

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

VOLUSIA COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 22-0690E

\*\*,

Respondent.

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FINAL ORDER

A due process hearing was held in this case before Brittany O. Finkbeiner, an Administrative Law Judge of the Division of Administrative Hearings (“DOAH”), by Zoom conference, on May 4 through 6, 20, and 24, 2022.

APPEARANCES

For Petitioner: Barbara Joanne Myrick, Esquire  
621 Kensington Place  
Wilton Manors, Florida 33305

For Respondent: Tracy L. Card, Qualified Representative  
1317 West Hampshire Boulevard  
Citrus Springs, Florida 34434

STATEMENT OF THE ISSUES

The issues in this case are whether Petitioner’s evaluations were appropriate, and whether Respondent is entitled to an Independent Educational Evaluation (IEE) at public expense.

PRELIMINARY STATEMENT

Petitioner’s Request for a Due Process Hearing (“Complaint”), filed on March 2, 2022, includes a list of areas for which Respondent requested, and Petitioner denied, IEEs. The enumerated areas are: in paragraph A—

“Academic Achievement; Adaptive Behavior; Intellectual Cognition; Speech; Language and a Social History”; in paragraph B— “Speech and Language, Cognition and Academic Achievement”; and in paragraph C— “a FULL Multidisciplinary Independent Educational Evaluation.” As presented in the Complaint, the exact contours of what Respondent is seeking from Petitioner are unclear. In Respondent’s proposed order, Respondent’s suggestion for the ultimate outcome of this case states, in pertinent part: “Respondent is entitled to a full multidisciplinary IEE at public expense, to assess the child in all areas of known or suspected disability, said evaluation to be sufficiently comprehensive to determine his educational needs.” Based on the entirety of the record, the undersigned construes the request for a “Multidisciplinary IEE” to encompass multiple component evaluations. Accordingly, the analysis centers around the consideration of the individual component evaluations that seem, based on the record, to comprise what Respondent refers to collectively as a “full multidisciplinary IEE.” Those evaluation areas are: Speech and Language, Behavior, Occupational Therapy, Cognition, Academic Achievement, Psychoeducational, Assistive Technology, and Social History.

On May 4, 2022, the due process hearing commenced and was partially held throughout the week. A medical emergency arose during the hearing, and the hearing was continued to an uncertain date. On May 9, 2022, an Order Granting Continuance and Placing Case in Abeyance was entered, requiring the parties to advise of the case status by May 11, 2022. On May 10, 2022, Petitioner filed a Notice of Dates for Continuance of Due Process Hearing, noting dates that both parties would be available to complete the hearing, and the hearing was reset for May 13, 2022. On May 12, 2022, the undersigned convened a telephonic hearing with the parties to discuss a pending motion. At the motion hearing, the undersigned learned that it was necessary to further delay the due process hearing to

accommodate an ongoing health concern. An Order Canceling Hearing and Placing Case in Abeyance was entered on May 13, 2022.

On May 16, 2022, Petitioner filed a Notice of Dates for Continuance of Due Process Hearing, noting dates that both parties are available for a final hearing. A Notice of Hearing by Zoom Conference was filed on May 18, 2022, scheduling the hearing for May 20, 23, and 24, 2022. The final installment of the due process hearing began on May 20, 2022, and concluded on May 24, 2022.

At the final hearing, Petitioner called the following witnesses: [REDACTED], Volusia County Public Schools; [REDACTED], Volusia County Public Schools; [REDACTED], Volusia County Public Schools; [REDACTED] Speech Language Pathologist (“SLP”), Speech Language Department, Volusia County Public Schools; [REDACTED], SLP, Speech Language Department, Volusia County Public Schools; [REDACTED], Exceptional Student Education (“ESE”) Specialist, Speech Language Department, Volusia County Public Schools; [REDACTED], Diagnostician and Mentor, Speech Language Department, Volusia County Public Schools; [REDACTED] Teacher, School A, Volusia County Public Schools; [REDACTED] Assistant Principal, School A, Volusia County Public Schools; [REDACTED] Specialist, [REDACTED] Department, Volusia County Public Schools; [REDACTED], Volusia County Public Schools; and [REDACTED] Department, Volusia County Public Schools. Additionally, Petitioner’s Exhibits 1 through 7, 9, 11 through 16, 18, 20, 22, 26, and 27 were admitted into evidence.

