Impairment.
3. Soon thereafter, the Student moved to the State of Maryland and enrolled in MCPS. She attended the 4<sup>th</sup> grade at [School 2], 5<sup>th</sup> grade at [School 3], and 6<sup>th</sup> and 7<sup>th</sup> grades at [SCHOOL 1].
4. The Student continued to have an IEP while attending MCPS.
5. During each of her school years at MCPS, the Student received speech and language services for expressive vocabulary and oral expression, and her skills were average to just below average. In addition, her performance was impacted by her Attention Deficit Hyperactivity Disorder (ADHD). In the 6<sup>th</sup> grade, MCPS placed the Student in the XXXX program where she received support in all of her subjects and 45 minutes in speech services weekly.
6. During the 2014-2015 school year (7<sup>th</sup> grade), the Student was struggling with reading. As a result, the IEP team convened a meeting in January 2015 to discuss with the Parent whether to have the Student reevaluated in reading. Instead of reevaluating the Student in reading, the IEP team authorized psychological, educational and speech-language testing for the Student, to be conducted by MCPS staff.
7. On March 31, 2015, the Parent gave written authorization for the assessments.

8. From April to May 2015, MCPS conducted psychological, educational and speech-language assessments.

9. XXXX XXXX conducted a psychological re-evaluation. From April 1 through May 8, 2015, Ms. XXXX met with the Student a total of 8 times. Ms. XXXX authored a Report of School Psychologist on May 21, 2015, and met with the Parent on May 26, 2015 to discuss her findings. The Parent is not challenging Ms. XXXX's report.

10. XXXX XXXX, a MCPS speech-language pathologist, conducted a speech-language re-assessment of the Student.

11. Ms. XXXX holds a Certificate of Clinical Competence in Speech-Language Pathology (CCC-SLP) and is licensed by the State of Maryland as a speech-language pathologist.

12. The IEP team told Ms. XXXX that the diagnostic questions to be addressed in her speech-language re-assessment included: (a) what are the Student's current cognitive, educational levels; (b) what are the Student's receptive and expressive language needs; and (c) what are the Student's executive functioning skills.

13. From May 1 to 21, 2015, Ms. XXXX met with the Student a total of five times. Ms. XXXX also observed the Student during her speech therapy sessions. Ms. XXXX reviewed the Student's confidential file which contained a complete background and medical history of the Student.

14. As a part of speech-language re-assessment, Ms. XXXX administered the following three tests: (1) Peabody Picture Vocabulary Test – 4<sup>th</sup> Edition (PPVT-4) to assess receptive vocabulary; (2) Expressive One Word Picture Vocabulary Test – 4 (EOWVT-4) to assess expressive vocabulary; and, (3) Clinical Evaluation of Language Fundamentals (CELF-5), which is a global test of receptive and expressive language skills.

15. Ms. XXXX also conducted a language sample analysis which involved evaluating the mean length of utterance (MLU) in words for a 50-utterance sample where the Student described the actions and events she observed from pictured photographic scenes.

16. Ms. XXXX administered the tests in accordance with the publisher's protocols.

17. The results of the three tests administered to the Student by Ms. XXXX are valid and reliable.

18. The instruments and methodologies used in Ms. XXXX's re-assessment of the Student were technically sound, valid, and reliable.

19. At the time of testing, the Student's overall level of performance in oral language was below age expectancy and was likely to impact her academic achievement and/or functional performance in comprehension and expression of ideas in the classroom. The results from the tests are as follows:

- a. PPVT-4: When compared to age expectations, the Student's single word receptive vocabulary is slightly below average, but within expectancy range. This was largely due to the Student's tendency to respond to the pictures quickly without considering all options.
- b. EOWVT-4: When compared to age expectations, the Student's single word expressive vocabulary was slightly below average, but within expectancy range. While the Student was able to label items and concepts, she struggled significantly with word finding. For instance, she often knew the use for an item, but could not always recall its exact name or words to identify it, but was able to describe its function.

- c. CELF-5: When compared to age expectations, the Student's receptive and expressive language skills are below expectancy range. Weaknesses were noted in both receptive and expressive core areas, language content, and memory.
  - d. MLU: Based on the recorded speech-language sample, the Student's conversational language was, at the time of testing, within expectation for her age level.
  - e. During the observation, the Student demonstrated the following: speech intelligibility within normal limits; fluency within normal limits; voice within normal limits; ability to understand language at mildly or moderately below expectancy functional use of language moderately below expectancy; articulation difficulty with pronouncing multi-syllabic words; and, pragmatic social language skills mildly below expectancy.
  - f. The Student's present levels of performance showed her making progress toward goals in improving receptive and expressive language skills.
20. On May 25, 2015, Ms. XXXX authored a report which the Parent received.
21. XXXX XXXX, a MCPS resource teacher at [SCHOOL 1], conducted an educational assessment of the Student.
22. Ms. XXXX holds a Maryland State Standard Professional Credential in special education, K-12 and Secondary English/Language Arts. Ms. XXXX has been employed by MCPS for 10 years. As a resource teacher, Ms. XXXX provides instructional leadership at [SCHOOL 1] in all areas of special education, and she supervises the special education teachers and paraeducators who are teaching classes.



