

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

BROWARD COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 14-1638E



Respondent.

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FINAL ORDER

This case came before Administrative Law Judge Darren A. Schwartz for final hearing on May 21, 2014, in Fort Lauderdale, Florida.

APPEARANCES

For Petitioner: Barbara J. Myrick, Esquire  
Broward County School Board  
600 Southeast Third Avenue, 11<sup>th</sup> Floor  
Fort Lauderdale, Florida 33301

For Respondent: Respondent's mother, pro se  
(Address of Record)

STATEMENT OF THE ISSUE

Whether Petitioner's occupational therapy evaluation of Respondent is appropriate.

PRELIMINARY STATEMENT

On April 11, 2014, the Broward County School Board ("School Board" or "Petitioner") filed a request for due process hearing, seeking a determination of the appropriateness of its January 28,

2014, occupational therapy evaluation of Respondent. The School Board's hearing request resulted from its decision to deny the March 31, 2014, request of Respondent's mother for an independent occupational therapy evaluation at public expense.

On April 15, 2014, the undersigned issued a Notice of Hearing that scheduled the due process hearing requested by the School Board for May 6, 2014. In response to Petitioner's unopposed motion to continue, filed April 17, 2014, the final hearing was rescheduled to May 21, 2014.

At the final hearing, the School Board presented the testimony of [REDACTED], [REDACTED], and [REDACTED]. The School Board's Exhibits 1 through 4 were received into evidence.

The [REDACTED] testified on behalf of Respondent. The [REDACTED] also presented the testimony of [REDACTED]. Respondent's Exhibits 1, 3, 4, and 6 were received into evidence.

The Transcript of the final hearing was filed on June 9, 2014. At the final hearing, the parties agreed to file their proposed final orders by June 19, 2014, and that the undersigned's final order would be due by July 3, 2014.

The School Board timely filed a Proposed Final Order, which was given consideration in the preparation of this Final Order. Respondent did not file a proposed final order.

For stylistic convenience, the undersigned will use feminine pronouns in this Final Order when referring to Respondent. The

feminine pronouns are neither intended, nor should be interpreted, as a reference to Respondent's actual gender.

All citations to the Florida Statutes and Florida Administrative Code are to the 2013 version, unless otherwise indicated.

#### FINDINGS OF FACT

1. Respondent was born on [REDACTED]. [REDACTED] has [REDACTED] [REDACTED]. [REDACTED] cognitive abilities are in the very low range as demonstrated by a non-verbal index standard score of 44 on the Kaufman Assessment Battery for Children-Second Edition ("KABC-II").<sup>1/</sup> Respondent receives exceptional student education ("ESE") services in the areas of [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

2. During Respondent's [REDACTED]-grade year (2013-2014 school year), [REDACTED] was enrolled at a public elementary school in Broward County, Florida. [REDACTED] was placed in a general education, regular classroom setting, with constant one-on-one support of an exceptional student paraprofessional.<sup>2/</sup>

3. In the fall of 2013, Respondent's [REDACTED] became concerned that Respondent was falling further behind [REDACTED] peers, particularly in the subject of handwriting. This prompted Respondent's [REDACTED], in October 2013, to request a meeting to develop a re-evaluation plan.

4. Pursuant to the [REDACTED] request, the School Board held a meeting on November 5, 2013. Following the meeting, the parties agreed that Respondent would be re-evaluated by an occupational therapist to determine whether Respondent's fine motor skills impact [REDACTED] educational progress and [REDACTED] ability to access the curriculum in the school environment. A meeting was scheduled for March 14, 2014, to address the development of a new IEP and to review the evaluation results.<sup>3/</sup>

5. [REDACTED] was assigned to conduct the occupational therapy evaluation of Respondent. [REDACTED] is a pediatric occupational therapist who has performed occupational therapy evaluations of students within the school district over the past eight years pursuant to a contract with the School Board. [REDACTED] is trained and knowledgeable in her field. She holds bachelor's degrees in exercise and health science, and occupational therapy, and a master's degree in occupational therapy. She is licensed by the Florida Department of Health as an occupational therapist.

6. On January 28, 2014, [REDACTED] conducted an occupational therapy evaluation of Respondent. Prior to conducting the evaluation, [REDACTED] reviewed the "Consent For Reevaluation/Reevaluation Plan" signed by Respondent's mother. This document includes background information about Respondent, and the mother's concerns and input regarding Respondent's need

for occupational therapy services, particularly with regard to Respondent's handwriting.