Respondent called the following witnesses: [REDACTED]  
[REDACTED] Department, Volusia County Public Schools;  
[REDACTED]  
[REDACTED]  
[REDACTED], Volusia County Public Schools; [REDACTED]  
[REDACTED] Department, Volusia County Public Schools;  
[REDACTED] Coordinator, [REDACTED] Coordinator, [REDACTED]  
Department, Volusia County Public Schools; [REDACTED] Volusia  
County Public Schools; [REDACTED] SLP, Speech Language Department,  
Volusia County Public Schools; [REDACTED]  
[REDACTED] Volusia County Public Schools; [REDACTED], SLP,  
[REDACTED]; and [REDACTED], Occupational Therapist, [REDACTED]  
[REDACTED]. Respondent's Exhibit pages 93 through 97, 144 through 198,  
306 through 394, 462 through 464, 960 through 968, 1067 through 1072,  
1120, 1121, 1125 through 1134, 1203, 1213, 1236 through 1243, 1249, 1256  
through 1260, 1269, 1270, 1408 through 1487, 1573 through 1581, 1603  
through 1622, 1671, 1672, 1694 through 1707, 1716 through 1722, and  
1787 through 1804 were admitted into evidence.

The one-volume hearing Transcript was filed with DOAH on June 6, 2022. The parties timely filed proposed final orders, which were considered in the preparation of this Final Order.

Unless otherwise indicated, all rule and statutory references are to the version in effect at the time of the alleged violations. For stylistic convenience, the undersigned will use male pronouns in this Final Order when referring to Respondent. The male pronouns are neither intended, nor should be interpreted, as a reference to Respondent's actual gender.

Throughout this proceeding, Respondent has raised issues that are outside the scope of the Complaint. Any such issues will not be addressed in this Final Order.

#### FINDINGS OF FACT

1. Respondent is a student with a disability.

2. Respondent has been identified as eligible for ESE services at various times under the following categories of eligibility: Developmentally Delayed, Autism Spectrum Disorder, Language Impaired, Occupational Therapy, and Speech Impaired. Some documents also refer to his eligibility as Specific Learning Disability, Emotional/Behavioral Disorder, and Other Health Impaired.

3. At the time of the due process hearing, Respondent was a [REDACTED]-grade student enrolled at School A, which is a Volusia County public school.

4. On September [REDACTED], 2020, Petitioner agreed to Respondent's parent's request for an IEE to include a psychoeducational evaluation and a speech/language evaluation. Respondent's parent chose a provider, and the following evaluations were completed, on these respective dates:

**Speech:** Goldman-Fristoe Test of Articulation (GTFA), 01/08/2021[;]

**Achievement:** Kaufman Tests of Educational Achievement (KTEA), 12/04/2020[;]

**Intellectual/Cognitive:** Wechsler Intelligence Scale for Children (WISC), 12/04/2020[;]

**Language:** Comprehensive Test of Phonological Processing (CTOPP), 12/04/2020[;]

**Other:** Comprehensive test of Nonverbal Intelligence-Second Edition, 12/04/2020[;]

**Other:** Developmental Neuropsychological Assessment-Second Edition (NEPSY-II), 12/04/2020[; and]

**Other:** Test of Orthographic Competence & Connors Continuous Performance Test-Third Edition, 12/04/2020.

5. These evaluations were discussed and reviewed by Respondent's individualized educational plan ("IEP") team and the information was considered and used for his educational planning.

