

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Portland Board of Education v. Student

Appearing on Behalf of the Parent: Parent, Pro Se

Appearing on Behalf of the Board: Attorney Susan M. Wright
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21 Oak Street
Hartford, CT 06106

Appearing before: Attorney Gail K. Mangs, Hearing Officer

FINAL DECISION AND ORDER

Issues:

1. Was the Board's multidisciplinary evaluation appropriate?
2. If not, what evaluations would be appropriate?

Procedural History/Summary:

During the fall and winter of the 2003-2004 school year, a multidisciplinary evaluation was administered to the Student to determine the nature of her educational difficulties which were most significant in the area of math. After the Student received scores in the average range on most of the tested areas, the Board determined that no further testing was necessary and that the Student did not qualify for special education services. This hearing was requested by the Board of Education on July 1, 2004 after the Student's Mother, who was puzzled by the results of the testing, requested an independent evaluation. A prehearing conference was convened on July 12, 2004 at which time a thirty day continuance was granted to allow the parties to pursue an advisory opinion; the hearing was scheduled for August 2, 2004. The parties participated in the advisory opinion hearing process on July 26, 2004. On July 27, 2004, the parties informed the hearing officer that the matter was in the process of being settled and requested that the August 2, 2004 hearing date be postponed. The hearing was postponed and rescheduled for August 12, 2004. The hearing convened on August 12, 2004 at which time the Board presented the testimony of Roberta Wezenski, the Board's Director of Pupil Services; the Student's Mother presented her own testimony on the Student's behalf.

Findings of Fact:

1. The Student was born on August 24, 1994. Her father has not lived with the Student since the Student was two years old. The Student moved to the school district during the 2001-2002 school year when she was in the second grade. Throughout her attendance in the Board's schools, the Student received her education in a typical mainstream classroom. A psychological evaluation was performed in April, 2002 to determine why the Student was having difficulty with math. On the WISC-III, the Student received scores in the average range although processing speed was determined to be a relative weakness. Although the Student demonstrated difficulty with time and subtraction, no identifiable math problem was indicated. It was determined that the Student did not qualify for special education services although Title I remedial math services were provided. (Exhibits B-23, B-24, B-25, B-26, B-27, Testimony of Roberta Wezenski)
2. During grade three, the Student was administered the Otis-Lennon School Ability Test, Seventh Edition. In comparison with students of the same age, her score on the verbal cluster was average while her score on the math cluster was slightly below average. On the third grade report card, the Student received grades ranging from C- to B- in math and from D to C- in science. Other grades fell within the C and B range. (Exhibits B-22, P-10)
3. During the fourth grade, the Student continued to demonstrate a significant weakness in math. In addition, she was described as a very emotional child who expressed an ongoing sense of loss with regard to her absent father. The school supported her in this area through her participation in a "lunch bunch." She received Title I remedial support in math through a math lab three times per week as well as one to one support from her math teacher three times per week. (Exhibits B-21, B-20, B-19, B-18, Testimony of Roberta Wezenski)
4. At the request of the Student's Mother, a multi-disciplinary evaluation was performed during the fall and winter of the 2003-2004 school year. Standardized instruments were used. On the Woodcock-Johnson III and Key Math-Revised, the Student's scores in math fell within the low average to average range. The Student's Mother and classroom teacher completed home and school versions of the Attention Deficit Disorders Evaluation Scales and Behavior Disorders Identification Scale. On the school scales, the Student's scores fell within the average range; the home scores, however, fell at the moderately significant level for inattentiveness and at the extremely significant range for learning problems and interpersonal relations. As measured by the Woodcock-Johnson III and Test of Written Language-3, it was determined that the Student's oral skills and broad reading scores were within the high average range while performance in written language and written expression was superior. Testing performed by the Board's speech and language pathologist revealed that the Student's overall language skills ranged from low average to high average. (B-17, B-16, B-15, B-14, B-13, B-12, B-11, B-10, B-8)
5. Dr. Stanley Newman, the Board's consulting psychiatrist, observed the Student during the 2002-2003 and 2003-2004 school years. He noted that during the 2003-2004 observations, the Student was always alert, attentive and displayed more class

involvement than the previous school year. He saw no signs of hyperactivity, impulsivity or ongoing inattentiveness although he noted the Student's ongoing sense of loss with regard to her father for which counseling was recommended. (Exhibit B-9)

