STATE OF NORTH CAROLINA **BEFORE A STATE HEARING REVIEW OFFICER FOR THE STATE BOARD OF EDUCATION PURSUANT TO G.S. 115C – 109.9**

[redacted] by his parents [redacted] and [redacted]
Petitioner
v.
Charlotte-Mecklenburg Schools
Respondent

DECISION

15 EDC 00360

Exceptional Children Division
JUL 08 2015

This is an appeal of the Decision issued by Administrative Law Judge Selina M. Brooks on May 6, 2015. The hearing for this case was held on March 30 – 31, 2015 in Charlotte, North Carolina. The Petitioner appealed Judge Brooks' Decision and the Review Officer was appointed on June 9, 2015. The Review was conducted pursuant to the provisions of N.C.G.S. 115C – 109.9.

The records of the case received for review were:

1. One (1) set of ALJ Records, which contained her Decision, Orders, Motions, Proposed Decision of the Respondent, Correspondence, and Miscellaneous records of the case.
2. Two (2) numbered volumes of Transcripts, with admitted exhibits.
3. Written Arguments from both parties.

Appearances:

For Petitioner: Christopher B. Moxley; 301 Meadowood Street, P.O. Box 19074, Greensboro, NC 27419

For Respondent: Jonathan Lee Sink; Associate General Counsel, Charlotte-Mecklenburg Board of Education; 600 E. Fourth Street 5th Floor, Charlotte, NC 28202

For convenience and privacy, the following will be used in this Decision to refer to the parties:

For the Student/Petitioner - Petitioner; [redacted]
For Parents/Petitioner - Parents; [redacted] (father); [redacted] (mother)
For Respondent - Respondent; Charlotte-Mecklenburg Schools; District; LEA

WITNESSES

For Petitioners:

[redacted] Mother
Christopher Paul Vasami
Perry Francis Flynn
Jay R. Lucker
Williford Holzman
Kristy Ann Connor

For Respondent:

Heather Skeen
Corrine Chalifour Turner

EXHIBITS

For the Hearing, the Exhibits of both parties were combined. The following exhibits were received into evidence:

Combined Exhibits: 1, 3, 4, 6, 7, 8, 9, 12, 16, 17, 18, 19, 21

Other Exhibits from both Petitioner and Respondent were discussed but not admitted.

STIPULATIONS

Prior to the Hearing, the parties agreed to and submitted these stipulations:

1. Student [redacted] is currently nine years old and his date of birth is [redacted]
2. From July 16, 2011 to February 24, 2014, [redacted] was enrolled as a student at [redacted] School located in Mecklenburg County, North Carolina, and operated by the Respondent.
3. Respondent provided [redacted] services to [redacted] both during his time at [redacted] and while he has been homeschooled.
4. The family chose to withdraw [redacted] from Charlotte-Mecklenburg Schools on February 24, 2014.
5. [redacted] is currently a privately-placed homeschooled student.
6. The student's Individualized Education Program (IEP) Team met for the purpose of conducting a reevaluation meeting on September 19, 2014, but decided at the meeting to postpone [redacted] reevaluation because there were scoring discrepancies in the formal [redacted] evaluative tool known as the Clinical Evaluation of Language Fundamentals – 5 (CLEF-5).
7. Respondent offered to conduct special education evaluations for [redacted] on multiple occasions but Petitioners refused to allow Respondent to evaluate [redacted] and instead secured outside evaluations for [redacted] for the purpose of his special education reevaluation.

