

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

SUPREME COURT  
FILED

MAR 10 2014

In re R.V., )  
A Person Coming Under the Juvenile )  
Court Law, )  

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THE PEOPLE, )  
 )  
Plaintiff and Respondent, )  
 )  
v. )  
 )  
R.V., )  
 )  
 )  
Defendant and Appellant. )  

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S212346 Frank A. McGuire Clerk  

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Deputy

Ct. App. 4/3  
No. G046961

Orange County  
Super. Ct. No. DL034139

APPEAL FROM THE JUDGMENT OF  
THE SUPERIOR COURT OF ORANGE COUNTY  
THE HONORABLE DEBORAH CHUANG, JUDGE PRESIDING

APPELLANT'S REQUEST FOR JUDICIAL NOTICE

CINDY BRINES  
State Bar # 169125  
P.O. Box 138  
Verdugo City, California  
91046  
Telephone: (818) 249-4344  
cindybrines@sbcglobal.net

Attorney for Appellant  
Appointed by the  
Supreme Court of  
California



the following documents: The Probation Petition for Modification filed February 17, 2012, which includes a letter from Arthur Montes, LCSW (Licensed Clinical Social Worker), and a Manifestation Determination Report dated March 17, 2011. (Evid. Code, §§ 452, subd. (d)(1), 453, and 459, subd. (a)(1).)

This request is based upon the present moving papers, the supporting memorandum of points and authorities, and the opening brief on the merits filed in this appeal.

#### **STATEMENT OF FACTS SUPPORTING JUDICIAL NOTICE**

A doubt had been declared as to appellant's competency to be adjudicated. (RT 11, 16.) During the competency hearing, defense counsel requested that the court take judicial notice of the entire court file on this case, specifically the Probation Modification Petition with supporting documentation. (RT 29-30.) The Petition and supporting documentation consisting of a letter from Arthur Montes, LCSW, and a Manifestation Determination Report were part of the court file. The juvenile court took judicial notice of the court file. (RT 29-30, 71.) The court relied on Mr. Montes' letter and the Manifestation Determination Report in making its competency determination. (RT 71-73, 75, 76.)

**MEMORANDUM OF POINTS AND AUTHORITIES IN  
SUPPORT OF JUDICIAL NOTICE**

Evidence Code section 459, subdivision (a)(1), provides that a reviewing court shall take judicial notice of each matter properly noticed by the trial court and each matter that the trial court was required to notice under Evidence Code section 451 or 453. Section 459, subdivision (a)(2), provides that a reviewing court may take judicial notice of any matter specified in Evidence Code section 452. Section 452, subdivision (d)(1), permits judicial notice of the records of any court of this state.

Appellant is asking this Court to take judicial notice of the Probation Modification Petition and the supporting documents which include the letter from Mr. Montes and the Manifestation Determination Report. Inclusion of these documents is necessary to the issue raised on appeal, which concerns whether there was substantial evidence to support the juvenile court's finding. These documents are relevant to the argument because the juvenile court relied on these documents to make its competency determination. The discussion of these documents is at pages 40, 42, and 43 of appellant's opening brief on the merits.

The Probation Modification Petition and supporting documents have been attached as Exhibit "A" for this Court's convenience.

**CONCLUSION**

For the foregoing reasons, appellant respectfully requests that his request for judicial notice be granted.

DATED: March 7, 2014

Respectfully submitted,



CINDY BRINES  
Attorney for Appellant  
R.V.

**EXHIBIT A**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
SITTING AS JUVENILE COURT

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
LAMOEN CENTER

FEB 17 2012

PETITION FOR MODIFICATION

MINOR'S NAME: VASQUEZ, Rosario  
DOB: 09-28-95  
MINOR'S ADDRESS: 512 4<sup>TH</sup> Street La Habra, CA 90631  
PARENT'S NAME: Teodosia Vasquez-Camez  
PARENT'S ADDRESS: Same as minor  
ATTORNEY'S NAME: Public Defender  
ATTORNEY'S ADDRESS: N/A  
JUDGE/COMMISSIONER: Chuang

DL-034139-004

ALAN CARLOS, Clerk of the Court  
**NOT DETAINED**  
BY: E. FLORES, DEPUTY

REASON FOR PETITION: Termination of Wardship

COURT RECORD: Please see attached ward card.

DISCUSSION: The minor has made a satisfactory adjustment and has derived maximum benefit from probation supervision. There are no significant problems apparent in the home, school or community. On June 2, 2009, the minor was declared a ward pursuant to sustained allegations of 459-460(b) PC (2 counts, Commercial Burglary, 2<sup>nd</sup> degree), maximum confinement 1 year 4 months. Among the usual terms and conditions, he was to complete 120 hours of Volunteer Community Service and pay a restitution fine of \$50.00. On May 7, 2010, he was continued a ward for 148.9(a) PC (False Representation to Peace Officer) and Section 242 PC (Battery on Person), with maximum confinement of 8 months. He was to pay \$50 restitution fine and complete 40 hours of VCS.

Continued Page 2

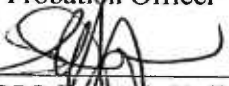
Checks with the local police department, the Central Juvenile Index, and the Department of Motor Vehicles reveal no pending actions.

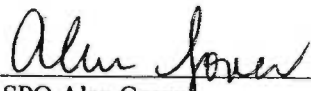
RECOMMENDATION: It is respectfully recommended that wardship jurisdiction be terminated. Further, it is recommended that the 160 hours of Volunteer Community Service and restitution fines totaling \$100 be vacated.

I have read this modification petition. I certify under penalty of perjury that it is true by my own knowledge except those matters which I believe to be true based on information and belief.

STEVEN J. SENTMAN  
Chief Probation Officer


Dated: February 9, 2012

By:   
DPO Sharon A. Hoffman:sl

  
SPO Alan Gover

JUVENILE COURT ORDER

\_\_\_\_ Denied

 Clerk of Court to calendar hearing on matter and notice all parties.

  
Judge/Commissioner

2/17/2012  
Date

*NOTICE OF FINANCIAL LIABILITY (903.1 & 903.2 W&I Code): Notice is hereby given to the Parents and all other persons and Entities liable for the support of the minor, that you are liable, jointly and severally, for the cost of: care; support, and maintenance in any place of detention or maintenance; and any attorney appointed by the court, for you or the minor, and the cost to the county of court-ordered probation supervision, home supervision, or electronic surveillance of the minor.*

PETITION FOR MODIFICATION

DISTRIBUTION: White - Court Clerk; Yellow - Juvenile Records; Pink - Juvenile Clerical; Goldenrod - Accounting  
F057-5120AF (R07/02)

PK4 rec.

2/16/12

L44

Exhibit A 1 of 2

VASQUEZ, Rosario  
DL-034139

Discussion – cont'd.

On May 23, 2011, and recently, Arthur Montes evaluated the minor to determine if a developmental disability exists. His summary of the assessments are: "His auditory processing score is low average; his fluid reasoning score is in the low range. Rosario's comprehensive-knowledge, long-term retrieval, processing speed and short term memory scores are in the very low range. Rosarios cognitive and comprehensive skills are extremely low, which can make it difficult for him to process the differences between right and wrong: He can be easily influenced to do wrong". However, since 2010, he has not had any new law violations sustained. Further, according to Arthur Montes and the minor's IEP assessment, he is low range functioning for him to perform/complete 160 hours of VCS is almost an impossibility. Further, his mother is experiencing financial problems and is a single mother.

Attached is a coy of the IEP documents.

2 of 2

2





May 23, 2011

**Clinics**

2050 Youth Way  
Fullerton, CA 92835  
t: 714.871.9264  
f: 714.871.5032

525 N. Cabrillo Park Dr.  
Suite 300  
Santa Ana, CA 92701  
t: 714.953.4455  
f: 714.542.2793

6301 Beach Blvd.  
Suite 245  
Buena Park, CA 90621  
t: 714.736.0231  
f: 714.736.0895

27451 Los Altos  
Suite 240  
Mission Viejo, CA 92691  
t: 949.582.3958  
f: 714.547.8855

**Administration**

525 N. Cabrillo Park Dr.  
Suite 300  
Santa Ana, CA 92701  
t: 714.953.4455  
f: 714.547.8855

[www.cgcc.org](http://www.cgcc.org)

On behalf of a client on my caseload, Rosario Vasquez, 09-28-95, I am hereby requesting an intake assessment to determine if a developmental disability exists.

