

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Region 7 Board of Education v. Student

Appearing on behalf of the Parent:

Parents *Pro Se*

Appearing on behalf of the Board:

Marsha Moses, Esq.
Berchem, Moses & Devlin, PC
75 Broad Street
Milford, CT 06460

Appearing before:

Sylvia Ho, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Is the Board's psychoeducational evaluation appropriate?
2. Are Parents entitled to an independent educational evaluation ("IEE") at public expense?

PROCEDURAL HISTORY:

The Board filed the Due Process Complaint/Hearing Request on May 18, 2015 and a Hearing Officer was appointed the same day. A Prehearing Conference was conducted on May 29, 2015. The hearing convened on June 29, 2015 and July 17, 2015. On June 29, 2015, the Hearing Officer granted the parties' request to extend the mailing date of the Final Decision from July 2, 2015 to July 31, 2015 to add the July 13, 2015 hearing date. The July 13, 2015 hearing date was cancelled and rescheduled to July 17, 2015. On July 17, 2015, the Hearing Officer granted the parties' request for an extension of the mailing date of the Final Decision to August 28, 2015 in order for the parties to submit briefs. Both parties submitted briefs on August 5, 2015.

The Board presented the testimony of three witnesses. They were Margaret Nelligan, Special Education Teacher at Northwestern Regional Middle School; Quentin Rueckert, Executive Director of Shared Services and Rosalind Leibowitz, School Psychologist. The Mother testified on behalf of the Parents. The Board submitted as full exhibits B-1 through B-37. The Parent submitted as full exhibits via Student's initials Exhibits 1-4, 7, 10-12, 21, 37 and 38. The Parents' Exhibits were labeled with Student's initials and did not conform with the Memorandum to Parties regarding labeling. The Student's initials are hereby substituted with the letter "P" in this decision in order to maintain confidentiality of Student's identity. Parents Exhibits 5.1, 5.2, 5, 6, 8, 9, 13-20, 22-36 and 39-46 were marked but not admitted as full exhibits. The Board's Due Process Complaint/Hearing Request was admitted as HO-1. During the course of the hearing, the Hearing Officer requested that the Board produce copies of the Student's attendance records for the 2013-2014 and 2014-2015 school years. The Board provided these as well as the Student's final report card for the 8th grade and they were all admitted into the record as Exhibit HO-2.

This Final Decision and Order sets forth the Hearing Officer's summary, findings of facts and conclusions of law set forth herein, which reference certain exhibits and witness testimony and are not meant to exclude other supported evidence in the record. All evidence presented was considered in deciding this matter. To the extent the summary, procedural history and findings of facts actually represent conclusions of law, they should so be considered and vice versa. *SAS Institute Inc. v. S & H Computer Systems, Inc.*, 605 F. Supp. 816 (M.D. Tenn. 1985) and *Bonnie Ann F. Callallen Independent School Board*, 835 F. Supp. 340 (S.D. Tex. 1993).

SUMMARY:

Student was an 8th grade student who struggled with spelling throughout elementary school. In the 6th grade, Student was diagnosed with a medical condition that required medical treatment and testing. A 504 plan was developed for missed classes due to the medical condition. In the 7th grade, Student received very low but passing grades. Classroom teachers referred Student to Response to Intervention (“RTI”) at the beginning of 8th grade for screening for reading comprehension. The RTI facilitator performed the screening and referred Student to special education for a suspected learning disability of Dyslexia. Student was evaluated and found eligible for special education and related services. Parents challenge the evaluation on the ground that it was not sufficiently comprehensive because it did not contain assessments for other disabilities.

STATEMENT OF JURISDICTION:

This matter was heard as a contested case pursuant to Connecticut General Statutes (C.G.S.) §10-76h and related regulations, 20 United States Code §1415(f) and related regulations, and in accordance with the Uniform Administrative Procedure Act (U.A.P.A.), C.G.S. §§4-176e to 4-178, inclusive, §§4-181a and 4-186.