8. The IEP Team conducted a reevaluation meeting for [redacted] on December 18, 2014 at the Respondent's Exceptional Children's Department office. At the conclusion of the meeting [redacted] was found to be ineligible for [redacted] services.
9. An outside [redacted] pathologist of the Petitioners' choosing twice scored the CLEF-5 formal assessment incorrectly. Respondent, through Heather Skeen, corrected [redacted] CELF-5 scoring sheet and shared the corrected scores at the December 18, 2014 reevaluation meeting. The corrected standard scores for [redacted] CLEF-5 evaluation are as follows: Core language Score of 101; Receptive Language Index of 98; Expressive Language Index of 104; Language Content Index of 87; and Language Memory Index of 100.
10. Both Petitioner and Respondent were represented by counsel at the December 18, 2014 IEP meeting.
11. Petitioner filed a Petition for a Contested Case Hearing on January 9, 2015, wherein, among other things; they sought to invoke stay put. Petitioners filed a Motion to Compel the same on January 26, 2015.
12. Pursuant to a February 4, 2015 Court Order, Respondent continues to provide speech-language services to [redacted] at a public library, specifically the [redacted] Library.
13. At the January 28, 2015 Resolution meeting, Respondent renewed its offer to conduct special education evaluations for [redacted] but Petitioners declined Respondent's offer.
14. The Parties stipulate that cumulative education records, which have been created with respect to [redacted] and that are in the ordinary course of Respondent's business kept and made part [redacted] student records, may be admitted into evidence with objection. In doing so, the Parties stipulate that the proper foundation can be laid and no further proof of the foundation need to be presented.

ISSUES

There was no Pre-Trial Order clarifying the issues in this case.

Following a review of the records of the case and reading the testimony, the Review Officer finds that these are the issues to be decided:

1. At the December 18, 2014 reevaluation meeting, did Respondent fail to fully reevaluate [redacted] eligibility for special education services?
2. Did Respondent fail to provide a meaningful opportunity for Petitioners to participate in [redacted]s December 18, 2014 reevaluation meeting?
3. The only relief being sought by the Petitioners at the time of the hearing was to have [redacted] be considered eligible for special education services. *(See Tr. Vol. I, pp. 18 – 19)*

Standard of Review by the State Review Officer

The review of this case is in accordance with the provisions of G.S. 115C-109.9 and the *Policies Governing Services for Children with Disabilities*, NC 1504-1.15. This two-tiered system of administrative remedies used by North Carolina has recently been upheld by the United States Court of Appeals for the Fourth Circuit. (E.L. v. Chapel Hill-Carrboro Board of Education, 773 F.3d 509, 64 IDELR 192 (4th Cir. 2014).

The standard of review that must be used by the Review Officer for the State Board of Education is found in *Board of Education v. Rowley*, 458 U.S. 176 (1982). The Supreme Court held that due weight shall be given to the state administrative proceedings. In *Doyle v. Arlington County School Board*, 953 F.2d 100 (4th Cir. 1991), the Fourth Circuit explained *Rowley's* instruction that "due weight" be given to state administrative hearings. *Doyle* reviewed a product of Virginia's two-tiered administrative system. The court noted, "By statute and regulation the reviewing officer is required to make an independent decision . . .." *Doyle*, 953 F.2d at 104. The court held that in making an independent decision, the state's second-tier review officer must follow the "accepted norm of fact finding."

North Carolina's District Court Judge Osteen interpreted this requirement of *Rowley* and *Doyle*. *Wittenberg v. Winston-Salem/Forsyth County Board of Education, Memorandum Opinion and Order* 1:05CV818 (M.D.N.C. November 18, 2008) A State Review Officer (SRO) must follow the same requirements as the courts. The SRO must consider the findings of the ALJ as to be *prima facie* correct if they were regularly made. An ALJ's findings are regularly made if they "follow the accepted norm of fact-finding process designed to discover the truth."

Having reviewed the records of the case, the Review Officer for the State Board of Education independently makes Findings of Fact and Conclusions of Law in accordance with 20 U.S.C. 1415(g); 34 CFR §300.514; G.S. 115C-109.9; and the *Policies Governing Services for Children with Disabilities*, NC 1504-1.15. To the extent that Findings of Fact contain Conclusions of Law, or that the Conclusions of Law are Findings of Fact, they should be so considered without regard to the given labels.

