

DOCKET NO. 171-SE-0225

SHARYLAND	§	BEFORE A SPECIAL EDUCATION
INDEPENDENT SCHOOL DISTRICT	§	
<i>Petitioner</i>	§	
v.	§	HEARING OFFICER FOR
	§	
STUDENT	§	
B/N/F PARENT	§	THE STATE OF TEXAS
<i>Respondent</i>	§	

DECISION OF THE HEARING OFFICER

I. PROCEDURAL HISTORY AND STATEMENT OF THE CASE

SHARYLAND INDEPENDENT SCHOOL DISTRICT (the District) (ISD), filed a complaint requesting an impartial due process hearing pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) on February 20, 2025. Respondent in the complaint is STUDENT (the Student) b/n/f PARENT (the Parent). The hearing was conducted on April 9, 2025.

At all times during the proceedings, the Petitioner District was represented by Gregory P. Kerr, attorney with Jones, Galligan, Key & Lozano, L.L.P. The Student was represented by the Student's Parent. The hearing was recorded and transcribed by Tammy Weiner, a duly certified court reporter.

II. ISSUES

1. Whether the District's Full and Individual Evaluation (FIE) of the Student, completed on January ***, 2025, is appropriate?
2. Whether the District is obligated to fund an Independent Educational Evaluation of the Student?

III. REQUESTED RELIEF

1. An order declaring that the District's FIE was appropriate.
2. An Order that while the Parent is entitled to obtain an IEE, the District is not obligated to pay for any IEE privately obtained by the Parent.

IV. THE DUE PROCESS HEARING

The due process hearing began as scheduled on April 9, 2025. The hearing was conducted using the virtual Zoom platform. The hearing was open to the public, and the Student did not attend. Each party was allowed three hours for the presentation of argument and evidence at the hearing.

Petitioner offered testimony of five district employees: the District's special education director, special education diagnostician, occupational therapist, speech and language pathologist, and the licensed specialist in school psychology. Respondent did not call any witnesses to present evidence in support of Student's case, but did cross-examine each of Petitioner's witnesses.

Presentation of evidence concluded on April 9, 2025. At the close of the evidence, both parties presented oral closing arguments. The due date in this case is April 30, 2025.

V. FINDINGS OF FACT

Based on a preponderance of the evidence admitted at the hearing, the Hearing Officer makes the following findings of fact:

1. Sharyland Independent School District (ISD) is a political subdivision of the State of Texas and a duly incorporated Independent School District.
2. The Student is enrolled in the *** grade at *** in Sharyland ISD. At all relevant times, the Student resided with the Student's Parents within the jurisdictional boundaries of the District. (Ex. P 8-1).
3. The Student is eligible for special education and related services as a student with Autism, Speech Impairment, OHI due to ADHD, and ***. (Ex. P 8-42).

4. The Student transferred into Sharyland ISD from *** ISD at the beginning of the 2024-2025 school year. (P Ex 5).
5. Sharyland ISD conducted an Admission Review and Dismissal (ARD) Committee meeting on September ***, 2024 to review the Student's IEP from *** ISD and to develop an appropriate IEP for the Student at Sharyland ISD. (P Ex 4).
6. In the fall of 2024, the Parent requested and provided consent for the District to perform a Full and Individual Evaluation (FIE) of the Student to determine all areas of suspected disabilities and to perform a Functional Behavioral Assessment of the Student. (Tr. 25: 10-24).
7. The District approved the Parent's request for an FIE. The evaluators of the Student were all appropriately certified or licensed practitioners with experience and training in the area of the disability, or a licensed or certified professional for the specific disability category. The evaluators included: ***, speech language pathologist, ***, Licensed Specialist in School Psychology (LSSP), ***, special education teacher, ***, occupational therapist, ***, school diagnostician, and the Parent. A Functional Behavior Assessment (FBA) was conducted by ***, the District's behavior interventionist, in order to develop a Behavior Intervention Plan (BIP) for the Student. (P Ex 8) (Tr. 30:18).
8. The evaluators reviewed the previous evaluation conducted by *** ISD. (Tr. 27-28).
9. The evaluators and the ARD Committee reviewed and considered the Independent Educational Evaluation (IEE) Psychological Report conducted by *** dated February ***, 2024, and provided to the District by the Parents. (P Ex-6) (Tr. 28) (P Ex 1).
10. In the Clinical Summary of the IEE provided by the Parents, ***, Licensed Psychological Associate who administered the assessment to the Student, wrote, "After clinical observation, assessment, and interview, (the Student) meets the diagnostic criteria for Autism Spectrum Disorder, with ***, and Attention-Deficit/Hyperactivity Disorder combined presentation." (P Ex 6-8).
11. The diagnosis assigned to the Student by *** in the IEE is Autism Spectrum Disorder, with *** (P Ex 6-9).
12. The assessments conducted by the District's evaluators were conducted in English because the Home Language Survey completed by the Parent indicated that the Student uses English most of the time and that English is the language most used within Student's home. (P Ex 8-2).
13. The Student was recently diagnosed with ADD/ADHD (08/2022). The Other Health Impairment (OHI) form signed by a physician was received on December ***, 2024. The Student meets the IDEA criteria for OHI (ADHD). (P Ex 8-11) (P Ex 8-45).
14. Tests were administered in accordance with standard evaluation practices by trained personnel in conformance with the instructions provided by the producers. The testing, evaluation materials, and procedures used for the purpose of evaluation were selected