I believe this child has a developmental delay for the following reasons:

- Mother is a survivor of domestic violence and client suffered pre-natal trauma on various occasions during the 1<sup>st</sup> and 2<sup>nd</sup> trimester.
- Client consistently displays incoherent and unintelligible speech.
- Client presents with severe impairments in his social interaction with others.
- Client presents with severe impairments in his ability to communicate with others.
- Client has difficulty following through when given directives in multiple settings (i.e. therapy, home, school, and doctors visits).
- Recent Psychological evaluation reported that Client has significantly below average intellectual functioning (i.e. IEP dated 3-17-2011)
- Recent IEP stated that Rosario's, "cognitive and comprehensive skills are extremely low which can make it difficult for him to process the differences between right and wrong" (i.e. IEP dated 3-17-2011)
- Client appears to have difficulty processing information, which has resulted in various legal problems (i.e. probation, tickets and citations).

Please contact me if you should have any questions concerning this letter. I have attached my card to this letter.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur Montes".

Arthur Montes, LCSW  
Licensed Clinical Social Worker



FULLERTON JOINT UNION HIGH SCHOOL DISTRICT  
1051 W. Bastanchury Road  
Fullerton, California 92833-2247



**MANIFESTATION DETERMINATION  
CONFIDENTIAL PSYCHOEDUCATIONAL REPORT**

Students Name:	Vazquez, Rosario	Grade:	9	School:	Buena Park High School
Birthdate:	08/25/1995	Report Completed:	03/17/2011	Test Date:	01/05/2011
Age:	15	Ethnicity:	Hispanic	Disability:	OHI

### I. REASON FOR REFERRAL

Rosario is a special education student who has been referred for a Manifestation Determination review. The results of this assessment will be shared with the Individualized Education Plan (IEP) team. The results will aid in determining whether Rosario's rule infraction is a manifestation of his disability and whether he was receiving services as indicated on his IEP.

Primary language, racial, and ethnic background were considered prior to selection and interpretation of evaluation procedures and measures. The tests and other assessment materials have been validated for the specific purpose for which they were used, and were administered in conformance with the instructions for the test or other assessment materials. No single procedure was used to determine eligibility for special education services and/or determine appropriate educational programming.

### II. Primary Language or Other Mode of Communication

Rosario's primary language, racial, and ethnic background were considered prior to interpretation of evaluation procedures and measures. All assessments procedures measure a limited sample of a person's total repertoire. Information in this section was obtained from school records, prior assessments, student, and parent interview.

English Proficiency:

Ethnicity: Hispanic

Source: AERIES

### III. ASSESSMENT INSTRUMENTS

Behavior Assessment System for Children Second Edition (BASC-2)  
Cognitive Assessment System (CAS)  
Adaptive Behavior Assessment System Second Edition (ABAS II)  
Review of Records  
Wide Range Assessment of Memory and Learning Second Edition (WRAML-2)  
Woodcock-Johnson III: Test of Cognitive (WJ-III Cognitive)  
Woodcock-Johnson III: Test of Achievement (WJ-III Achievement)  
Observations & Interviews

#### IV. BACKGROUND INFORMATION

##### *Family and Developmental Milestones:*

At the time of this report parent was did not turn in the Health and Development Form. But will be added to the report when turned in.

However according to Triennial Health Assessment dated 05/22/2009 "The developmental Health History for this assessment was dated 03/30/2009. Mother indicated prenatal complications to have included high fevers, edema, and hospitalization. Infant was born in the hospital at full term after and eight hour hospitalization. There were no birth injuries or complications, or abnormalities and infant was healthy and alert. Infant was discharged two weeks after mother. Developmental milestones were all indicated to have been in the average"

##### *Medical History:*

According to letter dated by 01/31/2011 by Mr. Montes, Licensed Clinical Social Worker Rosario is currently receiving individual, family, and psychiatric services at the Guild Guidance Center in Buena Park since October 2010. Rosario is currently diagnosed with a Mood Disorder. In addition, he presents with low self-esteem, fatigue, hypersomnia, poor concentration, feelings of hopelessness, irritable mood, and depressed mood for most of the day. Rosario has had a number of school difficulties that included defiance, oppositional and fighting behavior, truancy problems, and poor school performance. In my professional opinion, it is believed that many these problems impacted by an underlying and undiagnosed mood disorder.

These know medical problems are impeding Rosario's educational progress.

##### *Vision and Hearing:*

Rosario reported that he has passed all vision and hearing screenings. Last screening was completed on 5/22/2009, by Fullerton School District at Nicolas Junior School. Results indicate pass both vision and hearing.

##### *Orientation/Mobility:*

There are no concerns in this area.

##### *Educational History/Previous Assessments:*

Rosario is a 15 old Hispanic student enrolled at Buena Park High School. Rosario entered special education in 06/16/2006 currently receives special education services in the Mild to Moderate Program. Rosario previously met the eligibility criteria for "SLDI." His most recent IEP includes Reading, Comprehension, Writing, Mathematics, vocational, and social-emotional goals. Current interventions include: 5 periods of Specialized Academic Instruction.

##### *School Attendance*

As of 03/17/2011 Rosario does demonstrate excessive absences.

**Absence Summary 8/30/2010-6/16/2011**

Code	Description	All	P0	P1	P2	P3	P4	P5	P6	P7	P8	P9
A	UNVERIFIED	0	0	2	3	2	1	3	2	0	0	0
E	ExcTardy	0	0	0	1	1	0	0	0	0	0	0
F	Field Trip	0	0	2	4	5	2	1	0	0	0	0
I	ILLNESS	1	0	2	2	2	2	4	7	0	0	0
S	SUSPENDED	10	0	9	9	9	10	10	10	0	0	0
T	TARDY	0	0	16	5	3	2	4	4	0	0	0
U	UNEXCUSED	25	0	61	28	32	26	33	54	0	0	0

X	EXCUSED	0	0	0	0	0	0	0	1	0	0	0
	Total Excused Absences	11	0	11	11	11	12	14	18	0	0	0
	Total Unexcused Absences	25	0	63	31	34	27	36	56	0	0	0
	Total Excused Tardies	0	0	0	1	1	0	0	0	0	0	0
	Total Unexcused Tardies	0	0	16	5	3	2	4	4	0	0	0

Date Range For Attendance Summary: 08/30/2010 06/16/2011 Refresh

**Current Discipline Record**

As of 03/17/2011 Rosario has discipline referrals for:

Assertive Discipline									
Date	Code	Description	Disposition	Days	Hours	Start Date	End Date	Demerits	Tag
3/11/2011	Z1	z13 Recv. Stolen Prop.	SUSP	5	0.00	3/14/2011	3/18/2011	0.00	
Rosario received a backpack with two stolen cell phones in it from student # . Rosario denies looking in the backpack. When the backpack was searched, the backing of one of the cell phones was still in it. Student # admits to handing the backpack to Rosario and student # Additionally, Rosario was in Mr. Wallace's office for over half an hour. Eventually, the entire office smelled of marijuana. Rosario was not in possession of marijuana. Rosario was suspended for five days. Mr. Wallace will seek a disciplinary transfer. B.W.									
3/4/2011	N2	No Show Saturday School	SS	1	4.00	3/5/2011		0.00	
Student rescheduled to 3/5. Student informed that if he does not attend, it will result in a suspension. Left message.									
2/22/2011	A6	Attend-Truancy/Cuts	SS	1	4.00	2/26/2011		0.00	
SS issued for unexcused absences									
1/27/2011	C1	Conference Parent/Stu	CONF	0	0.00			0.00	
Mother came in with a drug test showing that student did not test positive from any drug> Mother informed that student's suspension was issued for both the marijuana and the possession of the prozac pill. ER									
1/26/2011	X4	z4 Poss/Use of Cntrl. Substance	SUSP	5	0.00	1/27/2011	2/3/2011	0.00	
Student found to be under the influence of marijuana and was also found in possession of a prozac pill. Student does not remember how he got the pill and kept going back and forth about smoking the marijuana. At first he denied, then he stated he did smoke, and then denied it again. Mother informed. SRO took a report on the incident and had him arrested and released to mom for possession of a prescription drug without the prescription. Case #11-03468. ER									
1/25/2011	A6	Attend-Truancy/Cuts	SS	1	4.00	1/29/2011		0.00	
SS issued for unexcused absences									
12/8/2010	A5	Attend-Tardies	SS	1	4.00	12/11/2010		0.00	
Student issued SS for 9+ tardies to 1st period. SS served on 12/11									
12/1/2010	N2	No Show Saturday School	SS	1	4.00	12/4/2010		0.00	
Student rescheduled to 12/4. Student informed that if he does not attend he will be suspended. Left message with aunt. SS served on 12/4									
11/18/2010	A5	Attend-Tardies	SS	1	4.00	11/20/2010		0.00	
Student issued SS for 9+ tardies to 1st period. SS served on 12/4									
10/1/2010	A6	Attend-Truancy/Cuts	SS	2	4.00	10/16/2010	10/23/2010	0.00	
SS issued for unexcused absences; student rescheduled									