The Review Officer makes the following:

FINDINGS OF FACT

Procedural Issues

1. At the beginning of the hearing on March 30, 2015 the ALJ granted the Respondent's Motion in Limine, excluding all evidence, references to evidence, testimony, or arguments related to claims or causes of action arising more than one year before the filing of the Petition in this case.
2. At the close of the hearing, the Respondent entered a Motion for Directed Verdict. The ALJ granted the Motion for a Directed Verdict in favor of the Respondent and requested the Respondent to submit a Proposed Decision. The Review Officer finds that the ALJ's Decision was essentially the Proposed Order submitted by the Respondent following the hearing.
3. Although the Review Officer finds no significant error in the ALJ's facts, the facts set forth in this Decision are more complete and have more details.

Facts Related to the [redacted] Disability and the IEP Reevaluation Meeting

4. [redacted] is currently nine years old. From July 16, 2011 to February 24, 2014, he was enrolled as a student at Respondent's [redacted] School located in Mecklenburg County, North Carolina.

5. While at [redacted] [redacted] was identified as having a disability and was eligible for special education services, specifically [redacted] services.

6. The family chose to withdraw [redacted] from Charlotte-Mecklenburg Schools on February 24, 2014. [redacted] is currently a privately-placed homeschooled student.

7. The Respondent provided [redacted] services to [redacted] both during his time at [redacted] and while he has been homeschooled.

8. The student's Individualized Education Program (IEP) Team met for the purpose of conducting a reevaluation meeting on September 19, 2014. As scoring discrepancies were discovered in the formal [redacted] evaluation known as the Clinical Evaluation of Language Fundamentals – 5 (CLEF-5), the meeting was rescheduled. Following several attempts, the meeting reconvened on December 18, 2014.

9. The Respondent offered to conduct independent special education evaluations for [redacted] on multiple occasions. (Tr. Vol. I, pp. 98–99, 227) Petitioners refused to allow Respondent to evaluate [redacted] because they did not trust the Respondent's schools. (Tr. Vol. I, pp. 47, 81-82) Instead of allowing the schools to conduct the necessary evaluations, the parents secured outside evaluations for [redacted] for the purpose of his special education reevaluation. They also assembled the data for presentation to the IEP Team. As the Team had no other current data on [redacted] the information utilized by the Team at the Reevaluation meeting came primarily from the parents of [redacted]

10. At the Resolution meeting held before the hearing in this case, the Respondent again renewed the offer to have an independent evaluation performed. The parents refused. (Tr. Vol. I, p. 82)

11. The parents had obtained a Speech-Language Evaluation on September 15, 2014 (Exhibit 3), and a Neuropsychological Evaluation on September 17, 2014 (Exhibit 16). Although not a separate exhibit, an Educational Evaluation was performed on September 5, 2014 using the Woodcock-Johnson III. It is recorded on the Summary of Evaluation/Eligibility - DEC 3 SI. (Exhibit 7) [redacted] educational progress was average to well above average in all areas. (Tr. Vol. I, pp. 200, 234)

12. Just prior to the December 18, 2014 meeting, it was discovered that the outside speech-language pathologist that the Petitioners had chosen made additional errors. She had scored the CLEF-5 incorrectly in two ways. The Respondent's lead [redacted] pathologist, using the CLEF-5 Examiner's Manual corrected the CELF-5 scoring sheet. The corrected scores were shared with the IEP Team at the December 18, 2014 reevaluation meeting. (Exhibit 5) The corrected standard scores for [redacted] CLEF-5 evaluation are as follows: Core language Score of 101; Receptive Language Index of 98; Expressive Language Index of 104; Language Content Index of 87; and Language Memory Index of 100. All of these scores were in the normal range and according to this evaluation, [redacted] is not a child with a language impairment. (TR. Vol. I, p. 197)

13. The report of the Neuropsychological Evaluation (Exhibit 16) indicated that [redacted] scored normal or above normal on almost all indicators. The examiner did mention that a previous [redacted] pathologist had diagnosed that [redacted] had a mixed [redacted] Disorder. This disorder impacts [redacted]s written expression and reading comprehension.