23. The IEP team referred the Student to Ms. XXXX for a reassessment to determine what learning behaviors are negatively affecting her progress in reading, writing and math. In addition, the assessments were needed to determine the Student's present levels of performance in reading, writing and math, and to determine if she has a Specific Learning Disability in addition to her Other Health Impairment.

24. On May 20 and 26, 2015, Ms. XXXX met with the Student and on May 27, 2015, observed the Student for twenty minutes in the classroom. Ms. XXXX also reviewed the Student's informal assessments, specifically, the Maryland Assessment of Progress in Reading (MAP-R) and Maryland Assessment of Progress in Math (MAP-M).

25. As a part of educational assessment, Ms. XXXX administered the Woodcock-Johnson IV (WJ-IV) which measures a student's academic performance in relation to her peer group based on age. The WJ-IV consists of a series of subtests in the areas of math, writing and reading.

26. Of the sub-tests found on the WJ-IV, Ms. XXXX was only able to conduct the subtests in letter word identification, passage comprehension, word attack, oral reading, sentence reading fluency, reading recall and spelling.

27. Because the Parent withdrew her written consent for testing on May 21, 2015, Ms. XXXX could not complete the full WJ-IV assessment, which would have included the following subtests: word reading fluency, applied problems, calculation, math facts fluency, number matrices, writing samples, and sentence writing fluency.

28. Upon receipt of the Parent's withdrawal of consent, XXXX XXXX, MCPS special education supervisor, spoke to the Parent to encourage her to allow MCPS to continue testing. The Parent agreed, and Ms. XXXX attempted to meet with the Student twice thereafter

but was not able to do so because (a) the Student told Ms. XXXX that her mother insisted on being called first, but her mother could not be reached, and (b) Ms. XXXX could not locate the Student in her regularly scheduled class.

29. On May 27, 2015, the Parent withdrew her consent to allow any additional testing.

30. Ms. XXXX did not conduct any additional testing or observations after receipt of the Parent's May 27, 2015 withdrawal of consent.

31. Before the Parent withdrew her consent a second time, Ms. XXXX spent approximately an hour and a half with the Student. It takes approximately two and a half hours to fully complete the WJ-IV.

32. The WJ-IV is a statistically valid, reliable, and technically sound instrument that is age-appropriate in measuring a student's performance in reading, written language, and mathematics.

33. Ms. XXXX followed the Manual and publisher's protocols for the WJ-IV when she administered this test to the Student.

34. Ms. XXXX properly scored the WJ-IV and reported scores for the completed subtests in accordance with the testing protocols prescribed in the Manual.

35. At the time of testing, the Student's overall level of performance on the WJ-IV showed the Student was in the low to low-average range when just reading words, her knowledge of phonics is low and her comprehension is very low. She also has difficulty recalling what she read. The results from the assessment are as follows:

- a. Letter-Word Identification: On this sub-test, a student is asked to read words of increasing difficulty in isolation. The Student identified initial items rapidly and

accurately, but had difficulty applying phoneme-grapheme relationships to latter items on the list. She could read most one and two syllable words easily, but was challenged when the word had multiple syllables or the word was unfamiliar to her. The Student had a standard score of 81 which is in the low average range of achievement as compared to age peers.

- b. **Passage Comprehension:** On this subtest, a student is asked to match a rebus (picture symbol) with an actual picture. Next, based on a multiple choice format, a student is required to point to a picture represented by a phrase. Lastly, a student reads a short passage and then supplies a missing key word. The passages increase in length and complexity. The Student appeared to read passages slowly and had difficulty identifying a correct word. She struggled with application of syntactic and semantic cues. The Student had a standard score of 69 which is in the very low range of achievement as compared to age peers.
- c. **Word Attack:** This subtest measures a student's ability to apply phonic and structural analysis skills to the pronunciation of unfamiliar words. The Student identified the initial items rapidly and accurately, but had difficulty applying phoneme-grapheme relationships to latter items. The Student had a standard score of 74 which is in the low range of achievement as compared to age peers.
- d. **Oral Reading:** On this subtest, a student is asked to read aloud sentences that increase in difficulty. The score is based on accuracy and fluency of expression. The Student had a standard score of 88 which is in the low average range of achievement as compared to age peers.

- e. Sentence Reading Fluency: This is a 3-minute subtest which measures a student's reading rate, requiring reading, writing and cognitive processing speed abilities. Thereafter, the student reads simple sentences, deciding if they are true or false. The Student appeared to read the sentences at an average rate, but needed time to determine if her answer was yes or no. The Student had a standard score of 78 which is in the low range of achievement as compared to age peers.
  - f. Reading Recall: On this subtest, a student is asked to read a short story silently and then retell as much of the story as she can remember. The subtest measures reading comprehension and meaningful memory. The Student had no difficulty providing details to easier stories, but as the texts became longer and more complex, she could only give a few ideas about what she read. The Student had a standard score of 77 which is in the low range of achievement as compared to age peers.
  - g. Spelling: This subtest measures a student's ability to write correctly orally presented words. The Student spelled initial items easily and accurately, but spelling of latter items reflected a need for further skill development. The Student had a standard score of 82 which is in the low average range of achievement as compared to age peers.
36. Of the subtests performed, the WJ-IV provided an accurate picture of the Student's performance.
37. On May 27, 2015, Ms. XXXX authored a report which the Parent received.