**Counseling record:**

**Counseling Records**

Date	Code-Description	Grade	Status	Location	Notified	Followup	Contact
2/7/2011	Home Visit	9		BPHS			
	Student does not live at 4050 Franklin Ave Apt 203						Counselor: Arredondo
1/4/2011	Teacher Init	9		BPHS			
	per mikelsen - moved out of study skills class and into pe class						Counselor: HERREROS
12/15/2010	1802 9th Grade Conf	9		BPHS			
	created 4 yr plan - stu will come to scholl from now on						Counselor: HERREROS
11/29/2010	Home Visit	9		BPHS			
	School Psychologist and SRO went to house to get Assessment plan signed. No one was home. Numerous attempts have been made by phone to speak with parents regarding Assessment plan and concerns regarding social emotional and academic performance.						Counselor: PERALES
10/12/2010		0		BPHS			
	Met w/student and mom to discuss unexcused absences. Student given daily attendance check						Counselor: ARREDONDO
9/22/2010	Adm Referral	9		BPHS			
	remove pe and add ke study skill class per b. Wallace						Counselor: HERREROS
9/15/2010	Parent Init	9					
	Parent brought student to school. Student is refusing to come to school due to anxiety issues. Outside counseling resources were provided. Student will be monitor by school psychologist.						Counselor: PERALES
9/3/2010	Home Visit	9		BPHS			
	Person at home informed us that they had been living there for 3 months and did not know student or family						Counselor: ARREDONDO

*Graduation Requirements*

Subject Area	Credits Reqd	Credits Compltd	Currently Enrld	Credits Still Needed
English I	10.00	0.00	5.00	5.00
English II	10.00	0.00	0.00	10.00
English III	10.00	0.00	0.00	10.00
English IV	10.00	0.00	0.00	10.00
World History	10.00	0.00	0.00	10.00
U.S. History	10.00	0.00	0.00	10.00
Government	5.00	0.00	0.00	5.00
Economics	5.00	0.00	0.00	5.00
Mathematics	20.00	0.00	0.00	20.00
Algebra 1 A	5.00	0.00	5.00	0.00
Algebra 1 B	5.00	0.00	0.00	5.00
Physical Science	10.00	0.00	5.00	5.00
Life Science	10.00	0.00	0.00	10.00
General Science	0.00	0.00	0.00	0.00
Health	2.50	0.00	0.00	2.50
Physical Education	20.00	0.00	5.00	15.00
ForLang/Fine Arts	10.00	0.00	0.00	10.00
Electives	65.00	0.00	10.00	55.00
<b>Subject Area</b>	<b>Credits Reqd</b>	<b>Credits Compltd</b>	<b>Currently Enrld</b>	<b>Credits Still Needed</b>
<b>Total</b>	217.50	0.00	30.00	187.50

**Grades:**

**Gradebook Summary for Rosario Vazquez Uriarte 3/17/2011 2:47:45 PM**

Details	Gradebook	Term	Pd	Teacher	%	Grade	Missing Assmts	Last Updated	Status
<input type="checkbox"/>	Alg 1 Remed	S	1	Farmer	4.09	F	25	03/17/2011 9:41 AM	
<input type="checkbox"/>	R-IntroAutoTech	S	2	Williamson	38.07		10	03/15/2011 7:52 AM	
<input type="checkbox"/>	PE	S	4	Graham	43.47	F	0	03/07/2011 8:34 PM	
<input type="checkbox"/>	Eng 9 Remed	S	6	Gutierrez	12.71	F	22	03/17/2011 2:47 PM	

**Prior Terms**

<input type="checkbox"/>	Alg 1 Remed	F	1	Farmer	11.14	F	68	01/26/2011 10:35 AM	Prior Term Ended 01/27/2011
<input type="checkbox"/>	R-IntroAutoTech	F	2	Williamson	35.54		21	01/26/2011 5:40 PM	Prior Term Ended 01/27/2011
<input type="checkbox"/>	Study Skills 9	F	3	Ke	43.18	F	0	01/26/2011 10:57 AM	Prior Term Ended 01/27/2011
<input type="checkbox"/>	Eng 10 Remed	F	4	Mikkelsen	37.89	F	7	01/28/2011 7:38 AM	Prior Term Ended 01/28/2011
<input type="checkbox"/>	Eng 10 Remed	F	6	Gutierrez	28.61	F	39	03/17/2011 2:47 PM	Prior Term Ended 01/27/2011

**Dropped Gradebooks**

<input type="checkbox"/>	PE	F	3	Guba	6.25	F	15	01/14/2011 8:16 AM	Dropped 01/10/2011
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**Teacher Report/Interview:**

All of Rosario's teachers were given a Social, Adaptive Behavior, and Academic Functioning Scale questionnaire. At this time all questionnaires have not been returned. They will be added to this report when returned.

Rating scale is as follows:

5= Always 4= Most of the time 3= Frequently 2= Sometimes 1= None of the time

	Auto	Remd Eng	Remd Alg 1	Study Skills	Remed Eng 9	
Attentive to Instruction	2	1	1	1	1	
Completes Class Assignments	1	1	1	1	1	
Completes Homework Assignments	1	1	1	1	1	
Demonstrates Acceptable Organizational Skills	1	1	1	1	1	
Follows Classroom Rules	2	2	3	2	4	
Cares for Personal Needs Independently	2	2	2	1	4	
Positive Interactions with Peers/ Adults	2	2	1	1	1	
Follows Campus Rules	2	2	2		Na	
Copes with Frustration and Conflicts	1	1	2		Na	

Demonstrates Acceptable Emotional Functioning	2	1	1	1	4	
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On 02/04/2011 Rosario's Auto-Tech teacher reported: "Rosario has missed too much time – both classroom and shop periods. His behavior when present is quiet but non-attentive. He seems lost at times most of the time. He doesn't seem to grasp any order/procedure. His disability is affection his learning process. He has too many unexcused absences to record my credits. Rosario has completed limited classroom assignments and shop skills tests. At times he shows some mechanical interest. Interventions performed in the classroom: Individual time with teacher, shortened assignments, extended time to complete assignments, use of alternative materials, use of auditory and visual approaches to learning, peer tutoring, behavior interventions such as positive reinforcement, and consultation with counselor, principal, or other staff member."

On 02/04/2011 Rosario's Remedial English teacher reported: "He acts like he is under the influence. He does not seem to know what is going on at all in school. Does little work to no work. Interventions performed in the classroom: Individual time with teacher, shortened assignments, extended time to complete assignments, peer tutoring, behavior interventions such as positive reinforcement, and consultation with counselor, principal, or other staff member, preferential seating."

On 02/04/2011 Rosario's Remedial teacher reported: "Quiet most days; often puts head down and is unresponsive to any corrections to start working. Makes no attempt at any assignment; Interventions performed in the classroom: Individual time with teacher, shortened assignments, peer tutoring, behavior interventions such as positive reinforcement and cooperative learning".