FINDINGS OF FACT:

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

1. Student was born on March 14, 2001. Student attended Barkhamsted Elementary School until the 6th grade and the Board's Northwestern Regional Middle School for the 7th and 8th grades. The evaluation at issue in this hearing was an initial evaluation to determine Student's eligibility for special education. It was conducted in the 2014-2015 (8th grade) school year. As a result of the evaluation, the Student was determined to be eligible for special education and related services under the category of Specific Learning Disability/Dyslexia. (B-17, Testimony, Mother, Testimony, Nelligan, Testimony, Leibowitz, Testimony, Rueckert)
2. The academic record shows that beginning in the 3rd grade, the Student had difficulty with spelling and needed extra help in editing her written work and completing work in a timely manner. It reveals no classroom teacher reports of problems with math concepts, calculations, speech and language or handwriting. (B-14)

3. In the 5th grade at Barkhamsted Elementary School, the Mother made a referral to determine Student's eligibility for special education due to Student's difficulties in spelling. A Planning and Placement Team meeting ("PPT") was convened and evaluations were conducted in academic achievement related to spelling, speech and language processing as well as perceptual-motor integration. The evaluation revealed that Student was achieving within the average range. No problems were noted in the speech and language evaluation. The Barkhamsted Elementary School PPT determined that Student was not eligible for special education. (Testimony, Mother, Testimony, Leibowitz)
4. Despite her difficulties with spelling, Student academically progressed from year to year. She scored within the goal range in the Connecticut Mastery Tests ("CMT") in Math, Reading and Writing in 3rd, 4th and 5th grades, and at an advanced level for Science in 5th grade. On the 6th grade CMTs, Student scored in the goal range for Math and Reading and in the advanced range for Writing. (B-1, B-2, B-3 and B-14)
5. In the 6th grade, Student was diagnosed with Idiopathic Thrombocytopenic Purpura, a medical condition that necessitated absences from school to obtain required medical treatment and testing. Barkhamsted Elementary School formed a 504/ADA accommodation team ("504 Team") and developed an individual accommodation plan ("504 plan") that provided academic support for missed content and other accommodations due to Student's medical condition. (B-6)
6. Student entered the Board's middle school, Northwestern Regional Middle School, in the 2013-2014 school year as a 7th grader. A 504 team was formed in October of 7th grade and developed a 504 plan. This team consisted of Mother, Student's guidance counselor, Rosalind Leibowitz, School Psychologist, the school nurse and teachers. The plan excused the student from physical education and provided Student with academic support for skills, counseling and consultation with the school nurse on an as needed basis immediately following periods of absences. The plan also provided for accommodations for spelling. (B-7)
7. In the 7th grade year, Student was absent 25 times and tardy 18 times as a result of her medical condition. The record is clear that absences significantly impacted the Student's ability to learn new academic material and to keep up with peers. 7th grade classes were scheduled on a rotational basis. Student missed all academic classes 25 times. In addition to the absences, Student would miss as many as three morning classes when she was tardy. In sum, Student missed as many as 43 instructional periods for some subjects during the 7th grade. This would have amounted to anywhere between 20 to 25 percent of instructional time when new topics and skills were being introduced and/or reinforced. (Testimony, Mother, HO-2)
8. The 7th grade 504 plan included academic skills support and accommodations on an as needed basis. Material that was introduced in school during the Student's absence was provided to Student to learn and study at home or at the hospital where Student was receiving treatment. Teachers would then be available during Student's study hall to tutor on academic material she did not understand. Not surprisingly, Student struggled in all academic subjects. Student's academic struggles became a source of concern for both her parents and teachers. (B-7, HO-2, Testimony, Mother, Testimony, Rueckert)

