

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

Student Hearing Office
810 First Street, NE, Second Floor
Washington, DC 20002

██████████, on behalf of
██████████

Petitioner,

Hearing Officer: Kimm Massey, Esq.

v

DISTRICT OF COLUMBIA PUBLIC SCHOOLS, ██████████

Respondent.

HEARING OFFICER DETERMINATION

**BACKGROUND AND
PROCEDURAL HISTORY**

Student is a ████████ year old female, who currently attends a DCPS senior high school. On February 26, 2013, Petitioner filed a Complaint against Respondent DCPS, alleging that DCPS failed to (1) identify Student as a student with a significant emotional disturbance (“ED”) while attending a previous middle school and/or the current senior high school and/or failed to provide Student with sufficient behavioral supports and/or a functional behavior assessment (“FBA”) and behavior intervention plan (“BIP”); (2) comprehensively reevaluate Student when triennials were conducted in December 2012; (3) hold a Manifestation Determination Review (“MDR”) and/or conduct an updated FBA and BIP following Student’s long term suspension on or about February 17, 2012; (4) provide Student with an appropriate individualized education plan (“IEP”) and/or placement on or about December 5, 2012; and (5) provide Parent access to all of Student’s records.

As relief for the alleged denials of FAPE alleged in the Complaint, Petitioner requested a finding in Petitioner’s favor, funding of a private placement with transportation, a detailed FBA and a reconvened MDT meeting to develop a BIP, an independent comprehensive psychological evaluation with sufficient clinical measures, that DCPS be ordered to conduct or fund a speech/language evaluation and reconvene the team to review the evaluation and revise Student’s IEP as appropriate, amendment of the IEP to include not less than 30 minutes per week of speech/language services, and a reconvened IEP team meeting to provide Student with increased counseling, additional behavioral supports, and a full-time out of general education therapeutic setting.

On March 8, 2013, DCPS filed its Response, asserting, *inter alia*, that Student's social/emotional needs have been identified and are being addressed through IEP goals; that a comprehensive psychological reevaluation and an adaptive behavior assessment were conducted in December 2011; that the MDR was held without Parent's participation, after unsuccessful attempts to schedule with Parent, and the team determined that Student's behavior was not a manifestation of her disability; Student's IEP was reviewed and revised on December 5, 2012, and her IEP, placement and location of services are appropriate; and DCPS received a records requested only after the Complaint was filed but is willing to provide access to Student's records.

On March 12, 2013, DCPS filed a Motion to Dismiss In Part. On March 13, 2013, the undersigned hearing officer convened a teleconference with Petitioner's counsel and DCPS counsel, and Petitioner conceded that the second and third claims asserted in the Complaint were barred by the doctrine of *res judicata* in light of a previous settlement with DCPS. Therefore, on March 14, 2013, the hearing officer issued an Order that dismissed with prejudice Petitioner's second claim concerning triennial evaluations in December 2012 and Petitioner's third claim concerning an MDR, FBA and BIP following a long-term suspension in February 2012. The Order also preserved DCPS's motion to dismiss for further consideration with respect to Petitioner's first claim.

The parties concluded the Resolution Meeting process by participating in a resolution session on March 18, 2013. No agreement was reached, but the parties agreed not to shorten the 30-day resolution period. Therefore, the 45-day timeline began on March 29, 2013 and will end on May 12, 2013, which is the HOD deadline.

On March 20, 2013, the hearing officer convened another prehearing conference and led the parties through a discussion of the issues, relief requested, and other relevant topics. At this conference, the hearing officer granted in part DCPS's motion to dismiss with respect to Petitioner's first claim to the extent of dismissing the claim with respect to SY 2011/12 only (when Student attended the previous middle school) on *res judicata* grounds. The hearing officer issued a Prehearing Order on March 25, 2013.

By letter dated April 22, 2013, Petitioner disclosed forty-eight documents (Petitioner's Exhibits 1-48), and by letter dated April 23, 2013, DCPS disclosed twelve documents (Respondent's Exhibits 1-12).