38. The Student's native language is English and each of the assessments were conducted in English and in a manner most likely to yield accurate information on what the Student knows and can do academically, developmentally, and functionally.

39. The Student was cooperative during both assessments.

40. On June 12, 2015, the IEP team met to discuss the assessments. Present at the meeting was XXXX XXXX (Chair); the Parent; XXXX XXXX (Principal/Designee); XXXX XXXX (General Educator); XXXX XXXX (Special Educator); XXXX XXXX (Guidance Counselor); XXXX XXXX (School Psychologist), XXXX XXXX (Speech-Language Pathologist); Dr. XXXX XXXX (Agency Representative); and XXXX XXXX (Support Speech-Language Pathologist).

41. The IEP team found the results from the speech-language re-assessment to be meaningful and developed two speech and language goals, which were incorporated into the IEP – that the Student show her understanding and expression of semantic relationships.

42. The IEP team found the results from the educational assessment to be meaningful and developed a new reading goal and new phonics goal. Since the IEP was a periodic review, no new math goals were developed.

43. During the June 12, 2015 IEP meeting, the Parent requested an IEE at MCPS' expense.

44. On June 19, 2015, MCPS filed a due process complaint with OAH seeking a ruling that its speech-language and educational assessments of the Student was appropriate, and that an IEE of the Student at public expense, as requested by the Student's Parent, is not warranted.

## **DISCUSSION**

When a local education agency performs an evaluation of a student, the student's parents have the right to seek an IEE as a procedural safeguard. 20 U.S.C. § 1415(b)(1) (2010). However, the right to obtain an IEE at public expense is qualified. The federal regulations provide the following, in pertinent part:

(b) Parent right to evaluation at public expense.

(1) 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, subject to the conditions in paragraphs (b)(2) through (4) of this section.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—

(i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§ 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

34 C.F.R. § 300.502(b).

The appropriateness of an evaluation, however, is not determined by the progress, or lack thereof, that a student experiences after being evaluated, or whether all parties agree with the findings and recommendations of the evaluation. The determination of the appropriateness of a student assessment consists of a review of the procedures, methodology, and assessment tools that are employed, and the qualifications of the evaluator, in accordance with the requirements of the IDEA and its accompanying regulations. *D.K. v. Abington Sch. Dist.*, 696 F.3d 233 (3rd. Cir.

2012). While an evaluation should be tailored to the specific problems a potentially disabled student is experiencing, it need not be designed to identify and diagnose every possible educational disability. *Id.* at 250.

The regulations provide guidance in determining whether an assessment is appropriate. The regulations, at 34 C.F.R. § 300.304, requires that certain standards be met when evaluating a child:

(b) Conduct of evaluation. In conducting the evaluation, the public agency must –

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child . . .

(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

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

(c) Other evaluation procedures. Each public agency must ensure that –

(1) Assessments and other evaluation materials used to assess a child under this part—

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

(ii) Are provided and administered in the child’s native language or other mode of communication and in the form most likely to yield accurate information on what the child 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;

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

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

(2) 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.

(3) Assessments are 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 the factors that the test purports to measure).

(4) The child 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.

(5) Assessments of children with disabilities who transfer from one public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and expeditiously as possible, consistent with § 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.

(6) In evaluating each child with a disability under §§300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

Similarly, COMAR 13A.05.01.05C provides:

#### C. Assessment Materials.

(1) A public agency shall ensure that testing and assessment materials and procedures used to assess a student's need for special education and related services are:

(a) Technically sound; and

(b) Provided and administered in the student's native language or other mode of communication, 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 provide or administer.



### Position of MCPS

MCPS maintains that the issue here is very narrow – whether the educational and speech/language assessments administered by MCPS in May 2015, with reports completed on May 25 and May 27, 2015, respectively, meet the IDEA requirements outlined above. MCPS contends that there are few requirements that must be met under the law, specifically: that the tests were administered by someone who is trained, qualified and experienced and that the test, itself, is an appropriate test; the instruments used to conduct the test are appropriate and were done in accordance with publisher’s instructions; and, the test provides meaningful results which an IEP team may consider. MCPS called the following two witnesses to testify that all of the requirements under the law were met: XXXX XXXX, a Support Speech-Language Pathologist, and XXXX XXXX, a Resource Teacher at [SCHOOL 1]. The details of their testimony are described below.

### Position of the Parent

The Parent described being very frustrated with the educators at [SCHOOL 1], claiming that they know the Student’s abilities, but refuse to educate her. Moreover, the Parent stated that after MCPS told her that her daughter’s reading scores were low, the IEP Team failed to carry out her daughter’s IEP and she needed to file a complaint with the MSDE.

