

**District of Columbia**  
**Office of the State Superintendent of Education**  
Office of Review and Compliance  
Student Hearing Office

1150 5th Street, SE  
Washington, DC 20003  
Tel: 202-698-3819  
Fax: 202-698-3825

**Confidential**

OSSE  
STUDENT HEARING OFFICE  
2009 APR 24 AM 11:22

<p>STUDENT<sup>1</sup>, by and through his Parent</p> <p>Petitioners,</p> <p>v.</p> <p>DCPS</p> <p>Respondent.</p> <p>Case</p>	<p>HEARING OFFICER'S DETERMINATION</p> <p>Hearing Date: April 13, 2009</p> <p><u>Representatives:</u></p> <p>Counsel for Petitioners: Domiento C.R. Hill, Esq. Miguel Hull, Esq. 1220 L Street, NW Suite 700 Washington, DC 20002</p> <p>Counsel for DCPS: Harsharen Bhuller, Esq. Office of General Counsel 825 North Capitol St. NE Washington, DC 20002</p> <p><u>Hearing Officer:</u> <u>Coles B. Ruff, Esq.</u></p>
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<sup>1</sup> Personally identifiable information is attached as Appendices A & B to this decision and must be removed prior to public distribution.

**JURISDICTION:**

The hearing was conducted and this decision was written pursuant to the *Individuals with Disabilities Act* (I.D.E.A.), P.L. 101-476, as amended by P.L. 105-17 and the *Individuals with Disabilities Education Improvement Act of 2004* (I.D.E.I.A.), District of Columbia Code, Title 38 Subtitle VII, and the District of Columbia Municipal Regulations, Title 5 Chapters 25 and 26, as revised.

**PROCEDURAL BACKGROUND:**

A Due Process Hearing was convened on April 13, 2009, at the Van Ness School, 1100 5<sup>th</sup> Street, SE, Washington, DC 20003. The hearing was held pursuant to a due process complaint submitted by the counsel for the parent and student filed on March 20, 2009, alleging the issues outlined below.

**RELEVANT EVIDENCE CONSIDERED:**

The Hearing Officer considered the representations made on the record by each counsel which may have resulted in stipulation of fact if noted, the testimony of the witness(es) and the documents submitted in the parties' disclosures (Petitioner's 1-50 and DCPS 1-10) which were admitted into the record.

**ISSUE(S):** <sup>2</sup>

1. Did DCPS fail to provide the student with a free and appropriate public education by find the student find the student eligible for special education services by reason of being emotionally disturbed and learning disabled?
2. Did DCPS fail to provide the student with a free and appropriate public education by failing to place the student in appropriate placement?
3. Whether the student is entitled to receive compensatory education due to the denials of FAPE?

**SUMMARY OF THE RELEVANT EVIDENCE:**

The Hearing Officer considered the representations made on the record by each counsel, the testimony of the witness(es) and the documents submitted in the parties' disclosures (Petitioner's Exhibits 1-50 and DCPS 1-10) which were admitted into the record. The parties agreed at this hearing to settle the due process complaint and agreed to relief for Petitioner as is described in the Order below.

<sup>2</sup> The alleged violation(s) and/or issue(s) raised in the complaint may or may/not directly correspond to the issue(s) outlined here. However, the issue(s) listed here were reviewed during the hearing and clarified and agreed to by the parties as the issue(s) to be adjudicated. Any other issue(s) raised in the complaint was withdrawn.

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**FINDINGS OF FACT:**

The parties reached an agreement to settle the due process complaint and asked that the settlement be incorporated into a Hearing Officer's Determination (HOD).

**CONCLUSIONS OF LAW:**

The Hearing Officer concludes based upon the agreement reached by the parties that with the Order the below the due process complaint is settled.

**ORDER:**

1. DCPS shall fund and Petitioner is authorized to obtain an independent functional behavioral assessment of the student.
2. Petitioner will attempt to have the FBA completed by May 1, 2009.
3. DCPS shall convene an eligibility meeting to determine the student's eligibility for special education services within forty-five days of its receipt of the independent FBA.
4. The independent FBA shall be provided by Petitioner to the special education coordinator of the student school of attendance.
5. DCPS will be given a day for a day extension of any of the prescribed time frames in this Order for any delay caused by the student, the parent(s) and/or their representative(s).

**APPEAL PROCESS:**

This is the final administrative decision in this matter. Appeals on legal grounds may be made to a court of competent jurisdiction within 90 days of the rendering of this decision.



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**Coles B. Ruff, Esq.**  
**Hearing Officer**  
**Date: April 24, 2009**