14. The parents provided little other information to assist the IEP Team in making its determination as to whether [redacted] was still eligible for [redacted] services. No specific information was provided concerning the curriculum [redacted] was being provided in the home school. In testimony, the mother simply talked about several books she was using. (Tr. Vol. I, p. 84) Except for these books, nothing was provided about the curriculum being used. (Tr. Vol. I, p. 242) The parents also did not provide any records of academic progress or other information to allow the IEP Team to determine if [redacted] disorder was affecting his ability to access education. (Tr. Vol. I, p. 241) Very limited and inconclusive observation reports were provided by the parents. There were no informal educational assessments. (Tr. Vol. I, p. 86) Several audio recordings of the mother "teaching" [redacted] were played for the Team, but these recordings provided little useful information to the Team. Excerpts from the audio recordings were played and discussed during the hearing. (Tr. Vol. 1, pp. 53 – 60, 62 – 64, 199)

15. The Respondent, during the meeting on December 18 renewed its request to perform a complete evaluation of [redacted] The parents refused. The Team had to use the information available from the parents. (Tr. Vol. I, p. 186)

16. The IEP Team's interpretation of the data was summed up in the testimony of Heather Skeen and Corrine Turner:

> But at that point with the educational scores, with the speech and language scores all being in the typical average range, we did not feel like even though he was having some struggles that they were impacting his education. He was still getting the information that he needed to get and so we did not feel that he qualified as a child with a disability any longer. (Skeen - Tr. Vol. I, p. 202)

> All of the data presented supported the fact that [redacted] is achieving within the average to above average range for children his age without -- and because of that, we don't see a need for specially designed instruction. He is achieving as he should or above where he should be achieving. He is able to do that just as any children do without instruction that is different than what is presented to all other students. (Turner - Tr. Vol. I, pp. 236-237)

17. At the conclusion of the December 18 meeting, [redacted] was found to be ineligible for [redacted] services. (Exhibit 7) The required written notice was provided to the parents (Exhibit 8) The Team consensus was that there was no data to support that he required specially designed instruction nor was there data to support an adverse effect on [redacted] education if not provided [redacted] services.

18. The parents disagreed with the Teams determination for two reasons. The parents felt that the Team was relying solely on the CLEF-5 scores in violation of IDEA's dictate that decisions cannot be made on the basis of a single factor such as test scores. The parents also contended that they were not allowed to participate, for the Team did not rely on some the information provided by the parents.

19. The record shows that the IEP Team utilized many factors in arriving at its decision. These are documented in the Summary of Evaluation/Eligibility - DEC 3 SI (Exhibit 7) and Prior Written Notice – DEC 5. (Exhibit 8) The DEC 5 provides a summary of the IEP Team's actions on December 18, 2014.

20. Testimony on both direct and cross-examination during the hearing supports that the Team did not rely on a single factor in making its determination that [redacted] was no longer eligible for continued services in [redacted]

21. Testimony by the mother, [redacted] clearly established that she participated extensively in the Reevaluation meeting on December 18, 2014. She provided most of the information that was considered by the Team. Both the formal and informal information utilized by the Team were presented by [redacted]

22. Using the testimony from several experts during the hearing, the Petitioner attempted to show that [redacted]s disability required that he be provided special instruction. These experts did not participate in the IEP meeting nor had they ever evaluated or worked with [redacted] Their testimony was essentially that a child like [redacted] "may" need specially designed instruction. While interesting, the testimony of these witnesses actually provided little useful information.