and administered so as not to be racially or culturally discriminatory. Certified professionals fluent in the target language and trained in the administration of English tests conducted the evaluation. Evaluation of this Student was conducted using standard procedures for all tests administered. Conditions for these testing sessions were considered to be adequate without distractions. The results of this evaluation are considered to be valid estimates of current levels of functioning in the areas assessed. (P Ex 8-1).

15. The educational diagnostician, ***, is a certified educational diagnostician and certified classroom teacher. *** assessed the Student in the areas of cognitive abilities and achievement. (P Ex 8-3 (Tr. 70:1-16).
16. *** utilized the Adaptive Behavior Assessment System (ABAS), an assessment completed by the parent and the teacher which measures the student's functional daily living in communication, self-care, academics, self-direction, school, community, health, and safety. (Tr. 76: 18-20) (Tr. 85:11-25; 86:1-25).
17. *** administered the Woodcock Johnson Test ***) which measures general intellectual ability, early academic skills, and expressive language skills ***. The Student's overall academic achievement, as measured by the WJ IV *** standard score, is in the *** range of others Student's age. (P Ex 8-3).
18. The Woodcock-Johnson IV *** specifically designed for assessing cognitive and academic skills ***. It is not part of the newer Woodcock-Johnson V (WJ V). (Tr. 201: 11-14; 202: 10-12).
19. The Kaufman Assessment Battery for Children (KABC), Second Edition, administered by ***, is used to measure the cognitive abilities of non-verbal *** children in the areas of fluid reasoning, short term memory, visual thinking, and the ability to solve problems a student is not familiar with. It is an individually administered measure of the processing cognitive abilities of children. The Student's score indicates that the Student's cognitive abilities are within the *** range compared to the norm group. (P Ex 8 -30).
20. ***, the district's Speech Language Pathologist (SLP) conducted the assessments to determine the Student's functional language status. *** is a Speech and Language Pathologist licensed in Texas and certified through the American Speech and Hearing Association. She holds a Bachelor's degree and a Master's degree in communication disorders. *** has been a practicing SLP for 27 years. (Tr. 148: 23-25).
21. *** administered the Oral and Written Language Scales-II (OWLS-II) which is designed to identify strengths and weaknesses in language to help determine the existence of language delays and disabilities and help guide eligibility for services and intervention planning. The Student's score fell in the range of ***. (P Ex 8-5).
22. *** administered the Receptive One-Word Picture Vocabulary Test-4 (ROWPVT-4) to assess the Student's ability to match a spoken word with an image of an object, action,

or concept. It is an assessment that targets the ability to understand the meaning of words spoken without context; it does not assess syntax, grammar, or context, but provides a comprehensive assessment of a student's vocabulary. (P EX 8-4).

