

**DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**

Student Hearing Office
810 First Street, N.E.
Washington, D.C. 20002

Parent, on behalf of)
STUDENT,¹)
)
Petitioner,)
)
v.)
)
PUBLIC CHARTER SCHOOL,)
)
and)
)
THE OFFICE OF STATE)
SUPERINTENDENT OF EDUCATION,)
)
Respondents.)

Hearing Officer: Frances Raskin

OSSE
STUDENT HEARING OFFICE
2012 JUN 22 AM 9:11

HEARING OFFICER DETERMINATION

I. JURISDICTION

This proceeding was invoked in accordance with the Individuals With Disabilities Education Act ("IDEA"), as amended in 2004, codified at 20 U.S.C. §§ 1400, *et seq.*; the District of Columbia Code, §§ 38-2561.01, *et seq.*; the federal regulations implementing IDEA, 34 C.F.R. §§ 300.1, *et seq.*; and the District of Columbia regulations at D.C. Mun. Reg. tit. 5-E §§ 3000, *et seq.*

II. BACKGROUND

("Petitioner") is the parent of a _____ year-old student ("Student") with a disability. On March 23, 2012, Petitioner filed a due process compliant ("Complaint") against an independent public charter school ("Charter School") alleging violations of the IDEA.

On March 26, 2012, this Hearing Officer was assigned to preside over this case. On April 5, 2012, Respondent Charter School filed a timely response to the Complaint

¹ Personal identification information is provided in Attachment A.

("Charter School Response").² Accompanying the Charter School Response was a Motion to Join the Office of State Superintendent of Education ("OSSE") as a Necessary Party ("Motion").

On April 24, 2012, OSSE filed a response to the Motion.³ In the Response, OSSE agreed to be joined as a party in this case. On May 1, 2012, this Hearing Officer issued an order imploding OSSE as a respondent in this case.

On April 6, 2012, Petitioner and the Charter School participated in a resolution meeting but did not resolve the Complaint. They agreed to continue to work to resolve the Complaint through the end of the resolution session. Thus, the resolution period ended on April 22, 2012. The parties agreed that the forty-five day, due process hearing timeline began on April 23, 2012.

On May 1, 2012, and May 8, 2012, this Hearing Officer held prehearing conferences in which Counsel for Petitioner, Counsel for the Charter School, and Counsel for OSSE, participated. During the prehearing conference, the parties agreed to proceed to hearing on May 8, and 11, 2012. The parties agreed that the five-day disclosures would be filed by 11:59 p.m. on May 1, 2012.

On May 17, 2012, this Hearing Officer issued a prehearing conference summary and order ("prehearing order").⁴ At the request of Counsel for OSSE, this Hearing Officer issued a revised prehearing order on May 22, 2012.

The due process hearing commenced at 11:00 a.m. on June 8, 2012. At the outset of the hearing, this Hearing Officer entered into evidence Petitioner's proposed exhibits,⁵ the Charter School's proposed exhibits,⁶ and OSSE's proposed exhibits.⁷ Petitioner testified and presented one witness on her behalf, the educational advocate ("Advocate").

² Respondent did not challenge the sufficiency of the Complaint.

³ OSSE did not provide a copy of its response to this Hearing Officer. This Hearing Officer did not receive a copy of the Response until April 27, 2012, when the Student Hearing Office staff uploaded it to i-Sight, the case management database.

⁴ At the request of Counsel for the Charter School, this Hearing Officer waited for the parties to confirm the availability of their witnesses before issuing the prehearing order. On May 10, 2012, Counsel for Petitioner confirmed the availability of Petitioner's witnesses for the due process hearing the parties agreed to schedule for May 8, and 11, 2012. On May 11, 2012, Counsel for OSSE confirmed the availability of OSSE's witnesses. On May 16, 2012, Counsel for the Charter School confirmed the availability of the Charter School's witnesses for the hearing on May 8, and 11, 2012. This Hearing Officer had eight-hour due process hearings on May 16 and 17, 2012, and issued the prehearing order after the conclusion of the hearing on May 17, 2012.

⁵ This Hearing Officer admitted into evidence Petitioner's exhibits 1-3; 5- 8; exhibit 9, pages 1 through 11; exhibits 10-12; 14, 15, 17; exhibits 19-35; and exhibits 38 and 39.

⁶ This Hearing Officer admitted into evidence Respondent's exhibits 1-34, inclusive.

After Petitioner rested her case, OSSE made a motion for directed verdict. This Hearing Officer denied the motion on the grounds that she would not be able to decide such a motion without time to review the hundreds of pages of documentary evidence and consider Petitioner's testimony in light of the documentary evidence. This Hearing Officer explained that, due to the strict timelines that apply to IDEA due process hearings, she would not have sufficient time to conduct a review of the documents and testimony, reconvene the due process hearing if necessary, and then write the hearing officer determination ("HOD").

OSSE then presented one witness, the director of placement oversight within the OSSE Office of Special Education ("OSSE Placement Oversight Director"). The Charter School then called the Director of Student Services at the Charter School ("Charter School Director"); the Student's special education teacher at the residential treatment facility ("Teacher"); the Student's clinical therapist at the residential treatment center ("Therapist"); the lead teacher at the residential treatment center ("Lead Teacher"); and a school psychologist whom this Hearing Officer admitted as an expert in school psychology for limited purpose of testifying about the assessments she administered to the Student and her impressions ("Psychology Expert").

After the parties presented oral closing arguments, the due process hearing concluded at 2:45 p.m. on June 11, 2012.

III. ISSUES PRESENTED.

This Hearing Officer certified the following issues for adjudication at the due process hearing:

A. Whether Respondent denied the Student a free, appropriate, public education ("FAPE") between September 2010 and February 4, 2011, by failing to timely respond to Petitioner's request that the Student be placed in a residential facility, notify OSSE of Petitioner's request for a more restrictive placement for the Student, and timely review the Student's recent psychiatric assessment; and

B. Whether Respondent denied the Student a FAPE by failing to develop appropriate transition plans as part of the Student's September 20, 2010,⁸ April 15, 2011,⁹ and March 19, 2012,¹⁰ individualized educational programs ("IEP").¹¹

⁷ This Hearing Officer admitted into evidence OSSE's exhibits 1-10, inclusive.