7. [REDACTED] conducted a comprehensive evaluation of Respondent, the focus of which was to determine whether [REDACTED] fine motor skills impact [REDACTED] educational progress and [REDACTED] ability to access the curriculum in the school environment.

8. [REDACTED] assessed Respondent in all areas related to Respondent's occupational therapy functional skills in the educational setting to determine Respondent's status in each area compared to the expectation of Respondent in [REDACTED] curriculum. The areas of evaluation included: Curriculum and Learning; Self-Help; Mobility; Gross Motor; Fine Motor/Visual Motor; and Sensory Processing.

9. [REDACTED] evaluation of Respondent occurred during the course of one school day. The evaluation included a three and one-half hour clinical observation of Respondent in the second-grade classroom and in other areas within [REDACTED] school environment.

10. In the area of Curriculum and Learning, [REDACTED] observed Respondent's independent functional skills in the educational setting. She observed that Respondent was independent with accessing [REDACTED] curriculum and independent with manipulating the mouse on the computer, hanging [REDACTED] jacket on the back of a chair, and zipping/unzipping [REDACTED] backpack to remove and replace items. [REDACTED] was able to manage [REDACTED] school and personal

materials. ■ sat independently in a standard issue classroom chair without arms, ■ was able to transfer into and out of the chair appropriately without loss of balance, ■ was observed opening a paper towel and placing it on the counter prior to drinking from the classroom water fountain, and ■ was able to remove tissues from a package and blow ■ nose with minimal verbal prompts. In the classroom, ■ had the support of a paraprofessional. ■ recommended that Respondent's chair be lowered for optimal positioning.

11. In the area of Self-Help (activities of daily living skills), Respondent was independent as ■ was toilet trained for both bowel and bladder, and ■ was able to push down and pull up ■ pants. ■ had full range of motion to adjust ■ clothing, and independently pull ■ shirt over ■ pants. On the date of the evaluation, ■ was wearing elastic style pants. At times, ■ needed assistance with ■ buttons on ■ pants, but was independent with ■ snaps. ■ was able to access the soap dispenser and sink to follow the hand-washing routine given minimal verbal prompts. ■ required physical prompts to unbutton medium size buttons on an Activities of Daily Living Board ("ADL"), but was independent with buttoning on the ADL.<sup>4/</sup>

12. Respondent was independent in ■ feeding and eating skills as ■ was able to pick up ■ meal from the cafeteria line and obtain food with adult assistance secondary to ■ small

stature. ■ was able to carry ■ tray to the table and set up ■ meal independently. ■ was able to open all sealed packages and containers, including a milk carton, cheese container, and fork/napkin/straw package. ■ required a verbal cue to poke ■ straw in ■ juice bag. ■ was able to drink from a straw with no spills, and finger feed and feed ■ with a utensil. ■ effectively used ■ right hand as an assist while scooping and eating with ■ left hand. ■ maintained upright posture when seated on the cafeteria bench and was able to transition on and off the bench with no loss of balance. ■ used a napkin to wipe ■ face and was able to clean ■ area and properly dispose of ■ tray with adult supervision. There were no accommodations, adaptations, or modifications that ■ needed in the cafeteria.

13. In the area of Mobility, Respondent displayed no deficits, and demonstrated functional mobility skills. ■ was able to walk around, and ambulate throughout the school campus with adults in close proximity for safety. ■ was able to transfer from sit to stand with no loss of balance noted.

14. In the area of Gross Motor skills, large muscles of the body are observed. This area involves gait, and range of motion of the upper and lower extremities. Respondent demonstrated functional gross motor skills in the educational environment. ■ maintained upright head and trunk control to engage in social interaction and participate in educational activities. ■

independently transitioned from standing to sitting on the floor. ■ stepped over and around obstacles in ■ pathway and walked in line while maintaining ■ balance. ■ attempted to catch ■ during falls and was able to carry ■ school materials. ■ did not present with any fixed postures or any contractures that interfered with ■ ability to access the curriculum.