6. Results of the testing were discussed at a PPT convened on March 5, 2004. Based upon the results of the testing, the Board members of the team determined that the Student did not qualify to receive special education services although Title I math services would be continued. (Exhibits B-6, B-7)

7. During the spring of 2004, the Student's family moved to a different school district. The Board Superintendent agreed to let the Student finish the school year at the then current school with the Student's Mother providing transportation. (Exhibits B-5, B-4)

8. On the Connecticut Mastery Test for grade four, the Student scored at the goal level in reading and writing but at the Below Basic level in mathematics. (Exhibit P-11)

9. The Student finished fourth grade with a C in math and B's in most academic subjects. The note from the teacher on the second semester report card indicated that the Student should be encouraged to complete all of the homework. (Exhibit B-3)

10. At a PPT convened on June 17, 2004, the Student's Mother requested an independent evaluation. Based upon their multidisciplinary evaluation, the Board refused the Mother's request. (Exhibit B-2)

11. The Student's Mother testified that the Student is also demonstrating difficulty interpreting and retaining information from non-fiction reading. She demonstrates difficulty focusing on her work at home and is beginning to dislike school. The Student's Mother wants an independent evaluation to determine why the Connecticut Mastery scores are different from the Board's testing. While the Student's Mother acknowledged that the Board has provided modifications that have helped the Student, including one on one assistance when other adults were available, she is concerned that the modifications are not making the Student an independent learner and is apprehensive about how the Student will function as school demands increase. (Testimony of Student's Mother)

Conclusions of Law:

1. The Student has never been found eligible to receive special education and related services although she has received remedial tutoring and one on one assistance in math as well as other modifications that have enabled her to make appropriate academic progress.

2. In determining whether a child has a disability within the meaning of the Individuals with Education Act, a school district is required to draw upon a variety of sources including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background and adaptive behavior, and ensure that the information obtained is documented and carefully considered (34 C.F.R. Section 300.535). Existing evaluation data including parent information, current classroom-based assessments and observations should be reviewed to determine what additional

data, if any, is needed to determine whether a child has a disability (34 C.F.R. Section 300.533).

3. 34 C.F.R. Section 300.532 requires that the tests and other evaluation materials used to assess a child be selected and administered so as not to be discriminatory on a racial or cultural basis. In addition, a variety of assessment tools and strategies must be used to gather the relevant functional and developmental information about the child. Any standardized tests that are used must have been validated for the specific purpose for which they are used and be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. No single procedure may be used as the sole criterion for determining whether a child has a disability. Finally, the child should be assessed in all areas related to the suspected disability through an evaluation that is sufficiently comprehensive to identify all of the child's potential special education and related services needs.

4. In performing the Student's multidisciplinary evaluation, the school district used a variety of standardized assessment tools and strategies including the Woodcock-Johnson III, Key Math-Revised and Test of Written Language-3 and a variety of standardized language and auditory test instruments administered by the speech and language pathologist. The Student's Mother and classroom teacher completed behavior scales and she was observed by the Board's consulting psychiatrist. All evaluations were performed by the appropriate personnel. The Student's Mother has not claimed that the testing performed by the Board does not meet the requirements of the IDEA.

5. The Student received scores on these tests within the average range with some low average areas (math) and some high average to superior areas (written language and written expression). These scores are consistent with each other and fall within the expected range when compared to her ability as measured by the WISC-III.

6. While it appears that the Student's math score on the Connecticut Mastery Test is not consistent with the Board's testing, it can not be used as the sole criterion for determining a disability.

7. There is no doubt that the Student's weakest academic area is math. But with the remedial support of the school and the provision of one on one assistance and appropriate modifications, the Student has continued to make progress in all subject areas. Such assistance is an appropriate and reasonable way to meet the Student's needs where she has not been found eligible for special education.

8. This decision is based upon the Board's comprehensive evaluations and the current available information with regard to the Student's classroom performance. It is expected that educational personnel will continue to monitor the Student's performance as she moves to a new school and higher, more demanding grade levels.

Final Decision and Order:

The Board performed an appropriate multidisciplinary evaluation. No further evaluation is currently required.