On 02/04/2011 Rosario's Study Skills teacher reported: "Walks in and out of the classroom without permission. Interventions performed in the classroom: Individual time with teacher, shortened assignments, extended time to complete assignments".

On 02/04/2011 Rosario's English 9 Remd (Gutierrez) teacher reported: "Sits in the back of the room very quiet. Doesn't do much as far as work. He is very low but his F is more about attendance and lack of work. Interventions performed in the classroom: Individual time with teacher, preferential seating."

## V. OBSERVATIONS/INTERVIEW

### *Student Interview:*

In an interview with the school psychologist on 1/31/2011 Rosario provided the following information. He reported living at home with parents and siblings. Rosario enjoys "playing video games, go to the pool, and play with my little brother games" when not in school.

He doesn't enjoy school because "it's too hard". His favorite course is PE; least favorite is math; most difficult is Math; and easiest is PE.

Rosario plans on graduating High School. After graduation he doesn't know what he would do.

In Summary, Rosario had a real difficult time articulating his answers. He has a difficult time understanding the questions.

Overall, Rosario appeared confused, lethargic, and struggled with focus. Several times directions needed to be repeated in all standardized testing and in interview.

## VI. CURRENT EVALUATION

Performance during formal testing did not appear to be adversely affected by failure or frustration. No adaptations or modifications to the standardized procedures were required. An excessive amount of reinforcement or praise was not required. Overall, the results of the present testing and evaluation procedures appear to be valid for the purpose of this referral. Eye contact appeared appropriate throughout the assessment session and overall task performance was satisfactory.

### COGNITIVE DATA:

<u>CLUSTER/Test</u>	<u>Raw</u>	<u>W</u>	<u>AE</u>	<u>EASY</u>	<u>to</u>	<u>DIFF</u>	<u>RPI</u>	<u>SS (68% Band)</u>	<u>PR</u>
GIA (Ext)	-	491	8-1	6-8	10-0	32/90	63 (62-65)	1	
VERBAL ABILITY (Ext)	-	491	8-8	7-6	10-2	17/90	67 (64-71)	1	
THINKING ABILITY (Ext)	-	497	8-8	6-8	13-0	67/90	76 (73-78)	5	
COG EFFICIENCY (Ext)	-	484	7-6	6-6	8-10	16/90	54 (50-58)	0.1	
COMP-KNOWLEDGE (Gc)	-	491	8-8	7-6	10-2	17/90	67 (64-71)	1	
L-T RETRIEVAL (Glr)	-	486	5-9	3-10	7-11	50/90	40 (35-45)	<0.1	
VIS-SPATIAL THINK (Gv)	-	507	14-4	8-8	>24	89/90	98 (94-103)	45	
AUDITORY PROCESS (Ga)	-	502	10-4	7-0	16-10	78/90	86 (80-91)	17	
FLUID REASONING (Gf)	-	492	8-6	7-3	10-3	39/90	76 (72-79)	5	
PROCESS SPEED (Gs)	-	494	9-1	7-9	11-1	41/90	59 (55-63)	0.3	
SHORT-TERM MEM (Gsm)	-	473	6-5	5-10	7-4	5/90	64 (59-68)	1	
<hr/>									
Verbal Comprehension	-	495	9-3	7-11	11-0	28/90	75 (71-79)	5	
Visual-Auditory Learning	31-D	479	5-7	4-1	6-11	30/90	42 (36-47)	<0.1	
Spatial Relations	71-D	509	16-7	9-6	>25	91/90	101 (96-106)	53	
Sound Blending	21	509	12-11	9-4	18-9	83/90	94 (89-100)	35	
Concept Formation	18-D	492	8-5	7-3	10-0	35/90	78 (73-82)	7	
Visual Matching	34-2	493	8-11	7-9	10-5	29/90	60 (55-65)	0.4	
Numbers Reversed	8	476	6-11	6-3	8-0	6/90	67 (61-72)	1	
General Information	-	487	8-2	7-0	9-6	10/90	63 (58-68)	1	
Retrieval Fluency	31	493	6-1	3-5	12-1	70/90	49 (41-57)	<0.1	
Picture Recognition	49-D	504	12-11	8-0	>20	86/90	96 (91-101)	40	
Auditory Attention	33	495	7-5	5-8	13-1	72/90	73 (64-82)	4	
Analysis-Synthesis	20-D	492	8-6	7-2	10-6	43/90	79 (74-84)	8	
Decision Speed	26	496	9-5	7-7	12-3	54/90	71 (66-76)	3	
Memory for Words	13	470	5-9	5-0	6-8	5/90	67 (61-74)	1	



*WJ III Tests of Cognitive Abilities*

These tests provide measures of Rosario's overall intellectual ability and specific cognitive abilities. Relative strengths and weaknesses among his cognitive abilities are described in this report. A description of each ability is provided. His performance is compared to age peers using a standard score range. Rosario's proficiency is described categorically, ranging from very limited to average; his test performance can be generalized to similar, non-test, age-level tasks.

**INTELLECTUAL ABILITY**

Rosario's overall intellectual ability, as measured by the WJ III GIA (Ext) score, is in the very low range of others his age. There is a 68% probability that his true GIA score would be included in the range of scores from 62 to 65.

**COGNITIVE ABILITIES**Intra-Cognitive Variations

Among a selected set of his cognitive abilities, Rosario has a relative strength in Visual-Spatial Thinking. Visual-Spatial Thinking is an index of Rosario's ability to perceive, analyze, synthesize, and think with visual patterns, including his ability to store and recall visual representations. His visual processing standard score is within the average range (percentile rank range of 33 to 57; standard score range of 94 to 103) when compared to others of his age. His visual processing ability is average; Rosario will probably find age-level tasks requiring visual memory or mental manipulation of visual images manageable.

Auditory Processing measures Rosario's ability to analyze, synthesize, and discriminate auditory stimuli, including his ability to process and discriminate speech sounds presented under distorted conditions. His auditory processing standard score is within the low average range (percentile rank range of 9 to 28; standard score range of 80 to 91) for his age. His auditory processing ability is limited to average; it is likely that Rosario will find age-level tasks requiring synthesizing and discriminating speech sounds difficult.

Fluid Reasoning is the ability to reason, form concepts, and solve problems using unfamiliar information or novel procedures. His fluid reasoning standard score is within the low range (percentile rank range of 3 to 8; standard score range of 72 to 79) for his age. His fluid reasoning ability is limited; this suggests that Rosario will find age-level tasks requiring identifying categories and relations, drawing and generalizing inferences, recognizing and forming concepts, and drawing conclusions very difficult.

Comprehension-Knowledge is a measure of the breadth and depth of Rosario's language-based knowledge. It includes the ability to verbally communicate his verbal knowledge and comprehension. His comprehension-knowledge standard score is within the very low range (percentile rank range of 1 to 3; standard score range of 64 to 71) for his age. His verbal knowledge and comprehension are very limited; it is predicted that Rosario will find age-level verbal communication, knowledge, and comprehension tasks extremely difficult.

Short-Term Memory is the ability to hold information in immediate awareness and use it within a few seconds. His short-term memory standard score is within the very low range (percentile rank range of <1 to 2; standard score range of 59 to 68) for his age. His short-term memory capacity is very limited; Rosario will likely find age-level tasks such as remembering just-imparted instructions or information or mentally manipulating information in immediate awareness extremely difficult.

Among a selected set of his cognitive abilities, he has a relative weakness in Processing Speed. Processing Speed measures Rosario's ability to perform simple and automatic cognitive tasks rapidly, particularly when under pressure to maintain focused attention. His processing speed standard score is within the very low range (percentile rank range of <1 to 1; standard score range of 55 to 63) for his age. Rosario's processing speed is limited; he will probably find age-level tasks requiring cognitive speediness very difficult.

Long-Term Retrieval is also a relative cognitive weakness for him. Long-Term Retrieval is the ability to store and retrieve information. Rosario's long-term retrieval standard score is within the very low range (percentile rank of <1; standard score range of 35 to 45) for his age. His long-term retrieval is limited; it is likely that he will find age-level tasks requiring strategies to store, and fluency to retrieve, information very difficult.