6. Additionally, Petitioner provided the following evaluations, on these respective dates:

**Language:** Oral and Written Languages Scales (OWLS), Pragmatic Language Skills Inventory (PLSI), and Clinical Evaluation of Language Fundamentals-Fifth Edition (CELF-5), 2/5/2020, 2/7/2020, and 2/10/2020[;]

**Speech:** Goldman-Fristoe Test of Articulation (GTFA), 8/27/2021[;]

**Occupational Therapy:** 08/26/2021, 09/16/2021, 09/23/2021[; and]

**Functional Behavior Assessment:** 01/17/2020.

7. On [REDACTED], 2021, Respondent's IEP team met to prepare an IEP in anticipation of his return to a Volusia County School ("VCS") for the 2021-2022 school year, following periods of time when Respondent was schooled at home and enrolled [REDACTED]. At the IEP meeting, Respondent's parent and advocate requested that Petitioner conduct evaluations for speech and occupational therapy, as well as a Functional Behavioral Assessment ("FBA"). The evaluations were provided as listed above.

8. Another IEP meeting was convened on [REDACTED], 2021, to review the speech and occupational therapy evaluations and the FBA. The IEP team determined that Respondent met the criteria as a student with a speech impairment; he should receive direct services for occupational therapy, instead of consultative services; and that a Behavior Intervention Plan (“BIP”) should be developed.

9. At the December 2021 IEP meeting, Respondent’s parent and advocate requested additional evaluations in the areas of Academic Achievement, Adaptive Behavior, Behavior Rating Scales, Intellectual Cognition, Speech and Language, and Social History. The IEP team as a whole, however, did not determine that additional evaluations were needed, and a consensus was not reached.

10. Petitioner’s prior written notice, dated [REDACTED], 2022, stated that the prospect of IEEs in the requested areas “was rejected because previous evaluations contained appropriate information necessary for educational planning for [Respondent] and no information in these areas is needed at this time.”

11. At Respondent’s IEP meeting on [REDACTED], 2022, Respondent’s parent and his advocate requested an IEE in the following areas: Speech and Language, Cognitive, and Academic Achievement. Additionally, Respondent’s parent and advocate provided a separate letter to Petitioner on [REDACTED], 2022, requesting a full Multidisciplinary IEE, including Speech and Language, Behavior, Occupational Therapy, Cognitive, Academic Achievement, Psychoeducational, and Assistive Technology.

***OCCUPATIONAL THERAPY EVALUATION***

12. [REDACTED] completed an occupational therapy evaluation of Respondent based on a Notice of Evaluation and Request for Consent signed by Respondent’s parent on [REDACTED], 2021.

13. [REDACTED] is an occupational therapist. [REDACTED] holds a degree in occupational therapy, is licensed by the Florida Department of Health, and is

nationally registered by the National Board for Certification of Occupational Therapy.

14. [REDACTED] has worked as an occupational therapist since [REDACTED], and as an Occupational Therapist in schools for over 20 years. [REDACTED] is currently employed by [REDACTED] which has an exclusive contract with VCS to provide occupational therapy services to students in VCS.

15. [REDACTED] administered Respondent's occupational therapy evaluation over the course of three separate days—August [REDACTED], and September [REDACTED], and [REDACTED], 2021. [REDACTED] chose to break up the assessment into separate sessions to ensure that the results were valid and reliable. [REDACTED] used the Functional Skills in the Educational Environment Occupational Therapy Evaluation to determine Respondent's functioning at school, which was developed by the Department of Education and is widely used across Florida.

16. In preparation for the evaluation, [REDACTED] observed Respondent in his classroom; observed the classroom itself, including its makeup, what strategies were in place, and the use of sensory tools; and collected samples of Respondent's writing. [REDACTED] also collaborated with Respondent's classroom teacher, having the teacher complete the School Companion Sensory Profile 2 Teacher Questionnaire, which is a standardized assessment of sensory processing. [REDACTED] then scored and interpreted the questionnaire.

17. As part of the evaluation, [REDACTED] assessed Respondent's handwriting skills, including near- and far-point copying and letter formation. [REDACTED] also assessed Respondent's use of technology and computers.

18. [REDACTED] and Respondent's IEP team reviewed the occupational therapy evaluation at the December [REDACTED], 2021, IEP meeting, and the team determined that Respondent should receive 30 minutes of direct occupational therapy per week.