15. The area of Sensory Processing involves the ability of an individual to register and perceive the five senses of the body, plus the vestibular and proprioceptive systems,<sup>5/</sup> and then filter out distractions in their environment. Respondent was able to tolerate a variety of dry and wet tactile mediums (i.e., sticky, wet, and dry items), and accommodate to everyday classroom noises without incident. ■ tolerated positional changes without aversion and tolerated the closeness of others. ■ followed classroom activities given adult prompting. ■ was able to attend to table top and group activities with teacher directive and prompting. ■ required various levels of prompts due to inattentiveness, distractibility, and impulsivity. ■ required prompts to sustain visual attention to tasks and for task completion. ■ was able to imitate gross and fine motor movement patterns, demonstrating good motor planning skills. ■ initiated play with peers, and engaged in peer initiated play and group play.



16. In the area of Fine Motor/Visual Motor skills, Respondent demonstrated the musculoskeletal ability to hold a pencil and to make marks on paper. ■■■ demonstrated left hand dominance using a functional tripod grasp of ■■■ writing utensil with ■■■ wrist and forearm stabilized on the writing surface, which was functional at full range of motion when completing handwriting tasks.

17. Teaching handwriting is part of the curriculum in the classroom, and not the responsibility of an occupational therapist. Due to Respondent's developmental stage and low cognitive level, ■■■ demonstrated difficulty with accurately copying pre-writing strokes and shapes in order to be a functional writer. ■■■ was able to copy vertical and horizontal lines, circle and cross, and trace left and right diagonal strokes, square and triangle. ■■■ was able to grossly trace upper case letters and numbers with poor start and sequence noted. ■■■ was not yet accurately identifying letters, numbers, letters of ■■■ name, or ■■■ name in print in a field of two. ■■■ ability to accurately match and sort shapes and colors was emerging. ■■■ was able to complete simple inset puzzles with prompting. ■■■ required prompts to properly position regular child safety scissors in ■■■ left hand while effectively using ■■■ right hand to stabilize the paper. ■■■ was able to cut a piece of paper in half and had difficulty cutting along a curved

line. [REDACTED] was able to string small beads and remove and replace caps to a marker and a glue stick.

18. [REDACTED] administered the Wide Range Assessment of Visual Motor Abilities ("WRAVMA") to Respondent. The WRAVMA is a standardized, norm-referenced assessment tool, which is particularly useful in addressing functional writing and fine motor abilities of students in the school environment.<sup>6/</sup>

19. The WRAVMA assesses three areas using three subsets. The drawing (Visual-Motor) test has children copy from designs that are developmentally arranged in order of increasing difficulty. Starting at an age appropriate item, the child copies a standard design and proceeds until three consecutive items are failed. The matching (Visual-Spatial) test provides a measure of spatial skill by presenting visual spatial tasks developmentally arranged in order of increasing difficulty. There is one design on the top of the paper, and four designs at the bottom. The child must match the top design with the design at the bottom. The child continues until he/she makes six errors within a series of eight consecutive items.<sup>7/</sup> The pegboard (Fine-Motor) test requires the child to insert as many pegs as possible into a pegboard within 90 seconds. The pegboard is waffled to add to its fine motor demands as well as to increase aesthetic appeal.

20. Respondent scored in the deficient range in the Visual-Motor and Visual-Spatial subtests. Respondent's errors on the Visual-Motor test were not caused by [REDACTED] inappropriately holding the writing utensil or due to the muscles or fine motor skills. The WRAVMA has a mean score of 100 with a standard deviation of 15. Therefore, a score between 85 and 115 is considered average. Respondent's standard score for Visual-Motor was a 50, and for Visual-Spatial was 45.

21. Respondent's scores were more than two standard deviations below the average, which directly correlates to Respondent's non-verbal index standard score of 44 on the KABC-II. Respondent performed within [REDACTED] cognitive range and expected ability.

22. The pegboard (Fine-Motor) test was discontinued because Respondent had difficulty following the directions as demonstrated by randomly putting pegs into the holes and playing with the pegs. However, [REDACTED] had enough information regarding Respondent's fine motor skills to proceed and finalize the evaluation. If [REDACTED] had not, [REDACTED] would have done additional assessments. There is no requirement for an occupational therapist to do more than one norm-referenced assessment.<sup>8/</sup>

23. The greater weight of the evidence establishes that the January 28, 2014, occupational therapy evaluation of Respondent

by [REDACTED] is appropriate. [REDACTED] used a variety of assessment tools and strategies (i.e., clinical observation, record review, functional skills in the educational environment, and the WRAVMA) to gather relevant functional, developmental, and academic information about Respondent, including information provided by the parent, that may assist in determining whether Respondent is eligible for occupational therapy services.