The hearing officer convened the due process hearing on April 30, 2013.¹ All documents disclosed by both parties were admitted into the record without objection. Then, DCPS conceded that Student's IEP should reflect 25 hours of specialized instruction, instead of 19.5 hours, and Student has been receiving 25 hours of services all along despite the IEP indicating otherwise. Thereafter, the hearing officer received opening statements, testimonial evidence from both parties, and closing statements before concluding the hearing.

The due process hearing was convened and this Hearing Officer Determination is written pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C.

¹ Counsel for each party and the witnesses for each party are listed in the Appendix that accompanies this decision.

§§ 1400 et seq., the implementing regulations for IDEIA, 34 C.F.R. Part 300, and Title V, Chapter 30, of the District of Columbia Municipal Regulations (“D.C.M.R.”).

ISSUE(S)

The issues to be determined are as follows:

1. Did DCPS deny Student a FAPE by failing to identify Student as a student with significant ED while Student attended a DCPS high school during SY 2012/13 and/or failing to provide sufficient behavioral supports and/or an FBA and BIP despite the negative impact Student’s behaviors were having on Student in the school setting?
2. Did DCPS fail to provide an appropriate IEP and/or placement/location on or about 12/15/12 because the IEP fails to provide a full-time therapeutic setting for students with ED, as well as ID, and fails to include speech services?
3. Did DCPS deny Student a FAPE by failing to provide Parent with access to all of Student’s records, including past evaluations, discipline records and/or behavior logs?

FINDINGS OF FACT²

After considering all the evidence, as well as the arguments of both counsel, this Hearing Officer’s Findings of Fact are as follows:

1. Student is a fifteen year old female. Since the start of SY 2012/13, Student has attended a DCPS senior high school, where she is in a cluster program for Intellectually Deficient (“ID”) students that is housed in a separate portion of the school. The program is a non-diploma certificate track program. The school also offers a separate ED program, but Student is not in that program.³
2. Student’s current IEP is dated December 5, 2012. It identifies Student’s primary disability as ID and states that Student is entitled to 19.5 hours of specialized instruction and 1 hour of behavioral support services each week. However, the IEP should state that Student is entitled to the 25 hours of specialized instruction per week reflected in her January 6, 2012 IEP, which she has been receiving for SY 2012/13.⁴
3. Student has had an IEP since third grade. Initially, she was identified as Mentally Retarded (“MR”).⁵ MR is currently known as ID.

² To the extent that the hearing officer has declined to base a finding of fact on a witness’s testimony that goes to the heart of the issue(s) under consideration, or has chosen to base a finding of fact on the testimony of one witness when another witness gave contradictory testimony on the same issue, then the hearing officer has taken such action based on the hearing officer’s determinations of the credibility and/or lack of credibility of the witness(es) involved.

³ Testimony of Parent; testimony of school social worker; testimony of special education teacher.

⁴ Petitioner’s Exhibit 8; DCPS concession at hearing; *see* Petitioner’s Exhibit 11.

⁵ Testimony of Parent.

4. Student is eager to learn and loves to help others; however, she is very emotional, very depressed and has anger problems. Student can be very violent sometimes, and she can be very disrespectful. She also tries to cut herself.⁶
5. Student has had emotional problems since third grade.⁷
6. Student's most recent comprehensive psychological reevaluation was conducted on December 23, 2011. The evaluator notes that Student's then special education teacher stated that Student had benefitted from a behavior management system, as her behavior had improved. However, the background information in the evaluation report makes no mention of Student's history of emotional issues and/or behavior problems, and the evaluation did not include any assessment(s) intended to assess Student's social/emotional status and/or behavioral support needs.⁸
7. Student's emotional problems impact her negatively in school because she lets everything around her impact her emotionally, which means that she gets emotionally involved even when the situation involves someone else, and she goes away from learning until she calms herself, which means that she is not learning anything.⁹
8. Student had a lot of behavioral problems at the DCPS middle school she attended the first half of SY 2011/12 ("middle school 1"). These problems included cursing teachers out, throwing chairs, walking out of class and refusing to go to class, do homework and do classwork.¹⁰
9. Student transferred to another DCPS middle school ("middle school 2") in January 2012. While at middle school 2, there was an incident in May 2012 where Student refused to turn over her iPad and cell phone at the security guard's request, the security staff tried to take the items, and Student began acting out by making eraser burn marks on her arm and threatening to kill herself. Student was hospitalized for two weeks and discharged on May 25, 2012. Middle school 2 knew about this hospitalization because Parent told the principal.¹¹
10. Student was also hospitalized for one week beginning June 8, 2012, following an incident over the summer where Student's family had a cookout, some of Student's cousins tried to tell Student how to do better, and Student threatened to kill herself and grabbed up all the medications available.¹²

⁶ Testimony of Parent.