⁸ Petitioner asserts that, in the Student's September 20, 2010, IEP, the Charter School failed to include independent living goals for personal hygiene self-advocacy, identifying health-related resources in the community, and maintaining a proper diet.

⁹ Petitioner asserts that, in the Student's April 15, 2011, IEP, the Charter School failed to include in his transition plan measurable annual transition goals in the area of postsecondary education. Petitioner asserts that, as a result, the Student has not identified

Petitioner requests relief in the form of an order reimbursement in the form of an order requiring the Charter School to reimburse her for the expense she incurred funding the Student's college tours. Petitioner further seeks an order requiring the Charter School to fund a compensatory transition plan for the Student that would include mentoring/counseling, tutoring in reading and writing assistance with filling out college applications, identifying schools, and other post-secondary education activities.

IV. FINDINGS OF FACT

1. The Student is a -year-old student who is eligible for specialized instruction and related services as a student with multiple disabilities.¹² These multiple disabilities include emotional disturbance, other health impairment, and learning disability.¹³ He exhibits moderate to severe symptoms of attention deficit hyperactivity disorder ("ADHD"), and oppositional defiant disorder.¹⁴ He experiences anxiety, social difficulties, depression, and school refusal behavior.¹⁵ His symptoms of anxiety have exacerbated and contribute to his lack of rewarding social relationships and impede his willingness to attend school.¹⁶

2. The Student has trouble adapting to changing situations and, when distressed, does not appear to possess sufficient coping skills.¹⁷ His depressive symptoms

schools he wants to attend, has not prepared for filling out college applications, and has not prepared for the SAT. Petitioner further asserts that the transition plan lacks measurable goals for postsecondary employment, including goals to assist the Student in identifying the skills he needs to be successful in employment, such as job-seeking skills, job-retention skills, social skills, and goals that would help him build self-confidence. Petitioner further asserts that the transition plan lacks independent living goals that address self-advocacy, hygiene, identifying health-related resources in the community, and maintaining a proper diet.

¹⁰ Petitioner asserts that, in the Student's March 19, 2012, IEP, the Charter School failed to include in his transition plan goals that would enable him to visit and select the college he will attend, prepare for the SAT, and complete applications for his college of choice, financial aide, and campus living.

¹¹ These claims are against the Charter School only.

¹² Charter School Exhibit 28 at 1 (April 15, 2011, IEP); Petitioner Exhibit 4 at 2 (same).

¹³ Charter School Exhibit 1 at 1 (October 13, 2009, report of Confidential Clinical Psychological Evaluation); Petitioner Exhibit 11 at 1 (same).

¹⁴ Charter School Exhibit 1 at 11; Petitioner Exhibit 11 at 10.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

include loneliness, sadness, social withdrawal, low self-confidence, and low self-esteem.¹⁸ His learning, emotional, and behavioral difficulties impact his learning.¹⁹

3. The Student attended the Charter School from fourth grade until December 2009, during his first year of high school, when the Charter School placed him in a non-public, special education day school ("Nonpublic School").²⁰ He had a difficult time transitioning to the Nonpublic School, had multiple in-school and out-of-school suspensions, and resisted attending school.²¹

4. The Student has tremendous anxiety when asked to perform a writing assignment.²² When he experiences anxiety, he lays his head down and will not respond.²³ Due to his school and social anxieties, he did not finish the last two weeks of the 2009-2010 school year, and he would not attend school or social events.²⁴

5. During the 2010 summer, the Student received extended school year services.²⁵ In July 2010, he got into a fight with a teacher and another student.²⁶ The Student seriously injured the other student.²⁷

6. After this incident, the Nonpublic School high school director ("High School Director") informed Petitioner that the Student may require a residential placement.²⁸ The High School Director suggested that Student's IEP team should meet to discuss placement for the 2010-2011 school year.²⁹

7. From August 16-21, 2010, the Student was hospitalized at the Psychiatric Institute of Washington ("PIW").³⁰ He had stopped taking his medications, stopped seeing his doctor, and stopped attending school.³¹ He became violent and committed acts of

¹⁸ *Id.*

¹⁹ Charter School Exhibit 1 at 12; Petitioner Exhibit 11 at 11.

²⁰ Testimony of Petitioner; Charter School Exhibit 5 at 24 (Email from Counsel for Charter School to OSSE Placement Oversight Director).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Testimony of Petitioner.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*; Charter School Exhibit 9 at 46 (October 14, 2010, IEP meeting notes).

³¹ Testimony of Petitioner.

domestic violence.³² The Student was again hospitalized From September 10 to September 17, 2010.³³

8. On September 3, 2012, the Nonpublic School sent an invitation for an IEP team meeting at the Nonpublic School.³⁴ The invitation stated that the purpose of the meeting was to review and update the Student's IEP.³⁵

9. On September 8, 2010, Counsel for Petitioner emailed the Nonpublic School and Petitioner to inform them that the IEP team meeting was confirmed for September 20, 2010.³⁶ In the email, Counsel for Petitioner stated that Children's National Medical Center was conducting a psychiatric evaluation of the Student and that she would like to have the report on the evaluation before the IEP team reconvenes.³⁷ She stated that, if Petitioner does not receive the report by the date of the meeting, she and Petitioner would request that the meeting be postponed until they receive the report.³⁸ She further stated that, because Petitioner was concerned about the Student's behavior and the possible need for a more restrictive school setting for him, the team should review the recommendations in the report of the psychiatric evaluation.³⁹

10. On September 14, 2010, Counsel for the Charter School emailed the OSSE Placement Oversight Director and the OSSE Change in Placement Coordinator ("OSSE Placement Coordinator") to invite them to participate in the September 20, 2010, meeting.⁴⁰ In the email, Counsel for the Charter School stated that it was her understanding that Petitioner had requested the meeting to discuss changing the Student's placement to a more restrictive environment.⁴¹ Counsel for the Charter School further stated that she believed that Petitioner would like the IEP team to consider a residential placement for the Student.⁴²

11. At 7:45 a.m. on September 20, 2010, Counsel for Petitioner emailed the Charter School Director to inform her that the IEP team meeting scheduled for that day

³² *Id.*

³³ *Id.*; Charter School Exhibit 9 at 46.