### Other Cognitive Measures

Cognitive Efficiency is an index of Rosario's ability to process information automatically. Rosario's cognitive efficiency standard score is within the very low range (percentile rank of <1; standard score range of 50 to 58) for his age. His automatic cognitive processing is very limited; he will probably find similar age-level tasks extremely difficult.

### **ACHIEVEMENT DATA:**

#### Woodcock-Johnson III (WJ-III) Test of Achievement

On 01/31/2011 Rosario received the following scores on the Woodcock-Johnson III (WJ-III) Test of Achievement:

Norms based on age 15-4

<u>CLUSTER/Test</u>	<u>Raw</u>	<u>W</u>	<u>AE</u>	<u>Proficiency</u>	<u>RPI</u>	<u>SS (68% Band)</u>	<u>GE</u>
BRIEF ACHIEVEMENT	-	487	8-10	<i>v limited</i>	6/90	62 (59-65)	3.5
BROAD READING	-	488	8-10	<i>v limited</i>	12/90	64 (61-67)	3.4
BROAD MATH	-	496	9-5	<i>limited</i>	27/90	65 (62-69)	4.0
BROAD WRITTEN LANG	-	494	9-2	<i>limited</i>	31/90	67 (63-71)	3.8
BRIEF READING	-	486	8-8	<i>v limited</i>	7/90	63 (60-66)	3.3
BRIEF MATH	-	493	9-2	<i>v limited</i>	12/90	61 (57-66)	3.8
MATH CALC SKILLS	-	499	9-10	<i>limited</i>	42/90	68 (64-72)	4.5
BRIEF WRITING	-	491	8-8	<i>limited</i>	25/90	65 (61-69)	3.3
WRITTEN EXPRESSION	-	499	10-0	<i>limited</i>	51/90	75 (71-80)	4.6
ACADEMIC SKILLS	-	490	8-11	<i>v limited</i>	7/90	59 (56-62)	3.6
ACADEMIC FLUENCY	-	499	10-3	<i>limited</i>	51/90	72 (69-75)	4.9
ACADEMIC APPS	-	490	8-9	<i>v limited</i>	23/90	62 (58-66)	3.4
Letter-Word Identification	46	487	9-0	<i>negligible</i>	2/90	67 (64-70)	3.7
Reading Fluency	39	493	9-5	<i>limited</i>	35/90	74 (71-78)	4.1
Calculation	16	496	9-5	<i>v limited</i>	16/90	67 (62-72)	4.1
Math Fluency	73	502	11-3	<i>lmtd to avg</i>	73/90	81 (78-83)	5.8
Spelling	28	485	8-3	<i>v limited</i>	8/90	66 (61-70)	2.9
Writing Fluency	17	501	10-3	<i>limited</i>	45/90	78 (73-84)	4.9
Passage Comprehension	24	485	8-1	<i>v limited</i>	17/90	65 (60-70)	2.7
Applied Problems	32	490	8-11	<i>v limited</i>	9/90	74 (70-78)	3.6
Writing Samples	7-D	496	9-7	<i>limited</i>	57/90	79 (74-85)	4.2

VARIATIONS  
Intra-Achievement (Broad)

STANDARD SCORES			VARIATION		Significant at
Actual	Predicted	Difference	PR	SD	+ or - 1.50 SD (SEE)

### WJ III Tests of Achievement

These tests provide a measure of Rosario's academic achievement. Relative strengths and weaknesses among his academic abilities are described in this report. A description of each ability is provided. His performance is compared to age peers using a standard score range. Rosario's proficiency is described categorically, ranging from very limited to limited; his test performance can be generalized to similar, non-test, age-level tasks. (The report summary focuses primarily on proficiency levels.) Additional interpretation of academic task performance is provided.

### TEST SESSION OBSERVATIONS

Rosario's conversational proficiency seemed limited for his age level. He was cooperative throughout the examination; his activity level seemed typical for his age. Although Rosario appeared at ease and comfortable during the examination, he often seemed

distracted. He responded slowly and carefully to test questions, generally persisting with difficult tasks.

### ACHIEVEMENT

#### Intra-Achievement Variations

Broad Written Language includes production of written text, including spelling ability, writing fluency, and quality of written expression. Rosario's written language standard score is within the very low range (percentile rank range of 1 to 3; standard score range of 63 to 71) when compared to others of his age. His overall written language ability is limited; tasks measuring effective expression in written language above the age 10-9 level will be quite difficult for him.

Broad Math includes mathematics reasoning and problem solving, number facility, and automaticity. His mathematics standard score is within the very low range (percentile rank range of <1 to 2; standard score range of 62 to 69) for his age. Rosario's overall mathematics ability is limited; math tasks above the age 10-8 level will be quite difficult for him.

Broad Reading includes reading decoding, reading speed, and the ability to comprehend connected discourse while reading. His reading standard score is within the very low range (percentile rank range of <1 to 1; standard score range of 61 to 67) for his age. His overall reading ability is very limited; reading tasks above the age 9-10 level will be quite difficult for him.

#### Other Achievement Measures

Written Expression measures Rosario's fluency of production and quality of expression in writing. Rosario's written expression standard score is within the low range (percentile rank range of 3 to 9; standard score range of 71 to 80) for his age. His overall ability to express himself in writing is limited; writing fluency tasks above the age 12-1 level will be quite difficult for him.

Math Calculation Skills measures Rosario's computational skills and automaticity with basic math facts. His mathematics calculation skills standard score is within the very low range (percentile rank range of 1 to 3; standard score range of 64 to 72) for his age. Rosario's mathematics calculation skills are limited; math calculation tasks above the age 11-6 level will be quite difficult for him.

Academic Skills, Applications, and Fluency

**Academic Skills**

Overall, Rosario's academic skills are very limited. For example, his math calculation skill and spelling are very limited. His sight reading ability is negligible.

**Academic Fluency**

The overall fluency with which Rosario performs academic tasks is limited. Specifically, his fluency with mathematics problems is limited to average. His fluency with reading and writing tasks is limited.

**Academic Applications**

Rosario's overall ability to apply his academic skills is very limited. In particular, his writing ability is

**PROCESSING DATA:**

Wide Range Assessment of Memory and Learning – 2<sup>nd</sup> Edition:

On 02/04/2011 Rosario obtained the following standard scores on the Wide Range Assessment of Memory and Learning – 2<sup>nd</sup> Edition:

Scale	Scaled Score
Verbal Memory	
Story Memory	1
Verbal Learning	7

Overall Rosario's performance on this assessment was in the extremely low range. This assessment consists of 6 subtests and provides an overview of memory functioning.