The Parent further claimed that some of the educators at [SCHOOL 1] are judgmental and lack correct morals, which has impacted how staff view her daughter. That is why the Parent insisted on a psychologist from outside the school to assess her daughter. Unlike the speech/language and educational assessment, the Parent asserts that the psychologist’s report, *see* MCPS Ex. #1, is more objective and reported outcomes commensurate to her daughter’s true potential – scores were average, above average and very high. The Parent attributes this to the

fact that XXXX XXXX observed her daughter six times over a period of one month (April and May 2015); she communicated with both the Parent and the Student in arranging the dates/times of the assessment to avoid pull out in major classes; she is not a [SCHOOL 1] employee; and, she is not as judgmental. Specifically, the Parent stated, “And if you can see in [the psychologist’s report], you see someone who is brand new to the table experiencing how high [the Student] performed on a higher level.” (T. at 79.)<sup>6</sup>

The Parent asserts, therefore, that due to a total lack of communication between MCPS, herself and the Student, as well as a lack of time management, the assessments performed do not adequately capture the full extent of her daughter’s learning capabilities. The Parent believes that the Student is performing higher than what is indicated in the reports, as indicated in the psychological assessment. Specifically, the Parent believes that the assessments were rushed and the atmosphere in which they were conducted undermined the Student’s potential scores. Stated differently, [SCHOOL 1] waited until the end of the 7<sup>th</sup> grade year to begin the assessments, thus rushing to finish them before the end of term. This also greatly confused the Student and negatively impacted the Student’s progress and grades in other classes.

The Parent testified that neither she nor her daughter was aware of the dates/times the assessments would be conducted. As it pertains to her daughter, the Parent asked Ms. XXXX, during cross-examination, why [SCHOOL 1] staff solely relied on the Student for orchestrating the dates/times of the assessments when they know or should have known that the Student struggles with recall and has difficulty with comprehension. The Parent contends that this deficit is plainly identified as an issue in the IEP. As it pertains to herself, the Parent claims that no one contacted her to get her input about what classes the staff should pull the Student out of. Instead, MCPS personnel took it upon themselves to pull the Student out of her mandated 45-minute

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<sup>6</sup> References to the transcript of the hearing in this case shall be in the form “T. [page number].”

speech therapy time to participate in the speech assessment, which the Parent asserts is a violation of the law. According to the Parent, this greatly confused the Student, particularly with regard to her speech therapy. On one day in particular, the Student went to the school office during speech therapy believing she had an appointment with Ms. XXXX for the educational assessment, only to find out that Ms. XXXX was in a meeting. The Student ultimately stayed with the speech therapist, but the episode was stressful for the Student. This resulted in “the child [being] rushed, she was rushed. No communication with the child on where and when to go for assessment, last minute planning where the child is confused. So when you go into an assessment or a testing, you’re confused. Well of course you’re not going to score well. You’re not going to perform even average.” (T. at 88.) The Parent also indicated that her daughter was being pulled out of core curriculum classes on numerous occasions to participate in the educational assessment. The Parent knows this to be true because teachers kept sending home paperwork for the Student to complete at home. This resulted in the Student failing her classes. The Parent insisted that the assessments needed to be during art and physical education.

In summation, the Parent charged,

With the two individuals, Ms. XXXX and Ms. XXXX, who have previous experience with [the Student], they knew that she needed time frame, she needed time and she needed to be directed, more organization, organized manner, which was not conducted.

So the well interests, the well-being of the child was never put in, was never put in their equation....

But I’d also like to let you know that with the well-being of the child, nothing’s been, have been organized in the manner of the IEP or in the manner of, of informing of the child of their, their goals and how to partake in accomplishing their, those goals.

So at the end, lastly, it is best to say that an IEE should be required here, or should be established because you have [SCHOOL 1] administrators and teachers and experts/specialists that did not have the well-being of the child.

(T. at 88-89.)

For all these reasons, the Parent argues that the educational and speech/language assessments conducted by MCPS are inappropriate.

#### Speech-Language Re-Assessment

Ms. XXXX testified that she provides clinical and administrative support to speech pathologists employed by MCPS who work with children from birth to age 21. [SCHOOL 1] is one of the schools she supports. Ms. XXXX further indicated that she has 30 years of experience working as a speech and language pathologist in a school setting, with 27 of those years at MCPS. Ms. XXXX's educational background includes a Bachelor of Arts degree in psychology/speech and hearing sciences and a Master of Science Degree in speech-language pathology. She holds Maryland State licensure in speech and language pathology, and holds advance professional teaching certificates in speech and language pathology from the State of Maryland. (*See* MCPS Ex. #4.) MCPS offered, and I accepted, Ms. XXXX as an expert in the field of speech and language pathology.

According to Ms. XXXX, in her expert opinion: (1) the May 25, 2015 report was appropriately used in the IEP meeting in order to develop goals and objectives to address the Student's speech and language needs; (2) the different measures captured by the speech-language re-assessment properly assessed the Student's speech and language needs; (3) pages 5-6 of the May 25, 2015 report accurately summarized the outcome of the testing; (4) the scope of the written report is typical and is within the professionally accepted practice in the industry; and, (5) to the best of her knowledge, the tests were administered in accordance with the publisher's instructions. On this last point, however, Ms. XXXX qualified her answer as follows:

I was not present when the tests were administered, but the, the way they're reported here in the report is, is in line with the administration of the tests. It tells

about the tests. It gives standard scores and Ms. XXXX' interpretation of [the Student's] performance on those measures.