24. [REDACTED] did not use any single measure or assessment as the sole criterion for determining whether Respondent is eligible for occupational therapy services.

25. The assessments and other evaluation materials utilized by [REDACTED] to assess Respondent were selected and administered so as not to be discriminatory on a racial or cultural basis.

26. The assessments and other evaluation materials utilized by [REDACTED] to assess Respondent were provided and administered in the student's native language, and in the form most likely to yield accurate information on what Respondent knew and could do academically, developmentally, and functionally.

27. The assessments and other evaluation materials utilized by [REDACTED] to assess Respondent were used for the purposes for which the assessments or measures are valid and reliable.

28. Based on her evaluation, standardized assessments, and record review, [REDACTED] determined that occupational therapy as a related service is not warranted to support Respondent's

functioning and promote the attainment of educational goals and benefits. [REDACTED] determined that Respondent was continuing to make meaningful educational progress in [REDACTED] educational setting with the support of [REDACTED] ESE services and implemented modifications and accommodations.

29. The evaluation showed that Respondent has the musculoskeletal functional skills and ability to manage [REDACTED] school materials to complete [REDACTED] tasks. However, [REDACTED] cognitive impairment affects [REDACTED] progress to write independently.

30. [REDACTED] attended the March 14, 2014, IEP meeting regarding Respondent and discussed and reviewed [REDACTED] evaluation with the IEP team. The evaluation was sufficiently comprehensive, and provided the IEP team with sufficient relevant information to determine whether or not Respondent met the eligibility criteria for occupational therapy services, and what [REDACTED] occupational therapy needs were in the educational setting.

31. At the final hearing, the mother presented the testimony of [REDACTED] in an effort to demonstrate that the January 28, 2014, occupational therapy evaluation is not appropriate. The undersigned has considered and rejected the testimony of [REDACTED] as unpersuasive.

32. [REDACTED] is Respondent's pediatric occupational therapist in an outpatient, private setting. She has been a pediatric occupational therapist for approximately 14 years. She

holds a bachelor's degree in occupational therapy. She has worked with Respondent since approximately mid-September 2013.

33. [REDACTED] practice is devoted substantially to providing occupational therapy services to students in a private, out-patient clinic setting.

34. Respondent's mother retained [REDACTED] to perform an occupational therapy evaluation of Respondent, which she did in mid-September 2013. Since then, she has provided occupational therapy to Respondent one to two times a week for approximately one and one-half to two-hours a week. She also conducted a re-evaluation of Respondent on an unspecified date.

35. [REDACTED] evaluations were not offered into evidence at the final hearing.

36. [REDACTED] has never observed Respondent in the educational setting, thus, she has no knowledge of how Respondent performed in the school setting evaluation conducted by [REDACTED]. An occupational therapy evaluation in the school setting is very different from an occupational therapy evaluation in the private outpatient setting. A student may perform differently in a school environment versus a private environment.

37. [REDACTED] is familiar with the pegboard fine motor test, but she has never assessed a student using it or the WRAVMA.

38. [REDACTED] testified that she may have chosen to use a different particular assessment tool ("the Peabody") with regard to one of the six areas—Sensory Processing. However, this does not mean that [REDACTED] evaluation is inappropriate.

CONCLUSIONS OF LAW

39. The Division of Administrative Hearings 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 Florida Administrative Code Rule 6A-6.03311(9)(u).

40. School boards are required by the Florida K-20 Education Code to provide for an "appropriate program of special instruction, facilities, and services for exceptional students [ESE] as prescribed by the State Board of Education as acceptable." §§ 1001.42(4)(1) & 1003.57, Fla. Stat. (2013).

41. The Florida K-20 Education Code's imposition of the requirement that exceptional students receive special education and related services is necessary in order for the state of Florida to be eligible to receive federal funding under the Individuals with Disabilities Education Act ("IDEA"), which mandates, among other things, that participating states ensure, with limited exceptions, that a "free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21." 20 U.S.C.

§ 1412(a)(1).