⁷ Testimony of Parent.

⁸ See Petitioner's Exhibit 18.

⁹ Testimony of Parent.

¹⁰ Testimony of Parent.

¹¹ Testimony of Parent; see Petitioner's Exhibit 39.

¹² Testimony of Parent.

11. Student's hospitalizations were due to depressive disorder and she received medications that she is no longer taking now that she is pregnant.¹³
12. The staff at middle school was calling Parent two to three times per week with issues regarding Student.
13. At the current DCPS high school, there is a counselor who tries to help Student with her emotional issues by bringing her into the counselor's office to try to calm her down. Other than that, it does not appear that the school staff is doing anything to help Student with her emotional issues. In fact, when Student has gone up and asked her teachers if she can talk to someone about issues that have arisen, the teachers say no and will not let Student leave class.¹⁴
14. Student receives one 60-minute group counseling session each week at the DCPS high school. On occasion, Student has also met with the school social worker for approximately two minutes to help Student calm down, or to check in or obtain a pass. However, Student has not received any individual counseling at the DCPS high school.¹⁵
15. Student has been suspended twice since she's been at the DCPS high school, each time for less than 10 days, and there was also an incident involving her brother. Student has had two students in particular with whom she's had many ongoing problems, and she's also had issues with her brother. The school social worker at the DCPS high school is not aware of any ongoing problems Student has had with particular students.¹⁶
16. Student's brother recently was moved to another school, and one of the girls with whom Student had ongoing problems had mental health issues and has also left. Student's behavior has improved drastically now that these individuals have left the program.¹⁷
17. Now that Student is pregnant, her behavior is less emotional and she is no longer cursing, throwing items and walking out of class. As a result, it appears that Student has made behavioral progress at the DCPS high school. For example, the number of phone calls Parent receives has declined, and Student has not had any hospitalizations this school year.¹⁸
18. Student has made academic progress at the current DCPS high school. She has improved from the 1.6 grade level to the 2.5 grade level in reading since she has been

¹³ Testimony of Parent.

¹⁴ Testimony of Parent.

¹⁵ Testimony of school social worker; *see* Respondent's Exhibit 6.

¹⁶ Testimony of Parent; testimony of school social worker.

¹⁷ Testimony of Parent; testimony of special education teacher.

¹⁸ Testimony of Parent.

- attending the school, and her teachers believe that she will be able to make 1.5 years' growth in reading altogether by the end of the school year.¹⁹
19. Parent believes that Student needs speech/language services because her vocabulary and communication skills are not up to par.²⁰
 20. Student's December 2011 speech/language evaluation reveals that she has a mild delay in overall language skills (core language score = 81), as well as a mild delay in expressive language (score = 78), language content (score = 78), and language memory (score = 84), and a moderate delay in receptive language (score = 77). The evaluation report indicates that Student's language weaknesses cause problems across the academic curriculum and causes Student to struggle when taking dictation, taking notes, producing verbal responses, completing written assignments, participating in discussions, and progressing in language arts. Nevertheless, because Student's overall language score was 81, she did not qualify for speech/language services and her service provider exited her from that related service after reviewing the speech/language evaluation at Student's January 6, 2012 IEP meeting.²¹
 21. DCPS requires that a student have an overall language score demonstrating a moderate delay, or a large difference between expressive and receptive language scores, to qualify for speech/language services.
 22. On April 23, 2013, DCPS prepared a draft FBA and a draft BIP for Student. The draft FBA The FBA targets Student's social skills, bossiness and fighting as areas of concern, noting that the behavior seems to be brief in duration and occurs sporadically, that Student has a good relationship with her teachers, and that Student had exhibited less acting out over the month prior to the FBA. The BIP primarily focuses on prompting Student when undesirable behaviors occur, reinforcing positive coping skills, and developing a designated area for self-imposed time outs.²²
 23. On December 7, 2012, Petitioner submitted a written request for Student's educational records to DCPS. By emails dated March 20 and 21, 2013, DCPS provided Petitioner's counsel with various educational records for Student. However, by reply email, Petitioner's counsel advised that she had not been provided with discipline records for SY 2011/12, progress reports, report cards and IEP report cards for SY 2011/12 to date, and service logs dating back to April 2012.²³
 24. Petitioner's five-day disclosure in this case consists of forty-eight documents, which include IEPs dating back to 2009, various PWNs, evaluation reports, notifications of

¹⁹ Testimony of special education teacher.