23. [redacted] current outside service provider, Addie Holzman, was a member of the IEP Team, having been invited by the parents. Ms. Holzman had been providing [redacted] services to [redacted] in accordance with his previous IEP. She testified as a witness for the Petitioner that [redacted] could certainly benefit from continued [redacted] services, but he did not require them. In her opinion, many children could benefit from such services. Even though she is not in the public school setting, she stated that she was very familiar with the *NC Policies Governing Services for Children with Disabilities*. Those *Policies* establish that a child's disability must require specially designed instruction. In her opinion, [redacted] does not. (Tr. Vol. I, pp. 149, 153,)

24. Ms. Holzman also testified that [redacted] was progressing toward mastering his current IEP goals based on what she saw in her one-on-one sessions with him. (Tr. Vol. I, p. 157) She also testified that she agreed with the IEP Team's determination to exit [redacted] from special education services in the area of [redacted] services.

The Administrative Law Judge's Decision

25. In a Decision dated May 6, 2015, the ALJ entered a directed verdict on all claims in Respondent's favor:

> In this matter Petitioners did not provide sufficient evidence that Petitioner [redacted] *(sic)* was denied a meaningful opportunity to participate as a member of the IEP team at the four-hour reevaluation meeting on December 118, 2014, nor did Petitioners provide evidence that the IEP team did not fully evaluate [redacted] with the information that the IEP team was provided.

Facts Related to the Appeal

26. By letter dated June 1, 2015, the Petitioner appealed the ALJ's Decision to the State Board of Education following the procedures established in North Carolina Law. The Petitioner also appealed the ALJ's ruling on the Respondent's Motion in Limine, which excluded all evidence, references to evidence, testimony, or arguments related to claims or causes of action arising more than one year before the filing of the Petition in this case. The original Petition was filed on January 9, 2015.
27. This Review Officer was appointed on June 9, 2015.
28. Written Arguments were requested from the parties on June 10 and received from both parties on June 29, 2015.

The Review Officer makes the following:

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings and the Review Officer for the State Board of Education have jurisdiction over this case pursuant to Chapters 115C, Article 9 of the North Carolina General Statutes; NC 1500, *Policies Governing Services for Children with Disabilities*; the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. §1400 *et seq.*; and IDEA's implementing regulations, 34 C.F.R. Part 300.

2. IDEA was enacted to "ensure that all children with disabilities have available to them a Free Appropriate Public Education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living." 20 U.S.C. §1400(d)(1)(A), IDEA; the implementing federal regulations, 34 C.F.R. Part 300; G.S. 115C - Article 9; and NC 1500, *Policies Governing Services for Children with Disabilities*. All these provisions have specific procedures that a LEA must follow in making FAPE available.

3. The Respondent is a local education agency receiving funds pursuant to 20 U.S.C. §1400 *et seq.* and the agency responsible for providing educational services to students in Mecklenburg County. The Respondent is subject to the provisions of applicable federal and state laws and regulations, specifically 20 U.S.C. §1400 *et seq.;* 34 C.F.R. Part 300; G.S. 115C, Article 9; and the North Carolina *Policies,* NC 1500. These acts and regulations require the Respondent to provide FAPE for those children in need of special education.

4. G.S. 115C-109.6 - 109.9 and the *Policies* (NC 1504, 1.12 - 1.17) provide the guidelines to be used in the hearing and administrative review process. The hearing by the ALJ and review by this Review Officer must be conducted in accordance with these provisions.

5. In *Hendrick Hudson Dist. Bd. Of Ed. v. Rowley*, 458 U.S. 176, 206 (1982) the Supreme Court established both a procedural and a substantive test to evaluate compliance with the IDEA. The Court provided:

> First, has the state complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Acts' procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.

6. As no IEP was involved in the dispute, only the procedural test needs to be applied. Did the Respondent comply with the procedures to determine ██s eligibility for special education services, and did the Respondent allow meaningful parental participation in the process of determining eligibility?

7. ██ had previously been identified as needing special education services. As he is domiciled in Mecklenburg County, he is entitled to a free appropriate public education (FAPE) from the Respondent. Specifically, in this case, ██ is entitled to be properly identified as to whether of not he continues to be eligible for special education services. The procedures that an LEA must use in determining eligibility are set forth in 34 C.F.R. §§ 300.303 – 300.311; and NC Policies, NC 1503-2.4 – 2.7.