9. The Student's final grades at the end of 7th grade were as follows: Math – D; Skills seminar – B-; Reading – C+; Science – C; Chorus – A-; Social Studies – D+; Vo-Ag – A; Art – B-; Business – D; English – C+. (B-8)
10. In September of 8th grade, the 504 plan was reviewed. The 8th grade 504 team added regular education math tutoring each Thursday and extra help from teachers on Monday and Thursdays. The purpose of the math tutoring was to reinforce skills that could be missed during absences from school. Even students who are capable math students could fall behind if these skills were not given adequate practice and support due to absences from the classroom. (B-9, Testimony, Rueckert)
11. At Northwestern Middle School, Students were assigned to teams so that team teachers could monitor student progress across all subjects. Student was assigned to Team Thunderbird for 7th and 8th grades. At Team Thunderbird meetings, teachers discussed ongoing concerns that the Student's absences were impeding her ability to learn. They had also come to a conclusion that Student had problems with reading comprehension and suspected that the lack of reading comprehension might be a source of Student's academic struggles in all subjects. In mid-September of 2014, Team Thunderbird teachers made a referral to Response to Intervention ("RTI") due to these two concerns. (B-10, Testimony, Nelligan, Testimony, Leibowitz)
12. At the same time, the Mother had also expressed concerns about Student's reading and spelling problems during her meetings with teachers. (Testimony, Mother)
13. Student's 7th and 8th grade general education reading class teacher, Ms. Nancy Morehouse, requested a screening for reading problems. (Testimony, Nelligan; Testimony, Mother)
14. Ms. Margaret Nelligan is a special education teacher and was the RTI facilitator for Team Thunderbird. She attended Team Thunderbird meetings on a regular basis and was present when teachers discussed the Student's reading difficulties. She is a certified special education teacher in the State of Connecticut and reading specialist assigned to Team Thunderbird. She holds a Masters of Arts in Special Education and has been a teacher of students with dyslexia and significant learning disabilities since 2008. She has received continuing professional development in a number of reading programs as well as in adolescent literacy since 2008. As a special education teacher, she administers assessments to approximately 10 to 12 students each year in the area of literacy. (Testimony, Nelligan, B-37)
15. At Ms. Morehouse's request, Ms. Nelligan conducted an informal assessment to screen for reading problems. This informal assessment, called the Quantitative Reading Inventory ("QRI"), tracked the Student's ability to read words in isolation and in context; oral reading fluency; reading comprehension; reading rate in oral and silent reading and the ability to pronounce words. The results of the QRI showed that Student did not know vowel sounds. Student had trouble pronouncing words in isolation. She read at a rate far below that of same aged peers. Based upon these results, Ms. Nelligan believed that a referral to special education would be warranted to determine if Student would be eligible for special education services under the category of Specific Learning Disability/Dyslexia. (Testimony, Nelligan)
16. Ms. Nelligan scheduled a meeting for the Mother and Thunderbird team teachers to review the results of the QRI. During the course of this meeting on December 4, 2014, the

- participants agreed that the meeting should be held as a PPT meeting to refer Student to determine eligibility for special education services. The attendees of the meeting were the special education administrator, Student's math and general education reading teachers, the school psychologist and Student's guidance counselor. (Testimony, Nelligan, Testimony, Mother, Testimony, Leibowitz, B-11, B-12)
17. At this meeting, Ms. Nelligan reviewed the Student's QRI results. Ms. Nelligan expressed concerns that Student did not know her vowel sounds and performed below same age peers in reading fluency. The participants discussed Student's academic struggles. The Mother recounted the Student's historical struggles with spelling and reading. There was no discussion among the PPT participants about any other suspected disabilities that may have had an impact upon Student's performance. (Testimony, Nelligan, Testimony, Mother, Testimony, Leibowitz, B-12)
 18. The PPT proposed an initial evaluation. This evaluation would include psychological assessments relating to cognitive and personality to be conducted by the school psychologist, Ms. Leibowitz, and assessments relating to reading and written language to be conducted by Ms. Nelligan. The Mother gave parental consent for the evaluation. (B-12)
 19. Ms. Nelligan administered formal standardized diagnostic assessments. She administered the Comprehensive Test of Phonological Processing 2 (CTOPP-2), the Test of Word Reading Efficiency 2 (TOWRE 2) and conducted an analysis of the Student's curricular writing samples. She also interviewed Student's teachers about their observations. To conduct an analysis of the Student's writing, Ms. Nelligan obtained unedited writing samples from two of the Student's teachers that were in the Student's own handwriting. (B-15, Testimony, Nelligan)
 20. After interviewing teachers and reviewing the results of the diagnostic assessments and writing samples, Ms. Nelligan concluded that the Student displayed a number of characteristics consistent with the description of a student with dyslexia. For instance, Student had trouble with phonological awareness and rapid naming of letters and digits. Her auditory skills in hearing language were developed but she had a limited ability to manipulate sounds or know what sounds were being made at which time. She could not identify or decode words presented to her in isolation. She was not sure whether to apply a short or long vowel sound to a word presented in isolation. She did not know when to apply a syllable. Although the Student could read accurately, she read laboriously. Her laborious effort to decode words impacted her ability to read fluently. She read at a level and rate far below what would have been expected from an 8th grader. While the assessments revealed characteristics of dyslexia, the assessments did not reveal any characteristics of dysgraphia. Dysgraphia is a writing disability. Some characteristics of dysgraphia could be detected in reviewing handwriting and inability to produce large volumes of handwritten work. Student is able to produce large volumes of handwritten work and did not have problems with handwriting. (B-15, Testimony, Nelligan)
 21. Ms. Leibowitz conducted the psychological assessments of Student. The psychological assessment was being administered to determine whether Student had any processing deficits that could have accounted for her academic difficulties and to rule out any social or

emotional factors that may have contributed to the Student's school performance.
(Testimony, Leibowitz, B-14)