³⁴ Charter School Exhibit 2 at 15 (September 3, 2010, Letter of Invitation to a Meeting).

³⁵ *Id.*

³⁶ Petitioner Exhibit 15 at 1-2 (September 8, 2010, email from Counsel for Petitioner to Nonpublic School special education teacher, Petitioner); Charter School Exhibit 3 at 18 (same).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Charter School Exhibit 5 at 24.

⁴¹ *Id.*

⁴² *Id.*

should be rescheduled until she and Petitioner receive the recommendations of the psychiatrist at PIW.⁴³

12. On September 24, 2010, Petitioner sent a written request for a psychiatric evaluation of the Student to the principal of the Nonpublic School.⁴⁴ Petitioner sent a copy of this request to the Charter School Director.⁴⁵

13. On October 14, 2010, Petitioner, her attorney, and her former educational advocate ("Former Advocate") attended a meeting of the Student's IEP team.⁴⁶ The Charter School Director, Counsel for the Charter School, the OSSE Placement Coordinator, and two representatives of the Nonpublic School also attended the meeting.⁴⁷ The purpose of the meeting was to discuss the Student's progress, placement, and Petitioner's request for a psychiatric evaluation.⁴⁸

14. At the October 14, 2010, meeting, the meeting participants discussed the process for placing the Student at a residential facility.⁴⁹ The participants discussed the fact that a psychiatric evaluation must be conducted before the Student could be placed in a residential facility.⁵⁰ The team needed the psychiatric assessment to inform them of the Student's needs, the type of residential facility that would be appropriate for the him.⁵¹ Before the end of the meeting, the Charter School authorized Petitioner to obtain an independent psychiatric evaluation.⁵²

15. Petitioner informed the participants that, as of at the October 14, 2010, meeting, the Student had not gotten out of bed or put on clothes in three weeks.⁵³ She reported that, during these three weeks, he has showered only once.⁵⁴ She said she has made many efforts, including calling the Nonpublic School therapist to coax him out of his bed and out of the house, she tried to wake the Student and take him to school, and finally

⁴³ Charter School Exhibit 4 at 21 (September 20, 2010, email from Counsel for Petitioner to Charter School Director).

⁴⁴ Petitioner Exhibit 19 at 3 (September 24, 2010, letter from Counsel for Petitioner to principal of Nonpublic School).

⁴⁵ *Id.* at 2.

⁴⁶ Petitioner Exhibit 7 at 1 (October 14, 2010, Advocate's Notes).

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.* at 4; Charter School Exhibit 9 at 46.

⁵⁰ Petitioner Exhibit 7 at 4; testimony of Petitioner.

⁵¹ Testimony of Petitioner.

⁵² Petitioner Exhibit 7 at 6-7; Charter School Exhibit 9 at 46.

⁵³ Petitioner Exhibit 7 at 5.

⁵⁴ *Id.*

called the police department for assistance.⁵⁵ She said the Student did not listen to her and only once responded to these efforts.⁵⁶

16. At the October 14, 2010, meeting, the meeting participants discussed the fact that the Student's IEP had expired.⁵⁷ Petitioner agreed to allow the Nonpublic School continue to implement the expired IEP as the Student had not been attending school.⁵⁸

17. On October 25, 2010, Counsel for Petitioner informed the OSSE Placement Coordinator, the Charter School Director, and Counsel for the Charter School that the police had just taken the Student to PIW.⁵⁹ That same day, Counsel for the Charter School emailed Petitioner, Counsel for Petitioner, Petitioner's Former Advocate, the Charter School Director to inform them that, given the difficulty the Student was having, the Charter School had determined that the Student's placement should be changed to a residential facility.⁶⁰

18. On October 28, 2010, the OSSE Placement Coordinator responded that, as of that day, OSSE would move forward with a change in the Student's placement to a residential placement.⁶¹

19. On November 19, 2010, Counsel for Petitioner emailed to the OSSE Placement Coordinator and Counsel for the Charter School a copy of the psychiatric evaluation, which was conducted on October 21, 2010.⁶² The evaluation recommended that the Student be placed in a residential treatment center ("RTC") program.⁶³ It further recommended that the Student be prescribed psychotropic medications and that he remain compliant with dosage instructions.⁶⁴

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* at 7.

⁵⁸ *Id.*

⁵⁹ Charter School Exhibit 12 at 60 (October 25, 2010, email from Counsel for Petitioner to OSSE Placement Coordinator, Charter School Director, Counsel for Charter School).

⁶⁰ *Id.* at 56-57, 59 (October 25, 2010, email from Counsel for the Charter School to Counsel for Petitioner, Petitioner, Petitioner's Former Advocate, Charter School Director, and OSSE Placement Coordinator).

⁶¹ *Id.* at 56 (October 26, 2010, email from OSSE Placement Coordinator to Petitioner, Counsel for Petitioner, Petitioner's Former Advocate, the Charter School Director, and Counsel for the Charter School, etc.)

⁶² Respondent Exhibit 15 at 73 (November 19, 2010, email from Counsel for Petitioner OSSE Placement Coordinator, Counsel for Charter School); Petitioner Exhibit 10 at 1 (October 21, 2010, Psychiatric Evaluation).

⁶³ *Id.* at 3.