23. *** administered the Expressive One Word Picture Vocabulary Test-4, an individually administered, norm referenced test as a quick and reliable measure of an individual's expressive vocabulary. (P Ex 8-4).
24. Overall vocabulary assessment results revealed a *** with both receptive and expressive vocabulary skills development. The Student's vocabulary skills are currently between the age equivalence of *** years of age. (P Ex 8-5).
25. The Goldman-Fristoe Test of Articulation (GFTA-3) is an individually administered standardized assessment used to measure sound abilities in the area of articulation in children, adolescents, and young adults ages 2 years 0 months through 21 years and 11 months which must be administered by a speech language pathologist. The GFTA-3 was administered to the Student by the Speech Language Pathologist. (P Ex 8-6).
26. *** administered the Pragmatic Language Skills Inventory (PLSI) to screen for pragmatic language disorder in three assessment domains: classroom, social and personal interactions. (P Ex 8-8,9).
27. An informal oral mechanism examination was conducted by *** during the evaluation to determine the integrity of the Student's oral musculature. Based on observations during the assessment, she judged that the Student's oral motor strength and range of motion appear adequate for correct speech production. (P Ex 8-7).
28. Based on observation during the assessment, the Student's vocal quality, pitch and loudness were judged to be age and gender appropriate, and no dysfluencies or characteristics of stuttering were present during the times of expressive communication. (P Ex 8-7).
29. In the area of augmentative communication, *** observed that the Student was becoming successful using a*** to augment communication. (P Ex 8-8).
30. Based on the overall speech assessment results, the Student continues to present with a *** receptive/expressive language delay. (P Ex-8-8).
31. The Student's physical evaluation was conducted by the school nurse, ***. *** reviewed records, spoke with the Student's Parent, conducted a vision test of the Student, and attempted to conduct a hearing test. No serious health concerns were noted other than the ADHD in the OHI form from the Student's doctor. (P Ex 8-11).
32. The District's Occupational Therapist, ***, conducted the occupational therapy assessment of the Student. *** holds a Bachelor's, Master's, and a Doctor's degree in Occupational Therapy. She is certified through the national occupational institution NBCOT and the State of Texas. *** has been a practicing occupational therapist for 12 years. (Tr. 192: 17).

33. *** administered the Beery-Buktenica Developmental Test of Visual-Motor Integration 6th Edition (Beery VMI), and used informal assessments, skilled observations, teacher report, and data review to assess the Student. (P Ex-8-14).
34. The Beery-Buktenica Developmental Test of Visual-Motor Integration 6th Edition (Beery VMI) is a developmental sequence of geometric forms to be copied with paper and pencil designed to assess the extent to which individuals can integrate visual and motor abilities. (P Ex-8-14).
35. The results of the occupational therapy assessments were that the Student exhibits “****” performance levels in the areas of visual motor integration, visual perception, and motor coordination. The Student demonstrates difficulty with attaining and maintaining a functional tripod or quad grasp on ***. The Student also demonstrates decreased sensory processing skills which may also impact the Student’s performance within the school environment. (P Ex 8-15).
36. The psychological evaluation of social emotional functioning was conducted by ***, the District’s Licensed Specialist in School Psychology (LSSP). *** holds both a Bachelor’s and a Master’s degree in Rehabilitation Services and is certified as a special education teacher. (Tr. 115: 20).
37. *** observed the Student in the classroom, and obtained information from the Parent and the classroom teacher, ***. The Behavior Assessment System for Children (BASC-3), administered by ***, is used to assess adaptive and maladaptive behavior in children and adolescents. It measures a broad range of behaviors, including positive (adaptive) and negative characteristics observed in the home and school setting. (P Ex 8-19).
38. The Student’s profile on the BASC is characterized by a clinically significant Attention Problems scale score in addition to a clinically significant hyperactivity scale score and a clinically significant withdrawal scale score which support the Student’s eligibility for Autism under the IDEA. The results of the teacher’s input resulted in a**** score. (P Ex 8-23).
39. *** used the Conners fourth edition questionnaire as another methodology in determining the Student’s ADHD characteristics. A questionnaire was completed by both the Parent and the Student’s teacher. Both the Parent and the teacher rated the Student in the *** range similar to ***-year-olds who have ADHD. (P Ex 8-25).
40. The Autism Diagnostic Observation Schedule (ADOS) 2nd Edition was administered by ***. It consists of standard activities that allow the examiner to observe social behavior and communication important to the diagnosis of ASDs at different developmental levels. It includes looking at specific characteristics like repetitive behaviors, responses to stimuli, and restrictive interests. The Student met the ADOS-2 classification of Autism. (P Ex 8-25).
41. The Social Responsiveness Scale-2 (SRS-2) was used by ***. It is a questionnaire provided to the parent and the teacher to assess for characteristics of Autism Spectrum

Disorders such as interpersonal behavior, communication, and stereotypic behaviors. The results are used to determine the degree of social impairments. (P Ex 8-27).