(T. at 35.)

The evidence presented by MCPS establishes that XXXX XXXX had the proper education, training, licensing, and qualifications to administer the Speech-Language Re-Assessment and interpret the results, in accordance with the federal regulations. 34 C.F.R. § 300.304(c)(1)(iv). Ms. XXXX testified to the best of her knowledge, Ms. XXXX is licensed to practice speech pathology in the State of Maryland and was employed by MCPS as a Speech-Language Pathologist. Though not stated by Ms. XXXX, Ms. XXXX identified her credentials on the May 25, 2015 report as a CCC-SLP. (MCPS Ex. #3.) Other than wondering why Ms. XXXX did not appear to testify at the hearing, the Parent did not otherwise challenge Ms. XXXX' qualifications. It should be noted that MCPS did not offer any explanation for Ms. XXXX' absence from the hearing.

Ms. XXXX wrote in her May 25, 2015 report that she conducted the speech-language re-assessment following an authorization given by the Parent on March 31, 2015. She explained in her report that the assessment was being conducted to determine: (1) what are the Student's current cognitive, educational levels; (2) what are her receptive and expressive language needs; and (3) what are her executive functioning skills. (MCPS Ex. #3, p. 1.)

In her report, Ms. XXXX referred to the Student's educational background and recounted that she had moved from [State] to Maryland in 2011. The Student had an IEP from [State] that indicated she was receiving reading/language arts for 75 minutes daily, plus 30 minutes of speech and language services weekly. According to the [State] IEP, the Student's speech goals included working on processing and listening, and improving receptive and expressive

vocabulary skills. In addition, Ms. XXXX explained that when the Student moved to Maryland, on March 8, 2011, MCPS conducted a speech-language re-evaluation with the following results:

- CELF-4
  - Core language SS = 84
  - Receptive language SS = 88
  - Expressive language SS = 83
  - Language content SS = 84
  - Language structure SS = 85
- PPVT-4 Standard score 86
- The Expressive Vocabulary Test-2 Standard score 73

(MCPS Ex. #3, p. 2.)

Ms. XXXX also described the Student's progress in speech and language during grades 4, 5 and 6. The Student is presently in the 7<sup>th</sup> grade at [SCHOOL 1]. Of note, Ms. XXXX commented that in the 6<sup>th</sup> grade the Student's "grades dropped when she stopped taking her [ADHD] medication ... [and] was inconsistent in her work habits." (MCPS Ex. #3, p. 2.)

According to Ms. XXXX, Ms. XXXX administered the same formal standardized assessments that were later versions of those conducted in 2011, specifically, the: (1) PPVT-4 to assess receptive vocabulary; (2) EOWVT-4 to assess expressive vocabulary; and, (3) CELF-5 which is a global test of receptive and expressive language skills. Ms. XXXX testified that these tests are routinely used by MCPS and are commonly accepted in the industry (speech and language profession) to assess both receptive and expressive language skills. In addition, Ms. XXXX analyzed a sample of the Student's language and observed the Student during speech therapy sessions. In her expert opinion, Ms. XXXX stated that this method of conducting formal testing is professionally sound and accepted in the industry, especially when a Student is receiving speech therapy.

According to May 25, 2015 report, Ms. XXXX listed her findings as follows:

- CELF-5

- Core language SS = 77
- Receptive language SS = 76
- Expressive language SS = 80
- Language content SS = 74
- Language structure SS = 63
- PPVT-4 = SS 80
- EOWVT-4 = SS 82

(MCPS Ex. #3, pp. 3-4.) Ms. XXXX interpreted those results to mean the following:

[The Student] exhibited areas of strengths and weaknesses. Areas of strength included: receptive and expressive vocabulary, sentence formulation, overall expressive language skills, and understanding language in context. Weaknesses included: receptive language skills, language content, grammar for complex sentences, word retrieval skills, pragmatic language skills, and functional communication skills.

(MCPS Ex. #3, p. 6.)

Based on her review of the May 25, 2015 report, and in her expert opinion, Ms. XXXX testified that Ms. XXXX used the tests for the purpose for which they were intended, and reported both standard and scaled scores. In addition, Ms. XXXX wrote that she interpreted the data in conjunction with the MCPS Speech and Language Services Decision-Making Guidelines.

(MCPS Ex. #3, p. 6.) With regard to the CELF, Ms. XXXX testified that Ms. XXXX used the most current version of the assessment as well as the version intended for ages 9 through 21, which is applicable to the Student's age. Specifically, Ms. XXXX stated,

So the, there are a series of sub tests that comprise the test. They [sic] are tasks looking at such language skills as vocabulary, following directions, being able to formulate sentences, looking at grammar and grammar skills, looking at understanding of language, not just at the word or the sentence level, but at a lengthier level of paragraphs. Looking at, also looking at what's called, the meaning of language, getting content out of the language.