⁶⁴ *Id.*

20. On November 19, 2010, the OSSE Placement Coordinator responded to Counsel for Petitioner that OSSE still needed Petitioner's signature on an interstate compact form in order to process the request for residential placement.⁶⁵ A child may move to an out-of-state facility unless an interstate compact form is completed and signed by the parent, OSSE, and the receiving state.⁶⁶

21. On November 24, 2010, the Charter School Director sent a letter to Counsel for Petitioner informing her of the dates and times the IEP team was available for a meeting.⁶⁷ The Charter School Director requested that Counsel for Petitioner inform her of the date and time that would be most convenient for them.⁶⁸ On December 2, 2010, Petitioner's Former Advocate responded by email that she and Petitioner would be available for the meeting on December 6, 2010.⁶⁹

22. Petitioner, her Former Advocate, the OSSE Placement Coordinator, the Charter School Director, and the Student's psychiatrist ("Psychiatrist") attended the December 6, 2010, meeting.⁷⁰ During the December 6, 2010, meeting, the participants discussed various residential treatment facility options for the Student.⁷¹ At the end of the meeting, Petitioner informed the participants that the Student would remain at PIW until his residential placement is finalized.⁷²

23. On January 5, 2011, Counsel for Petitioner informed the Charter School Director and the OSSE Placement Coordinator that the Residential Treatment Center ("RTC") had accepted the Student for admission.⁷³

24. On January 7, 2011, Counsel for Petitioner provided the OSSE Placement Coordinator the interstate compact form that Petitioner had signed the previous day.⁷⁴ That same day, the OSSE Placement Coordinator thanked Counsel for Petitioner and

⁶⁵ Charter School Exhibit 16 at 78 (November 19, 2010, email from OSSE Placement Coordinator to Counsel for Petitioner).

⁶⁶ Testimony of OSSE Placement Oversight Director.

⁶⁷ Respondent Exhibit 16 at 81 (November 24, 2010, Letter from Charter School Director to Counsel for Petitioner).

⁶⁸ *Id.*

⁶⁹ Petitioner Exhibit 30 at 1 (December 2, 2010, email from Advocate to Charter School Director, Counsel for Charter School, Counsel for Petitioner, Petitioner, OSSE Placement Coordinator, and OSSE Placement Oversight Director).

⁷⁰ Charter School Exhibit 17 at 89 (December 6, 2010, Multidisciplinary Team Meeting Notes).

⁷¹ *Id.*

⁷² *Id.*

⁷³ Charter School Exhibit 18 at 100 (January 5, 2011, email from Counsel for Petitioner to Charter School Director, OSSE Placement Coordinator).

⁷⁴ Charter School Exhibit 18 at 99 (January 7, 2011, email from Counsel for Petitioner to OSSE Placement Coordinator).

informed her that she would obtain the necessary signatures and send the interstate compact form to the District of Columbia Child and Family Services Agency ("CFSA") right away.⁷⁵

25. On January 11, 2011, the OSSE Placement Coordinator informed Petitioner, Counsel for Petitioner, the Charter School Director, and Counsel for the Charter School that the signed interstate compact documents had been submitted to CFSA.⁷⁶ On January 21, 2011, the OSSE Placement Coordinator sent a letter to Petitioner informing her that OSSE had issued a location assignment for the Student to attend RTC.⁷⁷

26. On February 3, 2011, the OSSE Placement Coordinator sent an email informing Petitioner, Counsel for Petitioner, Petitioner's Former Advocate, the Charter School Director, and Counsel for the Charter School that transportation had been scheduled to transport the Student to the RTC on February 4, 2011.⁷⁸ In the email, the OSSE Placement Coordinator stated that the transportation would arrive at 7:00 a.m. and that Petitioner must be present.⁷⁹ She stated that the transportation company would take Petitioner and the Student to the RTC for the admissions process.⁸⁰ She stated that, once the admissions process was complete, the transportation company would transport Petitioner back to her home.⁸¹

27. The Student was hospitalized at PIW from October 2010 to February 2011.⁸² For the four months he was at PIW, the Student did not earn any academic credits.⁸³ Due to his refusal to attend school and repeated hospitalizations, the Student missed half of the 2010-2011 school year.⁸⁴

28. On March 19, 2012, the Charter School and the RTC held an IEP meeting.⁸⁵ Petitioner attended the meeting with the Advocate.⁸⁶ At the meeting, they discussed Petitioner's request for funding for the Student to travel home that weekend for a college

⁷⁵ *Id.* (January 7, 2011, email from OSSE Placement Coordinator to Counsel for Petitioner).

⁷⁶ Charter School Exhibit 18 at 98 (January 11, 2011, email from OSSE Placement Coordinator to Petitioner, Counsel for Petitioner, the Charter School Director, and Counsel for the Charter School).

⁷⁷ Charter School Exhibit 20 at 128 (January 21, 2011, letter from OSSE Placement Coordinator to Petitioner).

⁷⁸ *Id.* at 133 (February 3, 2011, email from OSSE Placement Coordinator to Petitioner, etc.).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Testimony of Petitioner, Advocate; Charter School Exhibit 30 at 213 (March 19, 2012, IEP meeting notes).

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Charter School Exhibit 30 at 213.

tour.⁸⁷ Since the Student had not had any behavioral infractions for more than a year, the RTC staff suggested that the Student take a bus or a train home and back to the RTC.⁸⁸ They felt it would be good practice for the Student since he was graduating that year.⁸⁹ OSSE offered to reimburse Petitioner for the bus or train ticket.⁹⁰ Petitioner and the Advocate objected, stating that the Student should be transported under supervision by the same provider who originally transported him to the RTC.⁹¹

29. At the March 19, 2012, meeting, the IEP team discussed the Student's transition goals.⁹² Petitioner requested goals that would assist the Student with completing college applications, registering for the Scholastic Aptitude Test ("SAT"), and attending and participating in college tours.⁹³ The Charter School and the RTC did not agree that these goals should be added to the Student's IEP.⁹⁴

30. At the March 19, 2012, meeting, the RTC reviewed emails from December 1, 2011, February 27, 2012, and March 6, 2012, that informed Petitioner that she needed to register the Student for the SAT electronically.⁹⁵ The Charter School informed Petitioner that she needed to request that the Student receive accommodations when he takes the SAT.⁹⁶ The Charter School offered to assist Petitioner with this process.⁹⁷

31. Petitioner then requested reimbursement for a college tour for the Student that would take place from March 28-April 1, 2012.⁹⁸ The Charter School agreed to discuss this further with Petitioner.