42. A parent of a child with a disability is entitled, under certain circumstances, to obtain an independent educational evaluation of the child at public expense. The circumstances under which a parent has a right to an independent educational evaluation 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.

43. Florida Administrative Code Rule 6A-6.03311(6),  
provides similarly as follows:

(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.

44. Thus, a school board is not automatically required to provide a publicly funded independent educational evaluation whenever a parent asks for one. A school board has the option, when presented with such a parental request, to initiate—without unnecessary delay—a due process hearing to demonstrate, by a preponderance of the evidence, that its own evaluation is appropriate. See Serpas v. Dist. of Columbia, 2005 U.S. Dist. LEXIS 44536, \*16 (D.D.C. Oct. 28, 2005) ("Once Serpas requested an independent educational evaluation at public expense, as both parties acknowledge she did, it was DCPS's burden to demonstrate . . . that the evaluations performed by DCPS were appropriate"). If the district school board is able to meet its burden and establish the appropriateness of its evaluation, it is relieved

of any obligation to provide the requested independent educational evaluation.

45. To meet its burden of proof, Petitioner must demonstrate that [REDACTED] occupational therapy evaluation complied with Florida Administrative Code Rule 6A-6.0331(5), which delineates 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, including information provided by the parent, that may assist in determining whether the student is eligible for ESE and the content of the student's IEP or 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 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 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 disability category in which the student is classified.

46. Notably, school boards have discretion in selecting the diagnostic tests they use. See E.M. v. Pajaro Valley Unified Sch. Dist., 652 F.3d 999, 1003 (9th Cir. 2011).

47. Pursuant to the findings of fact contained herein, Petitioner has demonstrated that its occupational therapy evaluation complies fully with rule 6A-6.0331(5) and is appropriate. Respondent is therefore not entitled to an independent occupational therapy evaluation at public expense.

48. This is not to say that Respondent is not eligible for occupational therapy services. At the final hearing, Respondent's mother attempted to litigate the issue of whether Respondent is eligible for occupational therapy services. However, the issue of whether Respondent is eligible for occupational therapy services is not the subject of this proceeding. Rather, the instant proceeding concerns solely the issue of whether the evaluation conducted by [REDACTED] is appropriate. A determination of whether Respondent is eligible

for occupational therapy services would require a separate due process hearing request filed by Respondent's parent, and a subsequent hearing.

#### CONCLUSION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that: (1) the School Board's occupational therapy evaluation is appropriate; and (2) Respondent is not entitled to an independent occupational therapy evaluation at public expense.

DONE AND ORDERED this 27<sup>th</sup> day of June, 2014, in Tallahassee, Leon County, Florida.

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DARREN A. SCHWARTZ  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 27th day of June, 2014.

#### ENDNOTES

<sup>1/</sup> A non-verbal index score of 44 is within the intellectually disabled range, and less than 0.1 percentile of other children.

<sup>2/</sup> A regular class "means a class in which a student spends 80 percent or more of the school week with nondisabled peers."

§ 1003.57(1)(a)1.c., Fla. Stat. (2013).

<sup>3/</sup> The parties further agreed that Respondent would be re-evaluated in the areas of speech; articulation; fluency; voice; academic achievement; cognitive functioning; adaptive behavior functioning; and physical therapy.

<sup>4/</sup> An ADL board is often used by ██████████ in a school setting to assess students. The ADL allows students to simulate the practice of buttoning and unbuttoning items of clothing. There are four buttons on a piece of cardboard which fold over so that the student can practice buttoning and unbuttoning.

<sup>5/</sup> The vestibular system involves the interstitial fluid in the ear and the head's relation to gravity. The proprioceptive system involves input into the receptors, joints, ligaments, and tendons of the body.

<sup>6/</sup> Norm-referenced tests report whether a student performed better or worse than other students of the same age.

<sup>7/</sup> Visual-Motor involves the ability to look at a design or shape and then copy it. Visual-Spatial involves identifying same shapes after looking at similar shapes.

<sup>8/</sup> ██████████ did not use CERT (Considerations for Educational Therapy) in conducting her evaluation, because her evaluation was thorough enough to identify Respondent's needs and occupational therapy performance within the educational setting. Moreover, CERT is not an assessment tool. Nevertheless, ██████████ evaluation assessed all areas under the Student Profile sheet of the CERT.

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)(b), Florida Statutes (2011), 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).