22. Ms. Leibowitz has been a school psychologist since 1977 and a school psychologist for Northwestern Region 7 since 2000. She has administered psychological assessments in the school district for 15 years. (B-14, Testimony, Leibowitz)
23. Ms. Leibowitz administered the Woodcock Johnson Tests of Cognitive Abilities III (Extended Version), a formal standardized test; Behavior Assessment System for Children II (Self-Report Personality, Teacher and Parent Rating Scales) ("BASC II"), a standardized inventory, and Sentence Completion Blank, another standardized measure. She reviewed the Student's academic records and conducted a clinical interview of Student. (B-14, Testimony, Leibowitz)
24. The review of the Student's academic record and testing portrays a child who is a "deep thinker" who has "wonderful background knowledge." She struggled with spelling as well as with the speed at which she processed information throughout her tenure in elementary school. In the 5th grade, the Student had a speech and language assessment that showed that Student was functioning in the average range and did not indicate any speech or motor difficulties. Her cognitive testing showed a significant scatter between her above average and advanced cognitive strengths and her ability to process information. Her fluid reasoning (being able to assimilate new information), and thinking ability were above average to advanced. She has a solid command of vocabulary and communication and has a strong working memory. However, she performed at the lowest levels in tasks that required speed and had time constraints. The testing was consistent with the spelling and reading difficulties chronicled in school records. Neither school records nor diagnostic testing revealed any speech, motor or neurological impairments associated with dyspraxia, a neurological speech/motor disability, nor any working memory problems associated with dyscalculia, a math disability. (B-14, Testimony, Leibowitz)
25. A PPT convened on February 25, 2015 to review the evaluation reports and to determine eligibility and develop an IEP. In attendance were the school principal, Student's regular education teachers, including Ms. Morehouse, the regular education reading teacher, Ms. Leibowitz, Ms. Nelligan, Ms. Teggi, a special education teacher, an intern and both parents. The PPT reviewed teacher reports of the Student's progress. The teachers all reported that the tutoring provided by the 504 plan was helping and Student had improved academically. Mother reported that Student's medical condition had stabilized. Student's math teacher reported that Student was showing a deeper understanding of math concepts. Science and social studies teachers reported that Student was doing better. Social studies teacher reported that Student was a superior student, especially verbally, and was articulate and an "emerging leader." Ms. Leibowitz and Ms. Nelligan reported and discussed their review of records and testing. The IEP states that while Student had a "strong work ethic; strong working memory" and "background knowledge," Student required specialized instruction because of her "decreased reading fluency due to difficulty decoding and comprehending at a pace consistent with peers." Due to Student's difficulty in accurately and fluently decoding familiar and unfamiliar words, Student was unable to succeed in regular education classes without special education classes without explicit, multisensory reading instruction. The PPT found that Student was functioning at age appropriate norms in the areas of math and other academic areas; in behavior and socially and emotionally; in communication; in

fine/gross motor areas and in other areas of daily living. With respect to health and development, including vision and hearing issues, the IEP notes that Student is age appropriate but needed to continue to seek medically necessary health interventions and attend multiple appointments due to her health condition. The PPT found that Student was eligible for special education services as a student with a Specific Learning Disability/Dyslexia. The PPT recommended that the Student receive direct reading instruction. (Testimony, Nelligan, B-17)