**SOCIAL/EMOTIONAL/ADAPTIVE BEHAVIOR:**

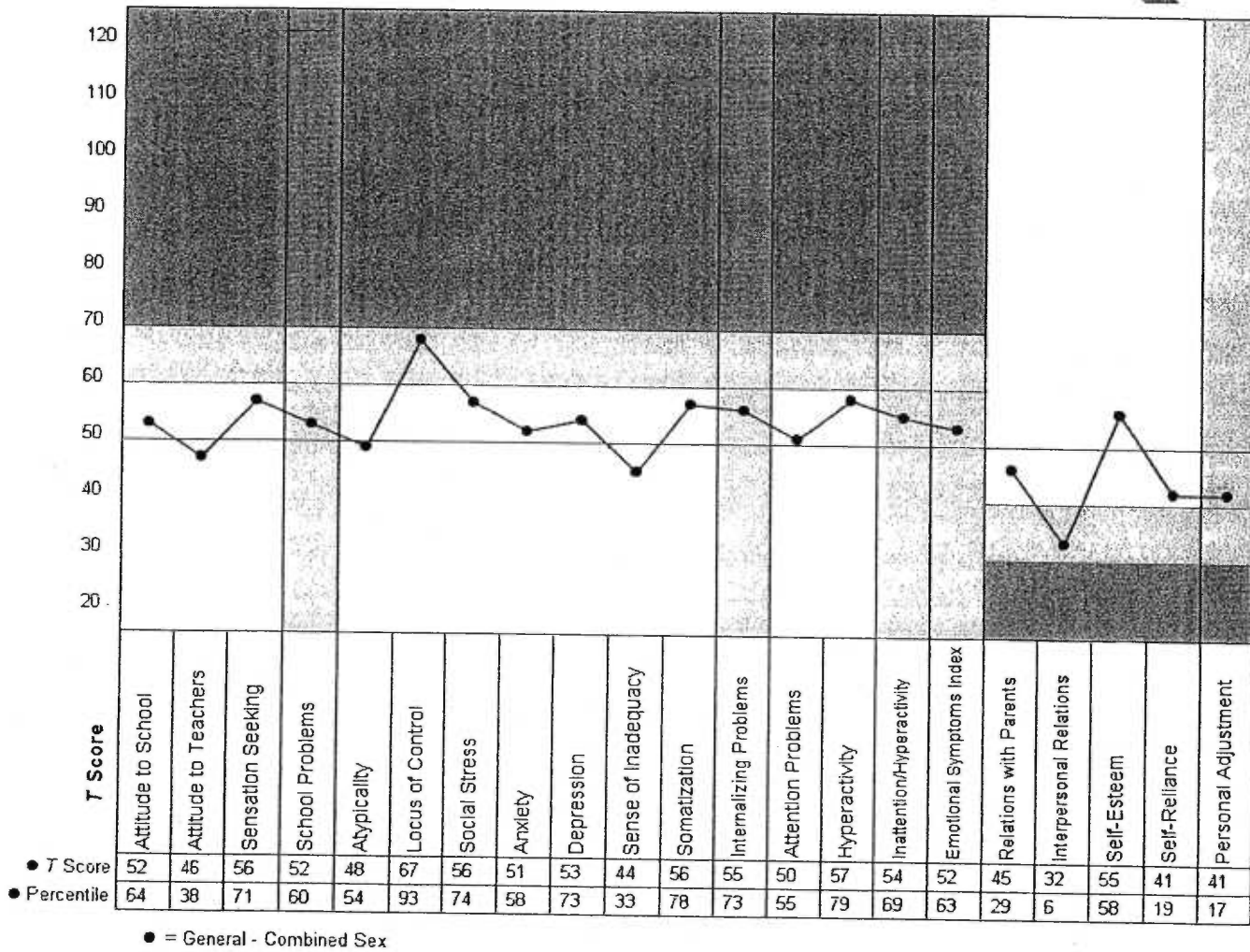
Behavior Assessment Systems for Children – Second Edition

The BASC-2 is a multimethod, multidimensional system used to evaluate the behavior and self-perceptions of children and young adults aged 2 through 25 years. The BASC-2 was designed to facilitate the differential diagnosis and educational classification of a variety of emotional and behavioral disorders of children and to aid in the design of treatment plans. When used individually, the BASC-2 components are reliable and psychometrically sophisticated instruments that provide an array of beneficial data. When used as a total system, the BASC-2 provides information about a child from a variety of sources, providing the clinician with a coordinated set of tools for evaluation, diagnosis, and treatment planning. A T score indicates the distance of a raw score from the norm-group mean. T scores in the 70 and above range are considered clinically significant and warrant significant attention. Areas measured include attitude to school/ teachers, sensation seeking, school problems, a typicality, locus of control, social stress, anxiety, depression, sense of inadequacy, somatization, internalizing problems, attention problems, hyperactivity, Inattention, emotional symptoms, relationship with parents, interpersonal relationships, self-esteem, self-reliance, and personal adjustment.

At the time of this report Parent Report Form but they will be added when turned in.

On 01/31/2011 Rosario did not score in the clinically significant range on the Self Report Form in any of the area(s)

F Index (The possibility that a student responded to the questionnaire in an excessively negative way), Response Pattern (a pattern that seems as though as student was not paying attention), Consistency (whether the student is giving different responses to questions that should be answered the same way), L Index (answering questions in a socially desirable way) and V Index (nonsensical items that may be marked due to inattention or not understanding the question) were all within acceptable range except for index L.

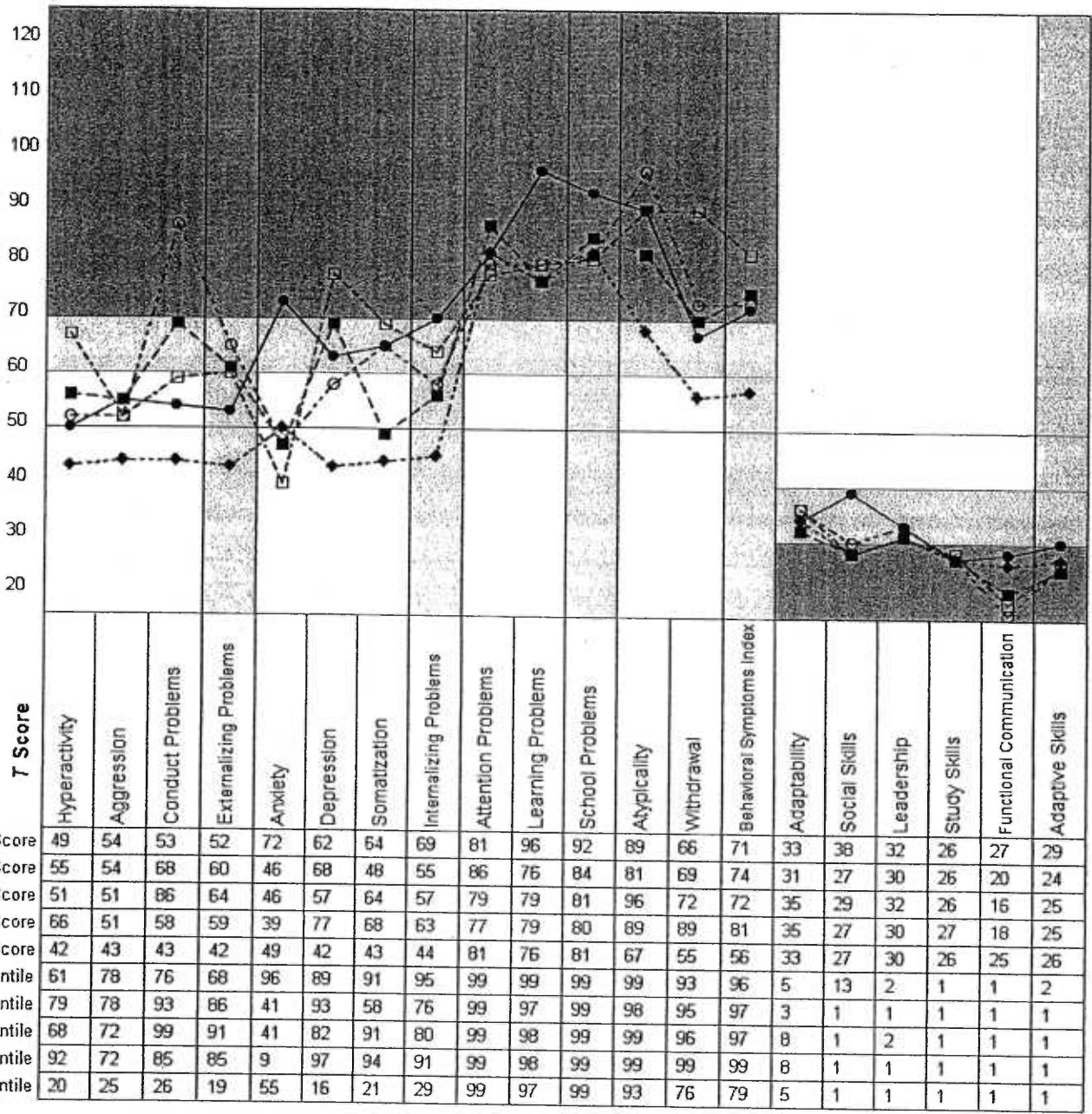


**L INDEX**

Item	Response
12. I always go to bed on time.	True
15. My parents are always right.	True
17. I never break the rules.	True
23. I tell the truth every single time.	True
25. I have never been mean to anyone.	True
28. I always do what my parents tell me.	True
45. I tell my parents everything.	True
48. I am sometimes jealous.	False
52. I like everyone I meet.	True
58. I always do homework on time.	True
129. I like going to bed at night.	Almost always
161. I get mad at others.	Never

On 02/04/2011] Rosario scored in the clinically significant range on the Teacher Report Form in the area(s) of: Conduct Problems, anxiety, depression, attention problems, Learning Problems, school problems, atypicality, withdrawal, social skills, study skills, and functional communication.