32. At the March 19, 2012, meeting, the IEP team reviewed a transition plan that the RTC had drafted for the Student.⁹⁹ This plan included goals in the area of post-secondary education and training, employment, and independent living.¹⁰⁰

33. Petitioner funded the Student's round-trip bus transportation from the RTC to Washington, DC in March 2012.¹⁰¹ She also funded the college tour so that he could get

⁸⁷ *Id.*

⁸⁸ Charter School Exhibit 30 at 213.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.* at 214.

⁹² *Id.*

⁹³ *Id.* at 214-15.

⁹⁴ *Id.* at 215.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.* at 215-16.

⁹⁹ *Id.* at 214.

¹⁰⁰ *Id.* at 218.

¹⁰¹ Testimony of Petitioner.

some experience with campus life and what would be expected of him if he attended college.¹⁰² The bus ticket cost twenty-six dollars.¹⁰³ The college tour, which was organized by a local church, cost four hundred dollars.¹⁰⁴

34. Since arriving at the RTC on February 4, 2011, the Student has completed all the credits he needed to graduate on June 12, 2012.¹⁰⁵ He completed all the community service hours required for his high school diploma.¹⁰⁶

35. After his first six months at the RTC, during which he committed many behavioral infractions, the Student made significant behavioral progress.¹⁰⁷ He performed well on the RTC point system, earning ninety-nine to one hundred percent of his behavioral points.¹⁰⁸ Behaviorally, he did so well that he was selected as a school delegate.¹⁰⁹

36. As a delegate, the Student was required to dress appropriately, demonstrate knowledge of the campus, walk people around the campus and talk to them about campus.¹¹⁰ He also was involved in cleaning up the campus and cleaning up and organizing the gym.¹¹¹ He was paid for this work and was required to organize his hours, and submit his hours biweekly.¹¹² The Teacher reviewed the Student's pay stubs with him, and showed him where his taxes were taken out of his pay, and what each box on the pay stub represented.¹¹³

37. As part of his job as a delegate, the Student was required to exhibit good person hygiene and self care.¹¹⁴ The Teacher also reviewed these topics as part of the Student's social skills classes.¹¹⁵ The Teacher taught the Student about the importance of keeping his clothes clean, brushing his teeth, showering, and putting his clothes in the laundry after he wore them.¹¹⁶ The Teacher reviewed these skills with the Student more than twice a week.¹¹⁷

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Testimony of Petitioner.

¹⁰⁶ Testimony of Teacher.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

38. In the area of written expression, the Student worked on his prewriting strategies such as brainstorming, defining purpose of writing, and developing outlines.¹¹⁸ He worked on following outline to develop drafts of his writing assignments, checking spelling, and editing.¹¹⁹ As a result, he wrote stories, finished his work, edited it, and helped other students in the classroom.¹²⁰

39. At the RTC, the Student also worked on his transition goals.¹²¹ He was instructed in the job application process.¹²² He identified his career interests and identified jobs that matched his skills and interests.¹²³ He filled out job applications, wrote cover letters, and participated in mock interviews.¹²⁴ He demonstrated effective interview skills.¹²⁵

40. In the area of budgeting and finances, he demonstrated the ability to fill out a check book, complete a bank deposit, balance a check book, identify billing statements and make payments.¹²⁶ He also identified his cost of living, budgeted money and expenses of living on a minimum wage, and demonstrated the ability to make a transaction and manage finances.¹²⁷ He used the Internet to learn about jobs, school programs, training, salaries, the college and job application process, and employment opportunities.¹²⁸

41. He received instruction in preparing for the scholastic aptitude test ("SAT"), took practice SATs, and received one-on-one SAT tutoring once a week and during his free time.¹²⁹ He was given material and instructed on basic college application processes.¹³⁰ He completed worksheets and lessons that covered the information required in an application, such as descriptions of his strengths, achievements, personal information, and areas of interest.¹³¹ He worked on the written requirements of college applications, such as writing a paragraph explaining why he was applying for that school or college.¹³² He now understands what is required to complete a college application.¹³³

¹¹⁸ Testimony of Teacher.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ Testimony of Teacher.

¹²² Charter School Exhibit 30 at 217.

¹²³ *Id.* at 218.

¹²⁴ *Id.* at 217.

¹²⁵ *Id.* at 218.

¹²⁶ *Id.* at 217-18.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.* at 218; testimony of Teacher.

¹³⁰ Testimony of Teacher.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

42. At the RTC, his accomplishments included attending and participating in IEP meetings, working on community and peer relations, learned to ask for help and identify strengths and weaknesses.¹³⁴ He arrived on time to class, work, appointments and social activities.¹³⁵ He advocated for his needs and sought out assistance.¹³⁶

43. Petitioner registered the Student for the SAT.¹³⁷ She did not request assistance from the Charter School and thus the Student was not provided accommodations when he took the SAT in May and June 2012.¹³⁸ As a result, the Student performed poorly on both tests.¹³⁹ He had a meltdown during the June 2012 exam.¹⁴⁰

44. Petitioner provided testimony that was credible in many aspects but not credible on the issues in this case. While she testified credibly about the events that led up to the Student's placement at the RTC, she was less credible about his progress once he was there. Petitioner's testimony that the Student received no transition services was not credible, as was her testimony that the Student had not improved his personal hygiene, had not learned the importance of personal hygiene, had not prepared for the SAT, and was unprepared for independent living. Petitioner's testimony was based on two short visits with the Student and contradicted by the testimony of the Teacher, who testified in detail about the Student's progress in these areas. Additionally, Petitioner did not appear to have a firm grasp of the key dates in this case, and this further undermined her testimony.

45. The Advocate provided limited testimony. She served as Petitioner's advocate for only two months and thus had limited knowledge of the events in this case. She did provide detailed and credible testimony about the March 19, 2012, IEP meeting, Petitioner's request for funding of college tours for the Student, and the Student's readiness for college. In general, the Advocate's testimony was credible.