26. A PPT convened on March 25, 2015 at the Parent's request. Parents wanted to review the Student's program and to make requests for additional reading support. The members of the PPT were: Quentin Rueckert, Executive Director of Shared Services, the Parents, Kevin Daly, parent advocate, Ms. Fantano, the Student's general education math teacher, Ms. Nelligan and Ms. Leibowitz. The members of the PPT discussed the Student's transition to special education. The Parents were concerned about the lack of intensity of the reading program and Student's upcoming transition to high school. During this PPT, the Parents requested an additional period of direct, intense reading services. The PPT agreed to reconvene another PPT in two weeks. (B-19, Testimony, Rueckert)
27. Subsequently, a PPT was convened on April 9, 2015. The members of the PPT were the Parents and their parent advocate, Kevin Daly, Mr. Rueckert, Ms. Fantano, Ms. Nelligan, Ms. Leibowitz, Bruce Miller, guidance counselor, and Kaye Sweeney, school nurse. The Parents provided a privately obtained speech and language evaluation. Mr. Daly, on behalf of the Parents, requested a neuropsychological evaluation. Mr. Rueckert asked for the reason for the request. No explanation was given. Mr. Rueckert consulted Ms. Leibowitz regarding her opinion as to the necessity for a neuropsychological evaluation. Ms. Leibowitz opined that she did not believe that one was necessary to plan or implement the IEP. Nevertheless, Mr. Rueckert agreed to provide a neuropsychological evaluation at public expense. He testified that he agreed to do this as a gesture of good will to the parents. The Mother testified that she believed that she was requesting a publically funded Independent Educational Evaluation ("IEE") as was her right under the IDEA. Subsequent to the PPT, the Parents provided the Board with a summary of their input and concerns and requested that this input be added to the IEP. (B-22, B-23, Testimony, Mother)
28. After the April 9, 2015 PPT, Mr. Rueckert emailed the names of three neuropsychologists to the Parents for consideration. Through a number of emails, the Parents rejected the Board's list and chose a different neuropsychologist. The emails reveal that Board and Parents had differing views on the nature of the neuropsychological evaluation being sought at the April 9 PPT. The Parents believed that by requesting an IEE, they were asserting their legal rights under the IDEA. The Board believed that the Parent was making a request for additional testing and that it agreed to provide this testing as an accommodation to Parents even though the testing was not necessary to determining eligibility or developing an IEP. The Board acted under this belief because the Parents never indicated any disagreement with the Board's evaluation. As of the time of the hearing, the Board continued to offer the Parents a neuropsychological evaluation to be conducted by a neuropsychologist from its list of neuropsychologists. (Testimony, Rueckert, Testimony, Mother, B-22, P- 2, P-3)
29. A subsequent PPT was held on May 5, 2015 in which this miscommunication was discussed and the parties' positions were clarified. Mr. Rueckert continued to offer to fund a

- neuropsychological evaluation with the Board list. The Parents insisted on another neuropsychologist of Parents' choosing. (Testimony, Mother, Testimony, Rueckert)
30. On May 7, 2015, the Parents wrote the Board to inform the Board of their disagreement with Board's evaluation and request an Independent Educational Evaluation at public expense. (B-31, Parent's brief)
 31. On May 18, 2015, the Board brought this Due Process Complaint/Request for Hearing. (HO-1)
 32. The Parents believe that the Board's evaluation was inappropriate because it did not cover other areas of testing. They believe that evaluations should have covered all areas of learning, including the subject areas of reading, writing and math. In addition, the Parents believe that the Board should have conducted separate assessments into other disabilities such as dyscalculia and dyspraxia. The Parents believe that the Board should have evaluated for other learning disabilities besides the suspected disability involving literacy. (Testimony Mother, Parent's post hearing brief)
 33. Mother expressed her lack of confidence in the competence of the Region 7 School Board's evaluation because of her experience with the Barkhamsted Elementary School PPT in the 5th grade. The Barkhamsted Board of Education did not find Student eligible for special education even though Student had struggles with spelling and reading.
 34. The Student continues to receive general education math tutoring from her math teacher. This math tutoring was provided by Student's 8th grade 504 plan. This math tutoring has helped Student and her grades have improved dramatically without special education instruction. Though Student has received high grades in math this year, Student will be placed in a remedial math level for the 9th grade. Parents believe that since Student is receiving math tutoring, Student could have a learning disability in math and should have been evaluated for a math disability. Parents also believe that the Board should have included all other learning disabilities and dyspraxia in its evaluation. (HO-2, B-9, Testimony, Mother)
 35. After reviewing all of the evidence stated above, this Hearing Officer finds that there is no credible evidence of suspected disabilities in any area other than literacy. First, it is significant that Student's teachers made the referral to special education. Thunderbird Team classroom teachers made a referral to RTI because they observed that Student struggled with reading in a general education classroom environment and discussed these concerns at team meetings. Student's reading teacher asked for screening for reading problems and the RTI facilitator/special education teacher made the referral to special education. At the time of the referral to special education, these teachers had already observed the Student in the general education classroom environment for over an academic year. They suspected that her academic struggles were due to 1) extended absences and 2) struggles with reading comprehension. The teachers did not observe other problems. Their referral formed the basis for the suspected disability. It is also significant that classroom teachers participated in PPTs and/or provided information to the PPT. These classroom teachers were in the best position to assess the Student's strengths and weaknesses in the general education setting. (B-10, B-11)