8. Another aspect of FAPE is also involved in this case. The LEA must allow full participation ██████ parents in the process of identifying him. This requirement is set forth in 34 C.F.R. §§ 300.322, 300.501- 300.503; and NC 1503-4.3, 1504-1.2 – 1.4.

9. In *Schaffer v. Weast,* 546 U.S. 49 (2005), the Supreme Court decided that those who challenge educational decisions made by schools have the burden of proof in due process hearings. Thus, the Petitioner has the burden to show by a preponderance of evidence that the Respondent did not properly determine that ██ did not need special education services and that the Respondent did not allow a meaningful opportunity for ██ parents to participate in the process of determining his eligibility. For the reasons set forth in the following, the Petitioner has not met this burden.

10. The evidence in this case is convincing. The Respondent followed proper procedures in determining ██ eligibility. Though not permitted by the parents to evaluate or observe ██ the IEP Team allowed the parents to submit information to determine eligibility. The Team considered all the information and reached consensus that ██ no longer was eligible for special education services. While it may be true that the Team gave more weight to certain data and less to other data, it is not the prerogative of the ALJ or Review Officer to second-guess the Team. The Supreme Court has clearly stated that decisions made by schools in implementing IDEA are normally entitled to substantial deference. *Hendrick Hudson Dist. Bd. Of Ed. v. Rowley,* 458 U.S. 176, 206 (1982) This was reinforced by the Fourth Circuit in *Tice v. Botetourt County School Board,* 908 F.2d 1200 (4th Cir. 1990). One should be reluctant to second-guess the judgment of educational professionals simply because one disagrees with them. Therefore, the Review Officer must defer to the IEP Team decisions in this case because those decisions were clearly made in accordance with the law.

11. Certainly, if proven, not allowing parental participation in the process of determining ██ eligibility would be a procedural violation of IDEA. The record, however, does not support

the allegation that the parents did not participate. The evidence, including her testimony at the hearing, shows that [redacted] was highly involved in the decision making process. She provided most of the information being considered by the IEP Team. She participated in the discussions, made recommendations, and responded to questions. On appeal, the parents argue that the IEP gave limited consideration to [redacted]s information. The law specifies that the Team must accept and consider the information presented by the parents. There is no requirement that the decisions reached must be decisions that the parents want. The parents simply did not agree with the decision that [redacted] was no longer eligible for special education services.

12. There is nothing in the law that requires the parents to agree with the remainder of the IEP Team, nor is there any requirement that the IEP Team must follow the dictates of the parents. Due process hearings were established by IDEA to ensure that parents have a mechanism to resolve these disagreements. Even though the resolution of a disagreement may not be in favor of the parents, as in this case, the parents still were able to meaningfully participate in the IEP meeting, the subsequent hearing, and this appeal.

13. Having the burden in this case, Petitioner has failed to show by preponderance of the evidence that:
    a) The Respondent did not properly determine that [redacted] was ineligible for a continuation of special education services.
    b) The Respondent denied the parents a meaningful opportunity to fully participate in the process of determining [redacted] eligibility.

14. The Petitioner also appealed the ALJ's ruling on the Respondent's Motion in Limine, which excluded all evidence, references to evidence, testimony, or arguments related to claims or causes of action arising more than one year before the filing of the Petition in this case. The applicable statue, GS § 115C-109.6(b) and (c) states:

    (b) Notwithstanding any other law, the party shall file a petition under subsection (a) of this section that includes the information required under IDEA and that sets forth an alleged violation that occurred not more than one year before the party knew or reasonably should have known about the alleged action that forms the basis of the petition.
    (c) The one-year restriction in subsection (b) of this section shall not apply to a parent if the parent was prevented from requesting the hearing due to (i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the petition, or (ii) the local educational agency's withholding of information from the parent that was required under State or federal law to be provided to the parent.