46. The Teacher was a credible witness. He provided forthright testimony about the Student's challenges when he arrived at the RTC. He provided detailed testimony about the subjects the Student worked on while at the RTC, and his progress in these subjects. His testimony was uncontroverted.

47. The OSSE Placement Oversight Director provided credible testimony about OSSE's procedures for placing students in more restrictive environments. Petitioner presented no testimony or documentary evidence that contradicted the testimony of this witness.

¹³⁴ Charter School Exhibit 30 at 218.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Testimony of Petitioner.

¹³⁸ Testimony of Charter School Director.

¹³⁹ Testimony of Petitioner.

¹⁴⁰ *Id.*

48. The School Director provided credible testimony about the process of placing the Student at the RTC, Petitioner's request for funding for the Student's college tour, and the registration of the Student for the SAT. The documentary evidence introduced by both Petitioner and the Charter School corroborated the School Director's testimony.

49. The remaining witnesses, the Therapist, Lead Teacher, and Psychology Expert, testified credibly. While their testimony provided insight into the Student, his disability, and his behavioral challenges, it had little bearing on the outcome of this case.

V. CONCLUSIONS OF LAW

The purpose of IDEA is "to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs."¹⁴¹ Implicit in the congressional purpose of providing access to a FAPE is the requirement that the education to which access is provided be sufficient to confer some educational benefit upon the handicapped child.¹⁴² FAPE is defined as:

[S]pecial education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the SEA . . . include an appropriate preschool, elementary school, or secondary school education in the State involved; and are provided in conformity with the individualized education program (IEP).¹⁴³

In deciding whether Respondent provided a student a FAPE, the inquiry is limited to (a) whether Respondent complied with the procedures set forth in IDEA; and (b) whether the student's IEP is reasonably calculated to enable the student to receive educational benefit.¹⁴⁴ Under this second "substantive" prong, a school district need not maximize the potential of children with disabilities, but the door of public education must be opened in a meaningful way, and the IEP must provide the opportunity for more than only "trivial advancement."¹⁴⁵

In matters alleging a procedural violation, a hearing officer may find that the child did not receive FAPE only if the procedural inadequacies impeded the child's right to FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding provision of FAPE, or caused the child a deprivation of educational

¹⁴¹ *Bd. of Educ. v. Rowley*, 458 U.S. 176, 179-91 (1982); *Hinson v. Merritt Educ. Ctr.*, 579 F. Supp. 2d 89, 98 (2008) (citing 20 U.S.C. § 1400(d)(1)(A)).

¹⁴² *Rowley*, 458 U.S. at 200; *Hinson*, 579 F. Supp. 2d. at 98 (citing *Rowley*, 458 U.S. at 200).

¹⁴³ 20 U.S.C. § 1401 (9); 34 C.F.R. § 300.17.

¹⁴⁴ *Rowley*, 458 U.S. at 206-207.

¹⁴⁵ *P. v. Newington Bd. of Educ.*, 546 F.3d. 111 (2nd Cir. 2008) (citations omitted).

benefits.¹⁴⁶ In other words, an IDEA claim is viable only if those procedural violations affected the student's *substantive* rights.¹⁴⁷

The burden of proof is properly placed upon the party seeking relief.¹⁴⁸ Petitioner must prove the allegations in the due process complaint by a preponderance of the evidence.¹⁴⁹ The preponderance of evidence standard simply requires the trier of fact to find that the existence of a fact is more probable than its nonexistence.¹⁵⁰ In other words, preponderance of the evidence is evidence that is more convincing than the evidence offered in opposition to it.¹⁵¹

The burden of proof is properly placed upon the party seeking relief.¹⁵² Petitioner must prove the allegations in the due process complaint by a preponderance of the evidence.¹⁵³

The preponderance of evidence standard simply requires the trier of fact to find that the existence of a fact is more probable than its nonexistence.¹⁵⁴ In other words, preponderance of the evidence is evidence that is more convincing than the evidence offered in opposition to it.¹⁵⁵ Unlike other standards of proof, the preponderance-of-evidence standard allows both parties to share the risk of error in roughly equal fashion,¹⁵⁶ except that when the evidence is evenly balanced, the party with the burden of persuasion must lose.¹⁵⁷

¹⁴⁶ 34 C.F.R. § 300.513 (a)(2).

¹⁴⁷ *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006) (emphasis in original; internal citations omitted).

¹⁴⁸ *Schaffer v. Weast*, 546 U.S. 49, 56-57 (2005).

¹⁴⁹ 20 U.S.C. § 1415 (i)(2)(c). See also *Reid v. District of Columbia*, 401 F.3d 516, 521 (D.C. Cir. 2005) (discussing standard of review).

¹⁵⁰ *Concrete Pipe & Products of California, Inc. v. Construction Laborers Pension Trust for Southern California*, 508 U.S. 602, 622 (1993) (internal quotation marks omitted).

¹⁵¹ *Greenwich Collieries v. Director, Office of Workers' Compensation Programs*, 990 F.2d 730, 736 (3rd Cir. 1993), *aff'd*, 512 U.S. 246 (1994).

¹⁵² *Schaffer v. Weast*, 546 U.S. 49, 56-57 (2005).

¹⁵³ 20 U.S.C. § 1415 (i)(2)(c). See also *Reid v. District of Columbia*, 401 F.3d 516, 521 (D.C. Cir. 2005) (discussing standard of review).

¹⁵⁴ *Concrete Pipe & Products of California, Inc. v. Construction Laborers Pension Trust for Southern California*, 508 U.S. 602, 622 (1993) (internal quotation marks omitted).

¹⁵⁵ *Greenwich Collieries v. Director, Office of Workers' Compensation Programs*, 990 F.2d 730, 736 (3rd Cir. 1993), *aff'd*, 512 U.S. 246 (1994).

¹⁵⁶ *Herman & MacLean v. Huddleston*, 459 U.S. 375, 390 (1983) (internal quotation marks omitted).

¹⁵⁷ *Director, Office of Workers' Compensation Programs v. Greenwich Collieries*, 512 U.S. 267, 281 (1994).