42. The Autism Spectrum Rating Scale (ASRS), administered by ***, is a parent and teacher form scale designed to differentiate children with an Autism Spectrum Disorder from those in the general population, and those with clinical disorders. The results of the ASRS indicate that characteristics of the Student's behavior, as manifested in-school and/or out-of-school settings, appear to influence Student's educational placement, programming, or discipline. (P Ex 8-27-28).
43. The purposes of the FIE were to determine if the Student continues to meet the criteria for the presence of a disability condition, to describe levels of educational performance, to identify strengths and weaknesses, and to identify needs within the educational environment. (P Ex 8-41).
44. The Texas Education Agency defines "****" as having ***. (19 TAC §1040 (c)(5)).
45. The Student meets the TEA definition for an ***. Concurrently, the Student exhibited deficits in at least two areas of adaptive skills including Communication Domain: receptive, expressive, written; Daily Living Skills: personal, numeric, school community; and socialization: interpersonal relationships, play/leisure, and coping skills as measured by the (ABAS-3), completed by the Special Education Teacher *** and the Parent. As a result, the Student has met the criteria consistent with an ***. (P Ex 8-42).
46. The Student meets the criteria for Autism, Other Health Impairment due to ADHD, Speech Impairment in the areas of receptive and expressive language and ***. (P Ex 8-42).

VI. DISCUSSION

A. Burden of Proof

When a parent disagrees with a district's evaluation, they have a right to request an IEE at public expense. 34 C.F.R. § 300.502(b)(1). Once a parent requests the IEE, a district must, without unnecessary delay, either file a due process complaint to request a hearing to show that its evaluation is appropriate; or ensure that an IEE is provided at public expense. *Id.* at (b)(2). In this case, the District filed, without unnecessary delay, this suit seeking a determination from the hearing officer that its January 8, 2025 FIE was appropriate. Therefore, the burden of proof is on the District.

B. Evaluation Under the IDEA

The primary issue in this case is whether the District's evaluation of the Student was

appropriate under IDEA. The Parent's main argument against the evaluation is that the District's evaluation incorrectly determined that the Student is eligible for special education and related services as a student with an *** as defined in 34 C.F.R. § 300.8(c)(6).

In conducting an evaluation under the IDEA, a school district must (1) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's IEP; (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. 34 C.F.R. § 300.304(b).

Additionally, the evaluation materials used must be: (1) selected and administered so as not to be discriminatory on racial or cultural bias; (2) provided and administered in the child's native language; (3) used for the purposes for which the assessments or measures are valid and reliable; (4) administered by trained and knowledgeable personnel; and (5) administered in accordance with instructions provided by the producer of the assessments. 34 C.F.R. § 300.304(c)(1).

Beginning in November 2024 the District conducted a Full Individual Evaluation (FIE) of the Student. The FIE was conducted by a multidisciplinary team. The multidisciplinary team included the following: ***, speech language pathologist (SLP), ***, Licensed Specialist in School Psychology (LSSP), ***, special education teacher, ***, occupational therapist (OT), ***, educational diagnostician (ED), ***, behavior interventionist, and the Parent.

The team conducted assessments using a variety of assessment instruments and methodologies. The team reviewed the Student's records, the FIE from the Student's previous district, and an outside evaluation provided by the Parents. The team listened to parental input.

The District's Educational Diagnostician, ***, obtained information from the Student's teacher and Parent using the ABAS questionnaire to gather information used to measure the Student's functional daily living in communication, self-care, academic, self-direction, school, community, health, and safety. *** administered the Woodcock Johnson Test of Achievement IV; *** which measures general intellectual ability, early academic skills, and expressive language skills in ***children, and the Kaufman Assessment Battery for Children (KABC), Second Edition, which is used to

measure the cognitive abilities of non-verbal ***children in the areas of fluid reasoning, short term memory, visual thinking and the ability to solve problems a student is not familiar with. The Student performed at the *** range on the WJ-IV ECAD and attained a score of less than *** on the KABC.

***, the District's Speech Language Pathologist (SLP) conducted the assessments to determine the Student's functional language status. *** administered the Oral and Written Language Scales-II (OWLS-II) to identify strengths and weaknesses in language to help determine the existence of language delays and disabilities, and the Receptive One-Word Picture Vocabulary Test-4 (ROWPVT-4) to assess the Student's ability to match a spoken word with an image of an object, action, or concept. *** used the Expressive One Word Picture Vocabulary Test-4, an individually administered and norm referenced test designed for use with individuals ages 2 years 0 months through 18 years 11 months, to measure the Student's expressive vocabulary. She used the Goldman-Fristoe Test of Articulation (GFTA-3), an individually administered standardized assessment, to measure the Student's sound abilities in the area of articulation, and the Pragmatic Language Skills Inventory (PLSI) to screen the Student for pragmatic language disorder in the assessment domains of classroom, social and personal interactions. *** also observed that the Student's oral musculature, vocal quality, pitch oral motor strength and range of motion appeared to be adequate for correct speech production and was age and gender appropriate.

The Student's physical evaluation was conducted by the school nurse, ***. *** reviewed records, spoke with the Student's Parent, conducted a vision test of the Student, and attempted to conduct a hearing test. No serious health concerns were noted other than the ADHD presented in the OHI form from the Student's doctor.