F Index (The possibility that a student responded to the questionnaire in an excessively negative way), Response Pattern (a pattern that seems as though as student was not paying attention), Consistency (whether the student is giving different responses to questions that should be answered the same way), L Index (answering questions in a socially desirable way) and V Index (nonsensical items that may be marked due to inattention or not understanding the question) were all within acceptable range.



- = TRS-A, 03/16/2011, Rater: WILLIAMSON
- = TRS-A, 03/16/2011, Rater: FARMER
- = TRS-A, 03/16/2011, Rater: MIKKELSEN
- = TRS-A, 03/16/2011, Rater: KE
- ◆ = TRS-A, 03/16/2011, Rater: GUTIERREZ

**Adaptive Behavior****Adaptive Behavior Rating System-Second Edition (ABAS-II)**

The ABAS-II is a norm-referenced, standardized and comprehensive diagnostic measure used to assess the adaptive skills of individuals 5 to 21 years of age. The ABAS-II evaluates an individuals functioning in several skill areas, including communication, community use, functional academics, school living, health and safety, leisure, self-care, self-direction, and social functioning. The ABAS-II yields a global estimate of adaptive behavior and several domain composites. Composite scores have a mean of 100 and a standard deviation of 15. Composite scores of 90 to 109 are considered to be in the average range. The skills areas scores have a mean of 10 and a standard deviation of 3. Skill area scores of 8 to 12 are considered to be in the average range.

***Interpretation:***

**For parent:** At the time of this report parent did not turn in ABAS form

**For teacher**

Mrs. Mikkelsen (special education teacher) completed the ABAS-II based on observations of Rosario's adaptive behavior in the school setting. Rosario obtained a score of 45 on the General Adaptive Composite (GAC), a comprehensive and global estimate of an individual's adaptive functioning. Relative to individuals of comparable age, his overall level of adaptive behavior can be described as being in the extremely low range of functioning.

Mrs. Mikkelsen (special education teacher) completed the ABAS-II based on observations of Rosario's adaptive behavior in the school setting. Due to the variability in the skill areas that comprise the General Adaptive Composite (GAC), this comprehensive and global estimate of an individual's adaptive functioning cannot be interpreted meaningfully. Therefore, Rosario's adaptive behavior is better understood by examining the scores on the conceptual, social and practical domains, as well as the scores on the individual skill areas.

Rosario's score on the conceptual domain, a measure of receptive and expressive language, reading, writing, money concepts and self-direction, is 50 and falls within the extremely low range relative to his age norm. Skill area scaled scores that comprise the conceptual domain are as follows: communication – extremely low; functional academics – extremely low and self direction – extremely low.

Rosario's score on the social domain, a measure of interpersonal relationships, responsibility, self-esteem, gullibility, naiveté, following rules, obeying laws and avoiding victimization, is 55 and falls within the extremely low range relative to his age norm. Skill area scaled scores that comprise the social domain are as follows: leisure – extremely low and social – extremely low.

Rosario's score on the practical domain, a measure of basic maintenance activities of daily living (e.g., eating, mobility, toileting, dressing) instrumental activities of daily living (e.g., meal preparation, housekeeping, transportation, taking medications, money management and telephone use) together with occupation skills and maintenance of safe environments, is 55 and falls within the extremely low range relative to his age norm. Skill area scaled scores that comprise the practical domain are as follows: community use – extremely low; school living – extremely low; health and safety – extremely low and self-care – below average.



<b>ABAS-II Composite Summary : Mikklesen</b>		
Composite/Domain	SS	%ile
General Adaptive Composite (GAC)	45	<0.1
Conceptual Domain	50	<0.1
Social Domain	55	0.1
Practical Domain	55	0.1

<b>ABAS-II Skill Area Scaled Score Summary</b>	
Domain/Skill Area	SS
<b>CONCEPTUAL DOMAIN</b>	
Communication	1
Functional Academics	1
Self-Direction	1
<b>SOCIAL DOMAIN</b>	
Leisure	1
Social	1
<b>PRACTICAL DOMAIN</b>	
Community Use	1
School Living	1
Health and Safety	1
Self-Care	6

Mr. Farmer (special education teacher) completed the ABAS-II based on observations of Rosario's adaptive behavior in the school setting. Rosario obtained a score of 40 on the General Adaptive Composite (GAC), a comprehensive and global estimate of an individual's adaptive functioning. Relative to individuals of comparable age, his overall level of adaptive behavior can be described as being in the extremely low range of functioning.

Mr. Farmer (special education teacher) completed the ABAS-II based on observations of Rosario's adaptive behavior in the school setting. Due to the variability in the skill areas that comprise the General Adaptive Composite (GAC), this comprehensive and global estimate of an individual's adaptive functioning cannot be interpreted meaningfully. Therefore, Rosario's adaptive behavior is better understood by examining the scores on the conceptual, social and practical domains, as well as the scores on the individual skill areas.

Rosario's score on the conceptual domain, a measure of receptive and expressive language, reading, writing, money concepts and self-direction, is 50 and falls within the extremely low range relative to his age norm. Skill area scaled scores that comprise the conceptual domain are as follows: communication – extremely low; functional academics – extremely low and self direction – extremely low.

Rosario's score on the social domain, a measure of interpersonal relationships, responsibility, self-esteem, gullibility, naivete, following rules, obeying laws and avoiding victimization, is 55 and falls within the extremely low range relative to his age norm. Skill area scaled scores that comprise the social domain are as follows: leisure – extremely low and social – extremely low.

Rosario's score on the practical domain, a measure of basic maintenance activities of daily living (e.g., eating, mobility, toileting, dressing) instrumental activities of daily living (e.g., meal preparation, housekeeping, transportation, taking medications, money management and telephone use) together with occupation skills and maintenance of safe environments, is 45 and falls within the extremely low range relative to his age norm. Skill area scaled scores that comprise the practical domain are as follows: community use – extremely low; school living – extremely low; health and safety – extremely low and self-care – below average.

Composite/Domain	SS	%ile
General Adaptive Composite (GAC)	40	<0.1
Conceptual Domain	50	<0.1
Social Domain	55	0.1
Practical Domain	45	0.1

Domain/Skill Area	SS
<b>CONCEPTUAL DOMAIN</b>	
Communication	1
Functional Academics	1
Self-Direction	1
<b>SOCIAL DOMAIN</b>	
Leisure	1
Social	1
<b>PRACTICAL DOMAIN</b>	
Community Use	1
School Living	1
Health and Safety	1
Self-Care	1

Skill Area	Description
Communication	Speech, language and listening skills needed for communication with other people, including vocabulary, responding to questions, conversational skills, etc.
Community Use	Skills needed for functioning in the community, including use of community resources, shopping skills, getting around in the community, etc.
Functional Academics	Basic reading, writing, mathematics and other academic skills needed for daily, independent functioning, including telling time, measurement, writing notes, and letters, etc.
School/Home Living	Skills need for basic care of a home or school/classroom setting, including cleaning, straightening, property maintenance and repairs, food preparation, performing chores, etc.
Health and Safety	Skills needed for protection of health and to respond to illness and injury, including following safety rules, using medicines, showing caution, etc.
Leisure	Skills needed for engaging in and planning leisure and recreational activities, including playing with others, engaging in recreation at home, following rules in games, etc.
Self-Care	Skills needed for personal care including eating, dressing, bathing, toileting, grooming, hygiene, etc.
Self-Direction	Skills needed for independence, responsibility and self-control, including starting and completing tasks, keeping a schedule, following time limits, following directions, making choices, etc
Social	Skills needed to interact socially and get along with other people, including having friends, showing and recognizing emotions, assisting others, and

using manners.
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**LANGUAGE:**

Based on examiner observation Rosario has appropriate receptive and expressive language skills. Please refer to Speech and Language Pathologist report for further evaluation.