VI. DISCUSSION

A. Petitioner Failed to Prove that the Charter School Denied the Student a FAPE between September 2010 and February 4, 2011, by Failing to Timely Respond to Petitioner's Request that the Student be Placed in a Residential Facility, Notify OSSE of Petitioner's Request for a More Restrictive Placement for the Student, and Timely Review the Student's Recent Psychiatric Assessment.

Each public agency must ensure that, as soon as possible following the development of an IEP, special education and related services are made available to the child in accordance with the child's IEP.¹⁵⁸ In order to implement the IEP, a team that includes the child's parents determines where the child should be placed based on the child's IEP.¹⁵⁹ Thus, the placement should not dictate the IEP but rather the IEP determines whether a placement is appropriate.¹⁶⁰

In determining the appropriate placement for a child, preference given to the least restrictive environment and the appropriate schools nearest the child's home.¹⁶¹ The IDEA requires that unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled.¹⁶² In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of the services that he or she needs.¹⁶³ A child with a disability is not removed from education in age appropriate regular classrooms solely because of needed modifications in the general education curriculum.¹⁶⁴

Further, mainstreaming of children eligible for special education services under the IDEA is not only a laudable goal but is also a requirement of the Act.¹⁶⁵ If no public school can accommodate the student's needs, the government is required to place the student in

¹⁵⁸ 34 C.F.R. § 300.323 (c)(2). Public agency includes the state education agency, local education agencies ("LEAs"), educational service agencies ("ESAs"), nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of a State that are responsible for providing education to children with disabilities. 34 C.F.R. § 300.33.

¹⁵⁹ 34 C.F.R. § 300.116.

¹⁶⁰ See *Rourke v. District of Columbia*, 460 F.Supp.2d 32, 44 (D.D.C. 2006).

¹⁶¹ *Id.*

¹⁶² 34 C.F.R. § 300.116 (c).

¹⁶³ 34 C.F.R. § 300.116 (d).

¹⁶⁴ . *Id.* at (e)

¹⁶⁵ *Roark*, 460 F. Supp.2d at 43 (quoting *DeVries v. Fairfax County Sch. Bd.*, 882 F.2d 876, 878 (4th Cir. 1989)); *Rowley*, 458 U.S. at 201 (The Act requires participating States to educate handicapped children with nondisabled children whenever possible.).

an appropriate private school and pay the tuition.¹⁶⁶

Here, Petitioner informed the Charter School on September 8, 2010, that the Student may need a residential placement. Six days later, the Charter School notified OSSE of Petitioner's request. That same day, September 14, 2010, the Charter School invited Petitioner to a meeting to discuss her concerns about the Student and whether he needed to be placed in a residential facility.

Petitioner and her counsel agreed to attend a meeting on September 20, 2010. However, on the morning of September 20, 2010, counsel for Petitioner informed the Charter School that the meeting should be rescheduled.

Then, on September 24, 2010, Petitioner requested that the Charter School fund an independent psychiatric assessment of the Student.

The meeting was rescheduled for October 14, 2010. At the October 14, 2010, meeting, the meeting participants discussed the process for placing the Student at a residential facility. The participants discussed the fact that a psychiatric evaluation must be conducted before the Student could be placed in a residential facility. The team needed the psychiatric assessment to inform them of the Student's needs, the type of residential facility that would be appropriate for the him.

Before the end of the October 14, 2010, meeting, the Charter School authorized Petitioner to obtain an independent psychiatric evaluation. Thus, the Charter School responded to Petitioner's request for the evaluation within three weeks of receiving it and on the same day it was determined that a psychiatric evaluation was necessary.

Within a week of the meeting, on October 21, 2010, the psychiatric evaluation was conducted.

Within two weeks of the meeting, on October 28, 2010, OSSE informed Petitioner that it had approved her request to place the Student in a residential facility.

Yet, Petitioner failed to provide a copy of the Student's psychiatric evaluation to OSSE until November 19, 2010, almost a month after it was conducted and three weeks after OSSE had informed her that it had approved her request to place the Student in a residential facility.

On November 19, 2010, the OSSE Placement Coordinator informed Counsel for Petitioner that OSSE still needed Petitioner's signature on an interstate compact form in order to process Petitioner's request for residential placement for the Student. Yet, nearly two months passed before Petitioner returned to OSSE the signed interstate compact form.

¹⁶⁶ 20 U.S.C. § 1412(a)(10)(B)(I); see also *Sch. Comm. of Burlington v. Dep't of Educ.*, 471 U.S. 359, 369 (1985).

Finally, on January 7, 2011, Counsel for Petitioner forwarded the signed interstate compact form to OSSE.

Two weeks later, on January 21, 2011, OSSE informed Petitioner and her counsel that it had located a residential facility for the Student. The Student was transported to the RTC on February 3, 2011, just two weeks after OSSE notified Petitioner that it had located an appropriate residential facility for the Student.

Thus, Petitioner failed to prove that either the Charter School or OSSE delayed in addressing her request to place the Student in a residential facility. Rather, Petitioner is responsible for most of the delays in the process. First, Petitioner delayed providing the psychiatric evaluation to OSSE for nearly a month after it was completed. Petitioner then delayed providing OSSE the signed forms necessary to transport the Student to the RTC for another eight weeks.

By the time he arrived at the RTC, the Student had missed half a year of school. Yet, the Student made significant progress while at the RTC. He doubled up on his classes to earn all of the credits for the 2010-2011 school year in just four and a half months remaining in the school year. He also completed all of his community service hours and transition goals. He graduated from high school on June 12, 2012, at the age of seventeen.

Thus, Petitioner failed to prove that either the Charter School or OSSE failed to timely respond to her request to place the Student in a residential treatment facility. Further, Petitioner failed to show that the Student was harmed by any delay that may have occurred as he completed all his credits for the school year on time.

Thus, Petitioner failed to prove that the Charter School or OSSE denied the Student a FAPE. Instead, Petitioner was primarily to blame for any delays in the Student's enrollment and placement in the RTC.