36. Second, there is credible evidence in the record that Student's poor performance in all areas in the 7th grade could be attributed to the large number of absences and tardies necessitated by her need for medical treatment and testing. Student was not present many times when academic material was being introduced and/or reinforced. She was not able to learn the material herself but she was struggling to do so with take home material and academic support. She was always catching up with her peers because of these absences. This situation improved dramatically in the 8th grade when Student absences reduced dramatically and Student received regular tutoring. (HO-2)
37. Third, there is no credible evidence that Student had a math disability that contributed to her low grades or need for remediation. Student's math teacher reported at the PPTs that Student was able to grasp math concepts. The academic record does not reveal any struggles in math such that special education would be required. Student has successfully progressed through general education tutoring. Math is a complex subject that requires basic skills to be developed before the acquisition of higher-level skills. It is likely that Student's medically necessitated absences have hampered and continue to hamper Student such that a remedial level of math is necessary. (B-19)
38. Finally, there is no credible evidence to suspect that Student has other disabilities. The academic record does not reveal any fine motor, speech or communication difficulties, or impairments of written or oral expression so as to suspect other disabilities. (B-14)

CONCLUSIONS OF LAW AND DISCUSSION:

1. The purpose of the initial evaluation is to determine if the Student is a child with a disability under §300.8 and eligible for special education and to determine the educational needs of the child. 34 C.F.R. §300.301(c)(2)
2. In contrast to instruction in a general education classroom curriculum, "special education" means "specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability." See 34 CFR §300.39(a)(1). "Specially designed instruction" means "adapting, as appropriate to the needs of an eligible child, content, methodology or delivery of instruction to address the unique needs of the child that result from a child's disability; and to ensure access of the child to the general curriculum, so that the child can meet educational standards within the jurisdiction of the public agency that apply to all children." 34 C.F.R. §300.39(b)(3)
3. The Student was suspected of being eligible for special education and related services under the category of specific learning disability under 34 CFR §300.8(2)(c)(10) and specific learning disability/dyslexia under Connecticut Public Act 14-39. (Finding of Facts No. 14 and 35)
4. A child is determined to be eligible after an "appropriate" evaluation. An "appropriate" evaluation is one that complies with IDEA and Connecticut regulations to produce information to determine whether the student is eligible for special education services and to develop the student's individualized education program ("IEP"). 34 C.F.R §300.301-§300.305; R.C.S.A. Sec. 10-76d-9(a) and (b).
5. If a student receives an evaluation with which the parent disagrees, a parent has a right to an independent educational evaluation ("IEE") at public expense, which means at no cost to the

parent. 34 C.F.R. § 300.502, R.C.S.A. Sec. 10-76d-9(c)(1) and (2). If a parent requests an IEE at public expense, the school district must, without unnecessary delay, ensure either an IEE is provided at public expense or initiate an impartial hearing to show that its evaluation is appropriate or that the evaluation obtained by the parent does not meet the school district criteria. 34 C.F.R. § 300.502; R.C.S.A. Sec. 10-76d-9(c)(2). Parents' entitlement to a publicly funded IEE is conditioned on their disagreement with the Board's evaluation. In this case, Parents informed the Board that they disagreed with the Board's evaluation on May 7, 2015. The Board filed this Due Process Complaint about 10 days later. (Findings of Fact No. 30 and 31)