And those sub tests can be compiled into composite or index scores looking at more global receptive language skills, expressive language skills, language content. There's a language memory index here as well and then an overall core language score.

(T. at 18.) With regard to the PPVT-4, Ms. XXXX confirmed that Ms. XXXX used the current edition of that test and that the test captures whether the Student understands the words she hears. With regard to the EOWVT-4, it too was the current edition of the test, and it measures whether the Student is using words to convey meaning.

Ms. XXXX testified, in her expert opinion, that the three standardized tests administered by Ms. XXXX were designed to answer the questions posed by the IEP team regarding the Student's speech and language skills. She used the same tests that were conducted in 2011; the only difference being that the CELF was the 5<sup>th</sup> Edition, not the 4<sup>th</sup> Edition. Ms. XXXX testified that the chief difference between the 4<sup>th</sup> and 5<sup>th</sup> Editions is that:

The standardization of the test would have been, the test would have been re-standardized using children at this point in time.

One of the things that happens with the standardization of tests over time is that children in different generations perform differently and so tests need to be re-standardized periodically with, with current, current population.

And so the 5<sup>th</sup> test is the latest standardization. So sometimes when tests are re-standardized and they first come out, the children can do more poorly on those measures than maybe they did on a prior version that was near the end of the, of the standardization.

(T. at 30-31.)

Ms. XXXX testified that while she did not collaborate with Ms. XXXX in assessing the Student, she met with Ms. XXXX regarding the May 25, 2015 report before it was issued. In fact, Ms. XXXX agreed with the Parent that there had been an earlier draft of the report and that the final draft, written on May 25, 2015, was the one submitted to the IEP team for its consideration. Ms. XXXX was quite clear, however, that the May 25, 2015 report reflected Ms. XXXX's assessment of the Student.



Ms. XXXX testified that she is a member of the IEP Team that reviewed and considered the May 25, 2015 report when determining the Student's speech and language needs, which can be found on pages 24-25 of the IEP. (MCPS Ex. #7.) Ms. XXXX's testimony is consistent with Ms. XXXX' May 25, 2015 report, wherein she wrote on page 6:

Based on progress toward goals, therapy observations, assessment results and language sample analysis, these oral communication weaknesses impact [the Student's] comprehension and expression of ideas in class.

(MCPS Ex. #3, p. 6.) Therefore, based on this record before me, I find that the assessment tools and strategies used provided relevant information that directly assisted persons in determining the educational needs of the child. 34 C.F.R. § 300.304(c)(7).

The Parent did not challenge the appropriateness of the re-assessment, *i.e.* the procedures, methodology, and assessment tools, employed by Ms. XXXX. The Parent also did not object to the admission of MCPS Ex. #3 into evidence, which was Ms. XXXX' May 25, 2015 report. I am persuaded by the record before me that the instruments used by Ms. XXXX in the speech-language re-assessment were tailored to assess the Student's skill in the specific areas of speech and language, and were not designed to provide a single general intelligence quotient. Ms. XXXX used the instruments for the purposes for which they were intended to investigate the areas of suspected disability identified by the IEP team. These instruments complied with the IDEA requirements and procedures. 34 C.F.R. § 300.304(b), (c).

Moreover, it is clear that Ms. XXXX did not use a single measure or assessment as the sole criterion for determining whether the Student was a child with a disability and for determining an appropriate educational program for the Student. 34 C.F.R. § 300.304(b)(2).

The administration and scheduling of the tests were appropriate as well. Ms. XXXX testified that, in her experience, it takes approximately three hours to conduct the aforementioned

tests. Here, the speech-language re-assessment performed by Ms. XXXX took several days (May 1, 5, 8, 19 and 21, 2015) to complete. According to Ms. XXXX, it is typical in the industry to break up the testing over the course of several days because, “It’s hard for middle school students to miss a large chunk of time in one day.” (T. at 44.) So, the scheduling is typically worked out between the pathologist, the Student and classroom teachers to ascertain when the best time is to pull the student out of class. Ms. XXXX stated that since she was not involved in the scheduling, she was uncertain whether this occurred here.

While it is clear that the Parent is quite upset that the Student seemed to be consistently pulled from important core classes or her speech therapy in order for Ms. XXXX to conduct the testing, the record does not support this finding. While I am not questioning the sincerity of this statement by the Parent, the Parent did not present any documents to verify or corroborate her statement – for instance, a copy of the e-mail she testified to sending, the Student’s grades, or copies of the various classwork the Student had to do at home which would have been evidenced by notes from the teachers. Even if I were to accept the Parent’s assertions to be true, the Parent nevertheless failed to show how the testing was negatively impacted by MCPS’ actions in this regard. The Parent’s testimony amounts to speculation and is not supported by expert testimony. Moreover, contrary to the Parent’s assertion that the Student was rushed or confused, Ms. XXXX wrote, “[the Student] entered testing willingly and cooperated enthusiastically in completing all tasks presented. She was polite and respectful. Therefore, it is felt data obtained from this assessment is a valid reflection of current speech/language skills.” (MCPS Ex. #3, p. 2.)