B. Petitioner Failed to Prove that the Charter School Denied the Student a FAPE by Failing to Develop Appropriate Transition Plans as Part of His September 20, 2010, April 15, 2011, and March 19, 2012, IEPs.

School districts must ensure that "all children with disabilities residing in the State . . . who are in need of special education and related services" are identified.¹⁶⁷ Once such children are identified, a team, including the child's parents and select teachers, as well as a representative of the local educational agency with knowledge about the school's resources and curriculum, develops an individualized education program for the child.¹⁶⁸ The IEP

¹⁶⁷ *Branham v. District of Columbia*, 368 U.S. App. D.C. 151, 427 F.3d 7, 8 (D.C. Cir. 2005) (citing *Reid v. District of Columbia*, 401 F.3d 516 (D.C. Cir. 2005)).

¹⁶⁸ *Branham*, 427 F.3d at 8.

must, at a minimum, provide personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.¹⁶⁹

Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and the transition services (including courses of study) needed to assist the child in reaching those goals.¹⁷⁰

Transition services include a coordinated set of activities for a child with a disability, designed within an outcome-oriented process, that promote movement from school to post-school activities including post-secondary education; vocational training; integrated employment, including supported employment; continuing and adult education; or independent living.¹⁷¹ Transition services include activities based on the individual child's needs, taking into account the child's preferences and interests including instruction, related services, community experiences, development of employment and other post-school adult living objectives; acquisition of daily living skills, if appropriate; and a functional vocational evaluation, if appropriate.¹⁷² Transition services for children with a disability may be special education, if provided as specially designed instruction, or related services, if required to assist a child with a disability to benefit from special education.¹⁷³

Once a procedurally proper IEP has been formulated, a reviewing court should be reluctant indeed to second-guess the judgment of education professionals.¹⁷⁴ The court should not "disturb an IEP simply because [it] disagree[s] with its content."¹⁷⁵ The court is obliged to "defer to educators' decisions as long as an IEP provided the child the basic floor of opportunity that access to special education and related services provides."¹⁷⁶

The adequacy of the student's IEP is determined by whether the student has "access to specialized instruction and related services which are individually designed to provide educational benefit."¹⁷⁷ IDEA does not require that the services provided maximize each child's potential.¹⁷⁸

¹⁶⁹ *Id.* (citing *Rowley*, 458 U.S. at 203).

¹⁷⁰ 34 C.F.R. § 300.320 (b).

¹⁷¹ D.C. Mun. Regs. tit. 5-E § 3001.

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Tice v. Botetourt County School Board*, 908 F.2d 1200, 1207 (4th Cir. 1990) (internal citation and quotations omitted).

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Rowley*, 458 U.S. at 201 (1982).

¹⁷⁸ *Id.* at 198.

Here, Petitioner presented no testimony on the appropriateness of the Student's September 20, 2010, and April 15, 2011, IEPs, other than that they lacked goals to help the Student improve his personal hygiene and eating habits. Petitioner presented no testimony on whether these goals should have been included in the Student's transition plan or whether they would have been addressed in a behavior implementation plan.

Petitioner testified that she believed the Student's March 19, 2012, IEP, lacked transition goals that would enable him to visit and select the college he will attend, prepare for the SAT, and complete applications for his college of choice, financial aide, and campus living. Petitioner further testified that the IEP should have included a transition goal that would have enabled him to take a tour of prospective colleges at public expense.

Yet, Petitioner presented no testimony to show that completing college applications and taking a college tour would have been necessary elements of the Student's transition plan. In other words, Petitioner presented no evidence that the college application process, and college tours, would be the responsibility of the Charter School, as opposed to obligations of a student's parent, in this case Petitioner.

Additionally, the Student worked on personal hygiene, independent living, and college preparedness goals in these areas while at the RTC. The Teacher testified that, as a delegate, the Student was required to dress appropriately, exhibit good person hygiene and self-care. The Teacher also reviewed these topics as part of the Student's social skills classes. He taught the Student about the importance of keeping his clothes clean, brushing his teeth, showering, and putting his clothes in the laundry after he wore them.

He received instruction in preparing for the SAT, took practice SATs, and received one-on-one SAT tutoring once a week and during his free time. He was given material and instructed on basic college application processes. He completed worksheets and lessons that covered the information required in an application, such as descriptions of his strengths, achievements, personal information, and areas of interest. He worked on the written requirements of college applications, such as writing a paragraph explaining why he was applying for that school or college.

The Student was instructed in the job and college application processes. He used the Internet to learn about jobs, school programs, training, salaries, the college and job application process, and employment opportunities. He now understands what is required to complete a college application.

He identified his career interests and identified jobs that matched his skills and interests. He filled out job applications, wrote cover letters, and participated in mock interviews. He demonstrated effective interview skills. In the area of independent living, the Teacher worked with the Student on budgeting and finances. By the end of the 2011-12 school year, the Student demonstrated the ability to fill out a check book, complete a bank deposit, balance a check book, identify billing statements and make payments. He also identified his cost of living, budgeted money and expenses of living on a minimum wage, and demonstrated the ability to make a transaction and manage finances.

Thus, Petitioner failed to identify any deficiency in the Student's September 20, 2010, April 15, 2011, and March 19, 2012, transition plans. Further, she failed to identify any transition area, whether post-secondary education, employment, personal hygiene, or independent living skills, in which the Student did not receive instruction and training while at the RTC.

For this reason, Petitioner failed to prove that the Charter School denied the Student a FAPE.

ORDER

Based upon the findings of fact and conclusions of law herein, it is this twenty-first day of June hereby:

ORDERED that the Complaint is dismissed with prejudice.

By: /s/ Frances Raskin
Frances Raskin
Hearing Officer

NOTICE OF APPEAL RIGHTS

The decision issued by the Hearing Officer is a final determination on the merits. Any party aggrieved by the findings and decision of the Hearing Officer shall have 90 days from the date of the decision of the hearing officer to file a civil action, with respect to the issues presented at the due process hearing, in a district court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. § 1415(i)(2).