

DC Office of the State Superintendent of Education
 Office of Review & Compliance
 Student Hearing Office
 1150 5th Street, SE
 Washington, D.C. 20003
 CONFIDENTIAL

<p>[Parent], on behalf of [Student],</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>District of Columbia Public Schools,</p> <p style="text-align: center;">Respondent.</p>	<p>Case:</p> <p style="text-align: center;">HEARING OFFICER'S DETERMINATION</p> <p>August 7, 2009</p> <p><u>Representatives:</u></p> <p>Domiento Hill, Petitioner</p> <p>Daniel Kim, Respondent</p> <p><u>Independent Hearing Officer:</u></p> <p>Jim Mortenson</p>
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 STUDENT HEARING OFFICE

I. PROCEDURAL BACKGROUND

This matter came before Independent Hearing Officer (IHO), Jim Mortenson, at 10:00 a.m. on August 7, 2009. The hearing concluded following stipulations and a withdrawal of one of the two issues complained of and the record closed. The due date for the Hearing Officer's Determination (HOD) is August 14, 2009, in accordance with 34 C.F.R. § 300.515. This HOD is issued on August 7, 2009.

The hearing in this matter was conducted and this decision is written pursuant to the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. § 1400 et seq., and D.C. Mun. Regs. tit. 5, Chap. 30.

Present at the due process hearing were:

Petitioner's Counsel, Domiento Hill, Esq.

Respondent's Counsel, Daniel Kim, Esq.

Petitioner, Student's Grandmother

Petitioner's Education Advocate, Dori Cook

No witnesses testified and no evidence was entered into the record but for a verbal stipulation by the parties that Respondent had failed to convene an appropriate IEP team meeting, as complaint of. Respondent agreed to an order that an appropriately staffed IEP team meeting would be conducted within 30 days of the date of this order. The Petitioner then withdrew her complaint about the IEP itself, hoping that it could be resolved at the IEP team meeting. Respondent noted that it was not taking a position that the proposed IEP was not appropriate. Nevertheless, the Respondent did not object to the withdrawal and dismissal of that issue without prejudice. The issues, stipulation, conclusions, and order are documented below.

The complaint in this matter was filed on June 23, 2009. A prehearing conference was held on July 10, 2009, and a prehearing order was issued on that date. A response was filed by the Respondent on July 10, 2009.

24 documents were disclosed and filed by the Petitioner on July 31, 2009. (P 1 – P 24). None of the documents were entered into the record. Petitioner's disclosed documents are as follows:

- P 1 - Student Hearing Office, Due Process Hearing Notice
- P 2 - Administrative Due Process Complaint Notice, June 22, 2009
- P 3 - Respondent's Response, July 10, 2009
- P 4 - Respondent's Resolution Session Waiver, June 23, 2009
- P 5 - Letter from IHO Mortenson to Hill and Kim, June 30, 2009
- P 6 - Prehearing Order, July 10, 2009
- P 7 - Hearing Officer's Decision #2009-0587, May 26, 2009
- P 8 - Letter from Hill to DCPS, July 28, 2009, with Educational Evaluation Report, July 14, 2009, Key Math 3 report, July 14, 2009
- P 9 - Individualized Education Program (IEP), January 8, 2009

- P 10 - IEP meeting notes by Cook, February 18, 2009
- P 11 - Letter of Invitation to a Meeting, June 3, 2009
- P 12 - Letter from Hill to Murphy, June 3, 2009
- P 13 - Letter from Hill to Murphy, June 5, 2009
- P 14 - Letter from Hill to Nyankori, June 14, 2009
- P 15 - Letter from Murphy to Cook, June 8, 2009
- P 16 - Meeting Notice Letter of Invitation, July 6, 2009
- P 17 - Letter from Hill to Barnes, July 8, 2009
- P 18 - Meeting Notice Letter of Invitation, July 10, 2009
- P 19 - Letter from Hill to Barnes, July 13, 2009
- P 20 - Letter from Nyankori to Hill, July 7, 2009
- P 21 - Report to Parents on Student Progress, June 15, 2009
- P 22 - Progress Toward IEP Goals
- P 23 - Letter from Rhee to Carter, December 22, 2008
- P 24 - IEP, January 8, 2009

Eight documents were disclosed and filed by the Respondent on July 31, 2009. (R 1-

R 8) None of the documents were entered into the record. Respondent's disclosed

documents are as follows:

- R 1 - IEP, January 8, 2009
- R 2 - IEP, June 12, 2009
- R 3 - IEP progress report, SY 2008-2009
- R 4 - Letter from Nyankori to Hill, June 16, 2009
- R 5 - Letter from Nyankori to Hill, July 7, 2009
- R 6 - Psycho-educational Re-Evaluation, September 20, 2007
- R 7 - Educational Evaluation, October 27, 2007
- R 8 - Speech and Language Evaluation, August 27, 2007

II. ISSUES

1) Whether the Respondent failed to convene an appropriate individualized education program (IEP) team meeting in June, 2009, when it did not ensure the Student's speech and language pathologist and occupational therapist were present at the IEP team meeting?

2) Whether the Respondent failed to propose an IEP reasonably calculated to provide educational benefit when it refused to increase the Student's specialized instruction on a one on one basis in a special education research room?

III. STIPULATED FINDINGS OF FACT AND CONCLUSIONS

1. The Respondent failed to convene an appropriately constituted IEP team meeting, pursuant to 34 C.F.R. § 300.321, in June, 2009.
2. The Petitioner withdraws her complaint on Issue #2.

IV. DECISION

1. The Respondent violated 34 C.F.R. § 300.321 by not convening a properly constituted IEP team for the Student in June 2009.
2. The Petitioner's complaint regarding the appropriateness of the IEP is dismissed without prejudice.

V. ORDER

1. The Respondent must convene an appropriately constituted IEP team within 30 days of the date of this order. The Respondent must provide the Petitioner with at least three alternative times to meet (not all consecutive) and inform her of the date the IEP team will meet if she fails to select one of the proposed times. Her attorney must be copied on any correspondence or other notices sent or delivered to the Petitioner, unless directed otherwise by the Petitioner.
2. Issue #2 is dismissed without prejudice.

IT IS SO ORDERED.

Dated this 7th day of August, 2009.

A handwritten signature in black ink, appearing to be 'Jim Mortenson', written over a horizontal line.

Jim Mortenson, Esq.
Independent Hearing Officer

NOTICE OF APPEAL RIGHTS

The decision issued by the Hearing Officer is final, except that 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).