6. Parents challenge the Board's evaluation as being inappropriate because it was not sufficiently comprehensive. The steps for ensuring a comprehensive evaluation for a student with a specific learning disability are summarized in Connecticut State Department of Education's publications "2010 Guidelines for Identifying Children with Learning Disabilities" ("Guidelines") and "Specific Learning Disabilities/Dyslexia Public Act 14-39 Frequently Asked Questions as Revised 3/15/2015" ("FAQs")(published at SDE website). These materials offer guidance in the "appropriate" evaluation of students suspected of specific learning disabilities and compliance with federal and state regulations. 34 C.F.R. §300.301-§300.305; R.C.S.A. Sec. 10-76d-9(a) and (b).
7. "To help ensure that an evaluation is comprehensive, the PPT must first gather input from multiple sources (e.g., families, general education classroom, curriculum-based measures, standardized assessments, student records, observations) and include a review of existing evaluation data to determine what additional data, if any, are needed to identify a learning disability, a student's need for special education, and write an IEP. Included in this review must be any evaluative data gathered during the SRBI [scientifically research based intervention] process as well as other academic and behavioral data that can be used to rule out that the student's learning difficulties are due to a lack of appropriate instruction." See Guidelines at page 27. See also answer to "What is an appropriate evaluation for a child suspected of having SLD/Dyslexia?" FAQs at p. 2. See also 34 CFR 300.305-307. The PPT first met on December 4, 2014 to gather parent and teacher input, as well as teacher observations and the results of the QRI, which led to the suspicion that further data was necessary to determine whether Student would be eligible for special education and related services. (Findings of Fact Nos. 16, 17 and 18)
8. "If a review of existing data is not sufficient to identify whether a student has a learning disability, a comprehensive evaluation must be planned by the child's parents and the members of the PPT that includes, among others, the student's regular education teacher, at least one specialist qualified to conduct individual student diagnostic examinations ... (Connecticut State Regulations Section 10-76d-10 and 34 CPR §300.308 and 300.321) and other qualified professionals as appropriate." See Guidelines at p 27. The December 4, 2014 PPT included the Student's classroom teachers, a school psychologist and a special education teacher. Both were specialists who were qualified to conduct diagnostic examinations in different educational fields. (Findings of Fact Nos. 14, 16, 17, 18, 19)
9. "When planning the evaluation, the PPT must: 1) use a variety of assessment tools and

strategies to gather relevant functional, developmental and academic information about the student, including information provided by the parents; 2) not use any single measure or assessment as the sole criterion for determining whether the student is a student with a disability; 3) use technically sound (i.e., valid and reliable) instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors; 4) use assessments that are tailored to assess areas of specific educational need and not merely those that are designed to provide a general intelligence quotient; 5) assess a student in all areas related to the suspected disability; and 6) use measures that are sufficiently comprehensive to identify all of a student's special, education and related service needs (34 CFR §§300.304[b]&[c]).” See Guidelines at p. 27 and FAQs at p. 2. Ms. Leibowitz and Ms. Nelligan used a variety of widely accepted assessments and gathered information from a number of different sources to determine Student’s functioning in the area of suspected learning disability of dyslexia. (Finding of Facts Nos. 19, 20, 21, 22, 23 and 24)

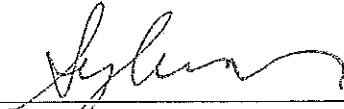
10. “Evaluations for a specific learning disability must consider input from families; any educationally relevant medical findings; data relevant to exclusionary criteria (e.g., hearing screenings, vision screenings, school attendance, determination of English language proficiency if a student is an English language learner, documentation of appropriate instruction); and information indicating whether the student's difficulties require special education and related services.” See Guidelines at p. 27; See also 34 C.F.R. §300.309 and R.C.S.A. Sec. 10-76d-9(b). The PPT discussed Student’s medical condition and school attendance history and ruled out the large amount of absences as a cause of reading comprehension problems. The Mother provided input to the PPT and described Student’s history of problems with spelling and reading. Ms. Nelligan provided her input based upon her experience as a special education teacher reviewing the QRI results that Student might require special education services. (Findings of Fact No. 17)
11. “When determining whether a student has a learning disability, the PPT must ensure the student is observed in her or his learning environment, including the general education classroom, to document the student's academic performance and behavior in the areas of difficulty (34 CFR§300.310). Information may be used from an observation that was obtained before a student's referral for an evaluation, or a member of the PPT may conduct such an observation as part of the initial evaluation after the student has been referred.” Guidelines at p. 28; See also 34 C.F.R. §300.310. The PPT reviewed information that included teacher observations in the general education setting. In fact, the teachers who had conducted these observations made the referral to RTI, which later resulted in the referral to special education. (Finding of Facts No. 11 and 35)
12. The Board’s evaluation was in compliance with 34 C.F.R. §300.301- 305 and R.C.S.A. Sec. 10-76d-9(a) and (b).

FINAL DECISION AND ORDER:

1. The Board’s psychoeducational evaluation is appropriate.
2. The Parents are not entitled to an IEE at public expense.

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

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



Hearing Officer Signature

Sylvia Ho

Hearing Officer Name in Print