15. No evidence was submitted concerning either of the exclusions to the one-year limitation in § GS 115C-109.6(c). The Review Officer finds that the ALJ did not err in her ruling on the Motion in Limine.

DISCUSSION

The intent of this section is to provide insight into the Review Officer's reasoning. It includes elements of both the Facts and Conclusions and is not intended to be a substitute for either.

Although it is clear that [redacted] has a mild [redacted] disability, there was not enough data made available to support that he needed specially designed instruction. When the reevaluation process began, the schools requested but were not allowed to conduct a full evaluation. The schools made several requests but the parents refused. The parents wanted to do the evaluation themselves. The IEP Team, therefore, was limited to the information provided by the parents.

While the information provided by the parents did include a psychological evaluation, an educational evaluation, and a current formal [redacted] evaluation, there was no information concerning his academic progress in his home school. Missing also, were informal assessments of how his disability may be affecting his capability to access the curriculum. The information the parents provided to the team was simply incomplete. A full evaluation was necessary, because [redacted] performance on all the formal testing indicated that he was scoring in the average to above average range. Even his formal education progress was above or consistent with that which would be expected for a child of his age.

Statements were provided to the IEP Team and later in the hearing that [redacted] mild [redacted] disability was affecting his ability to access his education, but the data available did not support that. All children with disabilities do not necessarily need specially designed instruction. The IEP Team made reasonable efforts to get permission to fully evaluate [redacted] but was refused. A full evaluation, especially with some informal assessments of educational progress and classroom performance may have made a difference in this case. The parents simply could not meet their burden of proving that the IEP Team did not make the proper decision.

The Review Officer suspects that [redacted] mild disability may be causing difficulties for him, but the information available does not support such a conclusion. IDEA and state law dictates that one must defer to the IEP Team's judgment if the Team made a procedurally correct determination.

The issue of meaningful parental participation is really a non-issue in the case. The record clearly supports that the parents were highly involved in the process of reevaluating [redacted] They provided the information used by the IEP Team. [redacted] presented the information at the IEP meeting. She engaged in discussion and answered questions during the meeting. It is not a denial of meaningful parental participation for other members of the IEP Team to have different interpretations of the data provided by the parents, nor is it a denial of meaningful parental participation if the other members of the Team placed different weights on various pieces of data. Simply not agreeing with the parents is not a denial of meaningful parental participation.

Based upon the Findings of Fact and Conclusions of Law, the undersigned enters the following:

DECISION

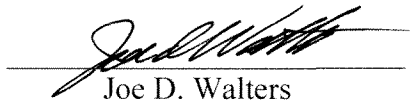
1. The Decision of the Administrative Law Judge dated May 6, 2015 is upheld.

2. The Petitioner has not met the burden of proving that the Respondent failed to fully evaluate [redacted]'s eligibility for special education services. The IEP Team's decision that [redacted] was no longer eligible for special education was made in accordance with the procedures set forth in federal and state law.

3. The Petitioner has not met the burden of showing that the parents were denied a meaningful opportunity to participate in the process of reevaluating [redacted]

3. The Petitioner is not entitled to any relief.

This the 1st day of July 2015.



Joe D. Walters
Review Officer

NOTICE

Any party aggrieved by this Decision may institute a civil action in state court within 30 days after receipt of this Decision as provided in G.S. 115C-109.9 or file an action in federal court within 90 days as provided in 20 U.S.C. §1415. Please notify the Exceptional Children Division, North Carolina Department of Public Instruction, in writing of such action so that the records for this case can be forwarded to the court.

CERTIFICATE OF SERVICE

I hereby certify that this Decision has been duly served on the Petitioner and Respondent by U.S. Mail. It has been served on attorneys for the Petitioner and Respondent by certified U.S. Mail and e-mail, addressed as follows:

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This the 1st day of July 2015

Joe D. Walters
Review Officer