In addition, Ms. XXXX wrote that “[the Student] reports she is not currently taking medication for ADHD because it makes her stomach hurt. This examiner has observed her on and off medication and she is much more focused and less impulsive but very subdued when she

is on her medication.” (MCPS Ex. #3, p. 3.) Since the Parent failed to rebut this evidence during her testimony, I am inclined to believe this to be true. Therefore, I find that the procedure used to coordinating the testing was appropriate.

I also find persuasive Ms. XXXX’s expert testimony that there may be a valid explanation why the Student tested lower than anticipated on the CELF-5. Ms. XXXX explained:

The publishers, what they did was they, in looking at the test, they would have, they would have looked at students today, in this particular instance ages 9 to 21 for this particular version.

They would have administered the, the different items on each of the sub tests and the sub tests to students today – or actually this would have been a year or two ago that they would have done this to, to get the data on how are students performing today, what is typical performance for a given age level, so in [the Student’s] case what is typical performance for a 12-year-old.

So when a test like this is administered, what a scaled score and standard scores are looking at are how does [the Student] compare to what would be expected for her age level. And can we be confident that her performance is, the performance on the measure is, is an indication of where she’s truly performing with her language skills.

(Transcript of Record at 32-33.). In other words, the lower score does not invalidate the test results.

#### Educational Assessment

The evidence presented by MCPS establishes that Ms. XXXX possessed the proper education, training, licensing, and qualifications to administer the educational assessment and interpret the results, in accordance with the federal regulations. 34 C.F.R. § 300.304(c)(1)(iv) (2014). (MCPS Ex. #5). The evidence demonstrates that Ms. XXXX has taught special education students for more than 10 years in MCPS; she has conducted educational assessments,

including the WJ-IV and the earlier version WJ-III; and, she is currently a resource teacher, managing a special education department consisting of five teachers and seven paraeducators.

Ms. XXXX testified that she has a Bachelor's Degree in psychology from the University of XXXX and a Master's Degree in special education from XXXX University. She also holds a Maryland State Standard Professional Credential in special education, K-12 and Secondary English/Language Arts.

The Parents objected to Ms. XXXX's expertise because she was unhappy with the report Ms. XXXX wrote, and due to the manner in which Ms. XXXX dealt with her daughter. Moreover, the Parent contended that Ms. XXXX did not possess the proper certification. I was not persuaded by the Parent's challenges and felt that the résumé supported her designation as an expert. As such, based on Ms. XXXX's education and experience, I accepted her as an expert in special education.

Ms. XXXX testified that the purpose for conducting the educational assessment was to determine why the Student was struggling in reading. After its meeting, however, the IEP team "decided to do a full battery of tests, the educational, speech, language and the psychological testing at that time and, so that we could make a better decision about her program." (T. at 57.)

With regard to the educational assessment, Ms. XXXX testified that the WJ-IV tells the IEP team "exactly where [the Student is] at as far as her reading and writing and math. There's different subtests in each of those areas that can give you an indication of how she compares to her same-aged peers." (T. at 58.) Ms. XXXX testified that she was able to learn from the WJ-IV that "[the Student] is in the low, low average range when just reading words and her knowledge of phonics is low and her comprehension is very low. She does a little better when reading sentences and is, it's difficult for her to recall what she has just read." (T. at 58.) Ms. XXXX

testified, in her expert opinion, that the scores with respect to the reading portion were accurate and properly reflected the Student's achievement. Ms. XXXX further explained that she was not able to complete the full array of subtests prescribed by the WJ-IV because the Parent withdrew her consent for testing. Nevertheless, in her expert opinion, Ms. XXXX was confident that the scores and measures she was able to obtain from testing accurately reflected the Student's abilities or achievement. Consequently, Ms. XXXX testified in her expert opinion that the parts she was able to complete on the WJ-IV were valid and reliable, accurate, and intended for the purpose for which they were administered.

The Parent did not challenge the appropriateness of the assessment, *i.e.* the procedures, methodology, and assessment tools, employed by Ms. XXXX. The Parent also did not object to the admission of MCPS Ex. #2 into evidence, which was Ms. XXXX's May 27, 2015 report. I am persuaded by the record before me that the instruments used by Ms. XXXX in the educational assessment were tailored to assess the Student's academic performance in relation to her peer group based on age in the areas of math, writing and reading. Ms. XXXX properly used the WJ-IV to investigate the areas of suspected disability identified by the IEP team. This instrument complied with the IDEA requirements and procedures. 34 C.F.R. § 300.304(b), (c).

Moreover, it is clear that Ms. XXXX did not use a single measure or assessment as the sole criterion for determining whether the Student was a child with a disability and for determining an appropriate educational program for the Student. 34 C.F.R. § 300.304(b)(2).

Ms. XXXX testified, in her expert opinion, that the report she authored is an appropriate measure from which to use the information for the development of the Student's IEP. (MCPS Ex. #2.) In fact, the IEP team developed new goals for the Student in reading and phonics based on those tests. Ms. XXXX stated that this result was particularly important since that was the

original concern driving the need for the assessments in the first instance. Ms. XXXX also noted that since she could not get to the math related subtests, no new IEP goals were drafted in mathematics as a result of the WJ-IV she conducted. Therefore, based on this record before me, I find that the assessment tools and strategies used provide relevant information that directly assisted persons in determining the educational needs of the child. 34 C.F.R. § 300.304(c)(7).