**TEST ERROR, CULTURAL, ENVIRONMENTAL, ECONOMIC, AND BEHAVIORAL FACTORS:**

Testing, evaluation materials, and procedures used for the purpose of this evaluation were selected and administered so as not to be racially, culturally, or gender discriminatory. Tests and other evaluation materials were administered by trained personnel in conformance with the instructions provided by their producers. Tests and other evaluation materials have been validated for the specific purpose for which they were used. A child will not be determined to be a child with a disability if the determinant factor is lack of instruction in reading or math or limited English proficiency. If an assessment was not conducted under standard conditions, a description of the extent to which it varied from standard conditions was included in the evaluation report. Visual, hearing, or motor disabilities, mental retardation, emotional disturbance, environmental cultural/linguistic, or economic disadvantage have been ruled out as the primary cause of a severe discrepancy. (if LEP add: Materials and procedures used to assess a child with Limited English Proficiency were selected and administered to ensure that they measure the extent to which the child has a disability and needs special education rather than measuring the child's English language skills.)

**VII. DETERMINATION OF ELIGIBILITY****DETERMINATION OF ELIGIBILITY: SPECIFIC LEARNING DISABILITY (SLD)**

EC 56337, 56338; CCR 3030(j)

A student meets the eligibility criteria for a specific learning disability if:

1. a severe discrepancy exists between intellectual ability and achievement in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, or mathematics reasoning,
2. the discrepancy is due to a disorder in one or more of the basic psychological processes, including attention, visual processing, auditory processing, sensory-motor skills, and cognitive abilities, including association, conceptualization and expression, and
3. the discrepancy is not the result of environmental, cultural, or economic disadvantages.

A student who is being assessed due to characteristics of "dyslexia" or another reading dysfunction shall be eligible for special education and related services if the student meets the eligibility criteria for a specific learning disability.

The assessment results indicate that Rosario does not meet the eligibility criteria for Specific Learning Disability:

- a severe discrepancy does not exist between intellectual ability and academic achievement.

**DETERMINATION OF ELIGIBILITY: SPEECH AND LANGUAGE IMPAIRED (SLI)**

Please refer to Speech Pathologist report to indicate if Rosario meets the eligibility criteria for Speech and Language Impaired. The IEP Team will take into account all the relevant information that is available on this student to determine the degree of this student's impairment, if any, and whether he requires special education. The IEP Team will make the final determination regarding eligibility and educational programming.

**DETERMINATION OF ELIGIBILITY: OTHER HEALTH IMPAIRMENT (OHI) - PHYSICAL DISABILITY****CCR 3030(f)**

A student meets the eligibility criteria for Other Health Impairment (OHI) – Physical Disability if:

1. a student has limited strength, vitality or alertness, which adversely affects the student's educational performance,
2. due to chronic or acute health problems, including but not limited to a heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, epilepsy, lead poisoning, diabetes, tuberculosis and other communicable infectious diseases, and hematological disorders such as sickle cell anemia and hemophilia, and
3. the physical disability is not temporary in nature.

Rosario has a medical diagnosis of Mood Disorder: Please see medical records.

It is this examiner's opinion that Rosario's physical disability adversely affects his educational performance and that he requires special education services.

As Rosario is classified as an English Learner, the Assessment Team performed an alternative assessment to insure that the lack of English language proficiency is not the primary factor in making a determination of eligibility. Please see SPECIAL EDUCATION ELIGIBILITY DOCUMENTATION FOR ENGLISH LEARNERS (WOC-32) for a summary of the Assessment Team's findings related to eligibility.

The assessment results indicate that Rosario meets the eligibility criteria for Other Health Impaired. The IEP Team will take into account all the relevant information that is available on this student to determine the degree of this student's impairment, if any, and whether he requires special education. The IEP Team will make the final determination regarding eligibility and educational programming.

**DETERMINATION OF ELIGIBILITY: Intellectually Disable (ID)****CCR 3030(h)**

A student meets the eligibility criteria for mental retardation if the student has significantly below average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affect the student's educational performance.

Rosario was administered the WJ III cognitive, which is a standardized, individually administered intelligence test. The WJ III manual defines significantly below average intellectual functioning as Very Low. Rosario's performance yielded a score of 63, which does indicate significantly below average intellectual functioning.

The ABAS-II is a standardized measure of adaptive behavior. The ABAS-II manual defines a significant deficit in adaptive behavior as Extremely Low. The results of the ABAS-II Teacher do indicate significant adaptive behavior deficits in the areas of Conceptual, Social, and Practical.

It is this examiner's opinion that Rosario's deficits in intellectual and adaptive behavior adversely affect his educational performance and that he requires special education services.

The assessment results indicate that Rosario does not meet the eligibility criteria for Intellectually Disabled on the basis Rosario's cognitive and adaptive delays appeared to have being drug induced: His Intellectual disability did not come about during the developmental period. Also, according to his Triennial Evaluation in 2009 Rosario's adaptive and cognitive skills were within average ranges (report dated 5/11/2009). The IEP Team will take into account all the relevant information that is available on this student to determine the degree of this student's impairment, if any, and whether he requires special education. The IEP Team will make the final determination regarding eligibility and educational programming.

**VIII. SUMMARY OF ASSESSMENTS**

Rosario is a 15 old Hispanic student enrolled at Buena Park High School. He currently receives special education services in the Mild to Moderate Program. Rosario previously met the eligibility criteria for "OHI." Rosario also receives psychological help through Child Guidance Center.

Rosario's overall intellectual ability, as measured by the WJ III GIA (Ext), is in the very low range of standard scores.

Rosario's visual processing standard score is in the average range when compared to others at his age level. His auditory processing score is low average; his fluid reasoning score is in the low range. Rosario's comprehension-knowledge, long-term retrieval, processing speed, and short-term memory scores are in the very low range. When scores for a selected set of his cognitive abilities were compared, Rosario demonstrated a significant strength in visual processing. He demonstrated significant weaknesses in long-term retrieval and processing speed.


When compared to others at his age level, Rosario's fluency with academic tasks is limited. His ability to apply academic skills is very limited.

When compared to others at his age level, Rosario's proficiency is limited in broad mathematics, math calculation skills, broad written language, written expression, and brief writing. His proficiency is very limited (compared to age peers) in broad reading, brief reading, and brief mathematics. No significant strengths or weaknesses were found among the scores for a selected set of Rosario's achievement areas.

After reviewing previous records and current assessment, it is evident that Rosario's behavior was a manifestation of his **disability**. Rosario's cognitive and comprehensive skills are extremely low which can make it difficult for him to process the differences between right and wrong: He can be easily influenced to do wrong.

After reviewing Rosario's IEP at the time of the incident, it appears that the services, accommodations/modifications, and behavior goals were being implemented as written.

The information from this assessment will be reviewed by the IEP team and used to determine appropriate placement and services.

  
 Lupe Perales  
 School Psychologist  
 Fullerton Joint Union High School District

**PROOF OF SERVICE BY MAIL**  
(Cal. Rules of Court, rules 1.21, 8.50.)

I, Cindy Brines, declare that: I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is P.O. Box 138, Verdugo City, CA 91046.

I further declare that I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United State Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business.

I caused to be served the following document: **Request for Judicial Notice**, by placing a true copy in a separate envelope addressed to each addressee, respectively, as follows:

R.V.  
c/o Cindy Brines  
P.O. Box 138  
Verdugo City, CA 91046

I then sealed the envelope and, with the postage fully prepaid, I placed the envelop in the United States mail, this same day, at Verdugo City, California.

**PROOF OF SERVICE BY ELECTRONIC SERVICE**  
(Cal. Rules of Court, rules 2.251(i)(1)(A)-(D) & 8.71(f)(1)(A)-(D).)

Furthermore, I, Cindy Brines, declare I electronically served from my electronic service address of cindybrines@sbcglobal.net the above references document on March 7, 2014 at 9:30 a.m. to the following entities:

APPELLATE DEFENDERS INC, eservice-criminal@adi-sandiego.com

ATTORNEY GENERAL'S OFFICE, ADIService@doj.ca.gov

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 7, 2014

  
CINDY BRINES