

New Hampshire Department of Education

Student/Berlin School District

IDPH FY 13-07-007

**Summary Judgment Order**

The parent requested an independent evaluation in this case and the school district requested due process to establish that the evaluations it conducted are appropriate under the law.

The parent did not attend the prehearing and the school district moved for summary judgment and provided sworn affidavits regarding the evaluations at issue. The parent did not respond specifically to the motion, but did provide a variety of information to the hearing officer by email. That information is included in the record.

When a parent disagrees with the school district's evaluations and requests an independent evaluation at public expense, state and federal laws require the school district to grant that request, or demonstrate that its evaluations were appropriate under the law. To demonstrate appropriateness under the law, the school district must show that its evaluations meet the relevant legal requirements which in this case include 34 CFR § 300.301-305 and corresponding state regulations. These provisions require the school to conduct a full and individual evaluation to determine if the student is eligible for special education services and to determine the educational needs of the student. 34 CFR § 300.301. The regulations provide specific requirements for the evaluation process and the assessments used in the evaluation process as detailed in 34 CFR § 300.304 and § 300.305.

The evidence presented by the school district demonstrates that the school district met the legal requirements and their evaluations are appropriate under the law. As a result, the parent is not entitled to an independent evaluation at public expense. If the parent believes that further evaluations are needed, the parent may request that the school perform further evaluations, or the parent may always obtain an independent evaluation at their own expense and the school district must consider that evaluation.

So Ordered.

8/30/2012  
Date

---

Scott F. Johnson  
Hearing Officer