19. Overall, ██████ assessed the areas that were of concern as stated in the referral question seeking the evaluation.

20. ██████ used a variety of strategies and tools to gather relevant information regarding Respondent to assist in ██████ assessment.

21. The evaluation assisted ██████ in determining what skills Respondent had, what skills were lacking, and what skills needed improvement to be more functional within the educational environment. The assessment tools and strategies helped determine the contents of Respondent's IEP to enable him to progress in his educational curriculum.

22. ██████ did not use any single criterion for determining appropriate occupational therapy educational needs for Respondent.

23. The assessment tools and strategies ██████ used were technically sound to assess the relative contribution of Respondent's cognitive abilities and behavioral factors.

24. The assessment tools and strategies that ██████ administered to Respondent were in his native language of English.

25. The assessment tools and strategies that ██████ administered were used for the purposes for which they are valid and reliable.

26. ██████ is a trained and knowledgeable person, and ██████ administered the assessment tools and strategies in accordance with the instructions provided by the producer of the assessments.

27. The assessment tools and strategies provided the information that they purport to measure and assisted Respondent's IEP team in determining his occupational therapy needs.

28. The evaluation was comprehensive to identify all of Respondent's occupational therapy needs in the classroom at the time the evaluation was completed.

29. In a section entitled "Provision of Occupational or Physical Therapy to Exceptional Students as a Related Service," Florida Administrative Code Rule 6A-6.03024(2) states that "[a]ssessments as defined in Section 468.203

or 486.021, F.S., shall be conducted by the related service provider prior to the provision of occupational or physical therapy.”

30. Section 468.203(4)(a)2., Florida Statutes, within the Occupational Therapy Practice Act, defines an assessment as the “... use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services.”

31. [REDACTED] adhered to these definitions in completing her occupational therapy evaluation of Respondent.

32. The occupational therapy evaluation administered by Petitioner was appropriate.

#### ***SPEECH AND LANGUAGE EVALUATION***

33. [REDACTED] completed an articulation evaluation of Respondent based on a Notice of Evaluation and Request for Consent signed by Respondent’s parent on May [REDACTED] 2021.

34. [REDACTED] is an SLP. [REDACTED] is certified by the Florida Department of Education and has a Certificate in Clinical Competence from the American Speech Language Hearing Association. [REDACTED] holds a masters degree in communication disorders.

35. [REDACTED] has worked for VCS since [REDACTED]. From [REDACTED] to the present, [REDACTED] has been employed in the position of diagnostician and mentor to new SLPs. During [REDACTED] career, [REDACTED] has worked as a [REDACTED] teacher and SLP in various capacities for VCS.

36. [REDACTED] administered Respondent’s articulation evaluation on August [REDACTED], 2021. [REDACTED] report was completed and signed on September [REDACTED], 2021.

37. Prior to [REDACTED] evaluation, [REDACTED] reviewed and documented previous testing results and other relevant history from Respondent’s records. [REDACTED] also collaborated with Respondent’s classroom teacher.

38. When [REDACTED] met with Respondent for the evaluation, he reported to [REDACTED] that he mumbles and sometimes has trouble saying the right

word. During the evaluation, [REDACTED] observed Respondent's oral articulators—the movement of his lips, tongue, and jaw to determine if he was producing adequate speech production. This portion of the evaluation included [REDACTED] going through oral motor tasks with Respondent such as sticking out his tongue and moving it side to side to determine if there was anything structurally wrong with his articulators. [REDACTED] also led Respondent through an exercise to indicate whether his articulators could produce rapid sequencing.

39. [REDACTED] listened to samples of Respondent's speech for disfluencies.

40. Additionally, [REDACTED] administered the Goldman-Fristoe Test of Articulation, Third Edition, which is a series of pictures that Respondent was asked to name in order to assess his word production.

41. Another therapist who worked with Respondent attended the December IEP meeting to go over [REDACTED] report and evaluations. The IEP team determined that Respondent met the eligibility criteria of a student with a speech impairment. The evaluation assisted the IEP team in developing a speech and communication goal for Respondent. The assessment tools and strategies [REDACTED] used assisted in determining the contents of Respondent's IEP to enable him to progress in his educational curriculum.