Ms. XXXX testified consistently with Ms. XXXX that it is typical in the industry to break up the testing over the course of several days and that scheduling is typically worked out between the evaluator, the Student and classroom teachers to ascertain when the best time is to pull the student out of class. In fact, Ms. XXXX testified that she always asks the teacher if it is good day to pull a student from class so not to negatively impact the student's performance or grades. (T. at 71.) Ms. XXXX credibly testified that she did that in this case. While it is clear that the Parent is quite upset that the Student seemed to be consistently pulled from important core classes or during her speech therapy in order for the evaluators to conduct the testing, the record does not support this finding. In addition, the Parent challenged whether it was prudent for Ms. XXXX to rely on the Student when scheduling given the Student's poor recall and memory. Ms. XXXX, too, stated that the Student was cooperative during the course of testing. My earlier findings on this issue apply here as well.

### Summary

For all the reasons addressed above, MCPS has proven that both the speech-language re-assessment of the Student administered and prepared on May 25, 2015 by XXXX XXXX, and the educational assessment administered and prepared on May 27, 2015 by XXXX XXXX, were appropriate in accordance with the requirements of the IDEA and federal and State regulations. The school system's witnesses testified credibly and in detail regarding the assessments that

were administered, the reasons the instruments were used, the basis for the information they included, and why certain information was not included. The evaluators also analyzed the data they obtained and explained the basis for their conclusions. Both evaluators conducted appropriate assessments with regard to the areas of suspected disability identified by the IEP team.

I also find that the speech-language and educational assessments were sufficiently comprehensive to meet the IDEA standard for administering and reporting appropriate assessments. Although there was certain information not included in the educational assessment, MCPS proved that Ms. XXXX included the information that was required for an appropriate assessment. While the Parent may disagree with some or all of the conclusions in the assessments, and may disagree with subsequent decisions made by the IEP team after the assessments were completed and considered, these disagreements do not render the assessments inappropriate. Therefore, I conclude that the Parent is not entitled to obtain an IEE at public expense. The Parent is certainly entitled to obtain her own assessments of the Student, but those assessments need not be funded by MCPS.

As noted above, the critical question before me is not the *results* of the MCPS testing, or any actions taken by the IEP team after the assessments were considered, but whether the assessments were properly administered in accordance with the standards and requirements set forth above. It is important to note that the applicable legal issues in this proceeding, which resulted from the due process complaint filed by the school system, do not involve a determination of whether the Student has an educational disability or whether she is eligible for special education and related services. In this case, MCPS has established that the speech-language and educational assessments conducted by MCPS were proper, comprehensive, and in

compliance with applicable law.

It is also important to note that the applicable legal issue in this case does not require a determination that one set of testing was “better” or “worse” than the other. Indeed, it is to be expected that testing by two different professionals, conducted on different days, with some variation in the instruments employed, lasting differing amounts of time, and so on, would yield results that are not identical. Rather, as discussed above, the only question is whether the MCPS’ two assessments were performed appropriately. I find that they were.

In sum, both expert witnesses credibly testified that the testing administered in May 2015 was sound, valid, reliable, and properly administered. The Parent had an opportunity to call her own expert, but declined to do so. As a result, the testimony of MCPS’ two expert witnesses stands un rebutted by any other expert testimony. I conclude that the testing and evaluation provided by MCPS complied with the requirements of 20 U.S.C.A. §1415(b)(1), 34 C.F.R. §300.502, 34 C.F.R. §300.304, and COMAR 13A.05.01.05C.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the speech-language and educational assessments of the Student conducted by MCPS in May 2015 are appropriate under the applicable standards and, therefore, that the Parent is not entitled to an IEE at public expense. 20 U.S.C.A. § 1415(b)(1) (2010); 34 C.F.R. §§ 300.304, 300.309, 300.502(b) (2014); COMAR 13A.05.01.05C; COMAR 13A.05.01.06.



## **ORDER**

I **ORDER** that the MCPS' speech-language and educational assessments conducted on May 25, 2015 and May 27, 2015, respectively, are appropriate and that the Parent's request for an IEE at public expense be denied.

September 11, 2015  
Date Decision Mailed

\_\_\_\_\_  
Kathleen A. Chapman  
Administrative Law Judge

KAC/da

## **REVIEW RIGHTS**

Within 120 calendar days of the issuance of the hearing decision, any party to the hearing may file an appeal from a final decision of the Office of Administrative Hearings to the federal District Court for Maryland or to the circuit court for the county in which the Student resides. Md. Code Ann., Educ. § 8-413(j) (2014). A petition may be filed with the appropriate court to waive filing fees and costs on the ground of indigence.

Should a party file an appeal of the hearing decision, that party 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 court action. The written notification of the filing of the court action must include the Office of Administrative Hearings case name and number, the date of the decision, and the county circuit or federal district court case name and docket number.

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