The psychological evaluation of social emotional functioning was conducted by ***, the District's LSSP. *** observed the Student in the classroom and obtained information from the Parent and the classroom teacher. The BASC-3 was administered by *** to assess the Student's adaptive and maladaptive behavior. It measures a broad range of behaviors, including positive and negative characteristics observed in the home and school setting. *** also used the Conners fourth edition questionnaire as another methodology in determining the Student's ADHD characteristics. A questionnaire was completed by both the Parent and the Student's

teacher. The Autism Diagnostic Observation Schedule (ADOS) 2nd Edition administered by the LSSP consists of standard activities that allow the examiner to observe social behavior and communication important to the diagnosis of ASDs at different developmental levels. It includes looking at specific characteristics like repetitive behaviors, responses to stimuli, and restrictive interests. The Student met the ADOS-2 classification of Autism. The Autism Spectrum Rating Scale (ARS) – Parent and Teacher Form is a scale designed to differentiate children with an Autism Spectrum Disorder from those in the general population, and those with clinical disorders. The Social Responsiveness Scale (SRS-2) is a questionnaire that assesses characteristics of ASD such as interpersonal behavior, communication, and stereotypic behaviors. SRS-2 is used to determine the degree of social impairments.

*** used the Adaptive Behavior Assessment System (ABAS) with input from the Parent and ***, the Student's classroom teacher, to assess the Student in the area of adaptive behavior. The assessment measured the Student's functions in daily life. It supported the determination that the Student's overall level of adaptive behavior is in the*** range.

The FIE was completed on January ***, 2025 when the Student's ARD committee met to consider the results of the evaluation. The conclusion of the assessment by the ARD was that the Student meets criteria for the disabilities of Autism, Other Health Impairment (ADD/ADHD), ***, and Speech Impairment (Receptive Language; Expressive Language). This conclusion was based on and fully supported by the evaluation.

The evidence introduced at the hearing showed that the District's evaluation met the requirements of the IDEA. The individuals that administered the tests were trained and had specific knowledge in the area in which they were evaluating the Student. The tests were administered in the Student's native language, were selected and administered so as not to be discriminatory on racial or cultural bias, and were administered in accordance with the tests' instructions. The District used a variety of technically sound assessments and methodologies to determine the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. 34 C.F.R. § 300.304(b). Additionally, the Student was observed in the classroom, and a significant amount of information about the Student was obtained through input from the Parent.

Respondent argued that the District has a bias against Student's family and against the

Student. The only evidence Respondent presented to support this allegation was a statement by a District employee regarding Respondent's private evaluator. However, this statement was not made by the employee, but was allegedly made to the employee by another individual that the employee refused to name. Respondent did not present any evidence or witness that credibly challenges the validity of any portions of the District's evaluation or other evidence indicating that it did not meet the requirements of 34 C.F.R. § 300.304(b) and (c)(1).

VII. Conclusion

The evidence showed that the District's evaluation met the requirements of the IDEA. The District used technically sound instruments to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. The District used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the Student and did not use any single measure as the sole criterion for determining the Student's eligibility and developing the Student's educational program.

The District's assessments and other evaluation materials were selected and administered so as not to be discriminatory on a racial or cultural basis; were provided and administered in the Student's language (English); were used for the purposes for which the assessments or measures are valid and reliable; were administered by trained and knowledgeable personnel; and were administered in accordance with instructions provided by the producer of the assessments.

VIII. CONCLUSIONS OF LAW

1. The evaluation provided by the District complied with all requirements under the IDEA. 34 C.F.R. 34 C.F.R. § 300.304(b) and (c)(1).
2. Respondent is not entitled to an Independent Educational Evaluation (IEE) at public expense. 34 C.F.R. 300.502(b)(1)-(2).

IX. ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and Discussion, Petitioner's claims are meritorious, and Respondent's claims are without merit.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. The District's FIE of the Student is declared to be appropriate under IDEA.
2. Respondent is not entitled to an IEE at public expense.
3. Any and all other requested relief is hereby DENIED.

SIGNED on the _____ day of April 2025.

Sandy Lowe
Special Education Hearing Officer
For the State of Texas

X. NOTICE TO THE PARTIES

The Decision of the Hearing Officer in this cause is a final and appealable order. Any party aggrieved by the findings and decisions made by the hearing officer may bring a civil action with respect to the issues presented at the due process hearing in any state court of competent jurisdiction or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. §§ 300.514(a), 300.516; 19 Tex. Admin. Code § 89.1185(n).