42. [REDACTED] used a variety of strategies and tools to gather relevant information regarding Respondent to assist in [REDACTED] evaluation.

43. [REDACTED] did not rely upon any single criterion for determining appropriate speech needs for Respondent.

44. The assessment tools and strategies that [REDACTED] administered to Respondent were in his native language of English.

45. The assessment tools and strategies that [REDACTED] administered were used for the purposes for which they are valid and reliable.

46. [REDACTED] is a trained and knowledgeable person to administer the assessment tools and strategies in the articulation evaluation.

47. The assessment tools and strategies provided the information that they purport to measure and assisted Respondent's IEP team in determining his speech/articulation needs.

48. The articulation evaluation administered by Petitioner was appropriate.

***FUNCTIONAL BEHAVIORAL ASSESSMENT***

49. In October 2021, [REDACTED] completed an FBA of Respondent based on a Notice of Evaluation and Request for Consent signed by Respondent's parent on May [REDACTED], 2021.

50. [REDACTED] is a board-certified behavior analyst. [REDACTED] has been working for [REDACTED] for her entire career of [REDACTED] years. [REDACTED] has an exclusive contract to provide behavioral specialists in VCS. In 2020, she participated in a previous FBA of Respondent.

51. [REDACTED] began collecting data in preparation for the FBA in September 2021. The data [REDACTED] collected included interview guides from staff and from the parent; classroom point data on how often behaviors were occurring; direct observations; and Antecedent, Behavior, Consequence ("ABC") data. The assessment included the examination of contextual variables about the consequences of behavior, environmental components, and other information related to the behavior.

52. [REDACTED] used ABC data to determine the function of Respondent's behavior. Respondent's target behaviors were shutting down, refusing to work or respond, putting his head down, and leaving class without permission. [REDACTED] determined that the function of Respondent's behavior was avoidance of a task or situation.

53. The FBA assisted the IEP team in determining that Respondent needed to have a BIP.

54. The tools and strategies used to collect the data were used in a manner that took into consideration Respondent's ESE eligibility categories.

55. The assessment tools and strategies were selected and administered not to be discriminatory on a racial or cultural basis.

56. The assessment tools and strategies were selected and administered in Respondent's native language of English.

57. The assessment tools and strategies were administered by trained and knowledgeable persons in accordance with the instructions of the assessments.

58. The FBA was sufficiently comprehensive to identify Respondent's behavioral needs at the time it was conducted.

59. ██████████ used a variety of strategies and tools to gather relevant information regarding Respondent to assist in ██████ evaluation.

60. ██████████ did not use any single criteria for determining appropriate behavioral needs for Respondent.

61. The FBA administered by Petitioner was appropriate.

#### CONCLUSIONS OF LAW

62. DOAH has jurisdiction over the subject matter of this proceeding and of the parties thereto pursuant to sections 1003.57(1)(b) and 120.57(1), Florida Statutes; and rule 6A-6.03311(9)(u).

63. Petitioner bears the burden of proof by a preponderance of the evidence. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005).

64. The Individuals with Disabilities Education Act ("IDEA") entitles all children to "a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living[.]" 20 U.S.C. § 1400(d)(1)(A).

65. Under the IDEA and its implementing regulations, a parent of a child with a disability is entitled, under certain circumstances, to obtain an IEE of the child at public expense. The circumstances under which a parent has a

right to an IEE at public expense are set forth in 34 C.F.R. § 300.502(b), which provides as follows:

Parent right to evaluation at public expense.

(1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.

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

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

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

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

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

(5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

66. The analogous Florida provision, rule 6A-6.03311(6), provides:

(a) A parent of a student with a disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.

\* \* \*

(g) If a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay either:

1. Ensure that an independent educational evaluation is provided at public expense; or

2. Initiate a due process hearing under this rule to show that its evaluation is appropriate or that the evaluation obtained by the parent did not meet the school district's criteria. If the school district initiates a hearing and the final decision from the hearing is that the district's evaluation is appropriate, then the parent still has a right to an independent educational evaluation, but not at public expense.

(h) If a parent requests an independent educational evaluation, the school district may ask the parent to give a reason why he or she objects to the school district's evaluation. However, the explanation by the parent may not be required and the school district may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the school district's evaluation.

(i) A parent is entitled to only one (1) independent educational evaluation at public expense each time the school district conducts an evaluation with which the parent disagrees.

67. A district school board in Florida is not automatically required to provide a publicly funded IEE upon the request of a parent. A school board has the option, when presented with such a parental request, to initiate a due process hearing to demonstrate, by a preponderance of the evidence, that its own evaluation is appropriate. *T.P. v. Bryan Cnty. Sch. Dist.*, 792 F.3d 1284, 1287 n.5 (11th Cir. 2015). If the school board is able to meet its burden and establish that its evaluation was appropriate, it is not required to provide the requested IEE.

68. To satisfy its burden of proof, Petitioner must demonstrate that the assessments at issue complied with rule 6A-6.0331(5), which sets forth the elements of an appropriate evaluation. Rule 6A-6.0331(5) provides, as follows:

(5) Evaluation procedures.

(a) In conducting an evaluation, the school district:

1. Must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student within a data-based problem solving process, including information about the student's response to evidence-based interventions as applicable, and information provided by the parent. This evaluation data may assist in determining whether the student is eligible for ESE and the content of the student's individual educational plan (IEP) or educational plan (EP), including information related to enabling the student with a disability to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), or for a gifted student's needs beyond the general curriculum;
2. Must not use any single measure or assessment as the sole criterion for determining whether a student is eligible for ESE and for determining an appropriate educational program for the student; and,



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

(b) Each school district must ensure that assessments and other evaluation materials and procedures used to assess a student are:

1. Selected and administered so as not to be discriminatory on a racial or cultural basis;

2. Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;

3. Used for the purposes for which the assessments or measures are valid and reliable; and,

4. Administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.

(c) Assessments and other evaluation materials and procedures shall include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(d) Assessments shall be selected and administered so as to best ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's sensory, manual, or speaking skills, unless those are the factors the test purports to measure.

(e) The school district shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

(f) A student shall be assessed in all areas related to a suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(g) An evaluation shall be sufficiently comprehensive to identify all of a student's ESE needs, whether or not commonly linked to the suspected disability.

69. Based on the Findings of Fact as stated herein, Petitioner has proven that its evaluations covering multiple disciplines (speech and language; occupational therapy; and FBA) fully complied with rule 6A-6.0331(5). In particular, each evaluation was conducted by trained and knowledgeable school personnel who utilized, and properly administered, a variety of valid instruments that yielded reliable and comprehensive information concerning Respondent's educational needs.

70. With respect to the requests for an IEE in the areas of: Cognition, Academic Achievement, Psychoeducational, Assistive Technology, and Social History, Petitioner has not evaluated Respondent in these areas within the past two years. The parent's right to an IEE only vests after the school board has conducted an evaluation with which the parent disagrees within a two-year period. Petitioner conducted a comprehensive evaluation in 2012, which is also outside the statute of limitations to the extent that the nature of that evaluation aligns with Respondent's request for a Multidisciplinary IEE. Although there are remedies available to Respondent with respect to these evaluation requests, they are not within the scope of the Complaint in the present case.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's evaluations were appropriate, and Respondent is not entitled to an Independent Educational Evaluation at public expense.

DONE AND ORDERED this 28th day of July, 2022, in Tallahassee, Leon County, Florida.



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BRITTANY O. FINKBEINER  
Administrative Law Judge  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 28th day of July, 2022.

COPIES FURNISHED:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

This decision is final unless, within 90 days after the date of this decision, an adversely affected party:

- a) brings a civil action in the appropriate state circuit court pursuant to section 1003.57(1)(c), Florida Statutes (2014), and Florida Administrative Code Rule 6A-6.03311(9)(w); or
- b) brings a civil action in the appropriate district court of the United States pursuant to 20 U.S.C. § 1415(i)(2), 34 C.F.R. § 300.516, and Florida Administrative Code Rule 6A-6.03311(9)(w).