²⁰ Testimony of Parent.

²¹ Petitioner's Exhibit 17; testimony of speech/language pathologist.

²² Respondent's Exhibits 1 and 2.

²³ Petitioner's Exhibit 1.

final disciplinary action, IEP progress reports, progress reports, attendance summaries and other educational records.²⁴

25. Petitioner's proposed compensatory education plan is intended to address a variety of alleged deficits relating to programming, evaluations, suspensions and behavioral issues dating back to August 2011, but the current Complaint only raises claims related to the current school year.²⁵ Hence, Petitioner's proposed compensatory education plan is not reasonably calculated to remedy the denials of FAPE alleged in the Complaint and any resulting educational harm to Student.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

1. ED Classification, Behavioral Supports and/or FBA and BIP

Under IDEA, ED means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: an inability to learn that cannot be explained by intellectual, sensory or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. 34 C.F.R. § 300.8(c)((4)(i). The procedure for determining whether a child has ED or any of the other disabilities specified in IDEA is an evaluation. *See* 34 C.F.R. § 300.8(a)(1) (child with a disability means a child evaluated as having one or more specified disabilities); 34 C.F.R. § 300.301(c)(2) (initial evaluation must consist of procedures to determine if child is a child with a disability under § 300.8 and the educational needs of the child).

The FAPE required by IDEA is tailored to the unique needs of a disabled child by means of an IEP. *See Board of Education of the Hendrick Hudson Central School District, Westchester County, et. al. v. Rowley*, 458 U.S. 176 (1982). Hence, IDEA requires that the IEP include, *inter alia*, a statement of measurable annual goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum and meet each of the child's other needs that result from the child's disability. 34 C.F.R. § 300.320(a)(2)(i). In this regard, the IEP must also contain a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child, *inter alia*, to advance appropriately toward attaining the annual goals, to be involved in and make progress in the general education curriculum, and to be educated and participate with other disabled children and nondisabled children. 34 C.F.R. § 300.320(a)(4). Moreover, in developing an IEP for a disabled child, the

²⁴ *See* Petitioner's Exhibits 1 – 48.

²⁵ Testimony of advocate; *see* Complaint and Petitioner's Exhibit 45.

IEP team must consider the child's strengths, the parents' concerns, the results of the initial or most recent evaluation of the child, the academic, developmental and functional needs of the child, and in the case of a child whose behavior impedes the child's learning or that of others, the use of positive behavioral interventions and supports, and other strategies, to address the behavior. 34 C.F.R. § 300.342(a)(1)-(2)(i).

In the instant case, Petitioner argues that Student has a long history of severe emotional issues that include cutting herself, psychiatric hospitalizations, and behavior issues, but nothing has been done by DCPS to address those issues. Petitioner asserts that based on Student's history of emotional issues, DCPS was required by IDEA to add ED as a classification on Student's IEP, and to provide Student with additional behavioral supports in the form of individual counseling, an FBA and a BIP. According to Petitioner, Student is in an ID program that is unable to meet her social/emotional needs.

DCPS contends that although Student has not been identified as an ED student, she is being provided with all services necessary for a FAPE, including a full-time program, small class sizes, peers with ID, and behavioral supports as needed. DCPS further notes that it has recently conducted an FBA and drafted a BIP for Student pursuant to the consent form signed by Parent on March 8, 2013.

A review of the evidence in this case reveals that, as Petitioner contends, Student has a history of emotional issues and behavior problems that impact her negatively in school. Indeed, during SY 2012/13 at the current DCPS high school, Student's emotional/behavior issues have resulted in her being suspended twice, and she has had ongoing problems with her brother, who attended the same school until recently, and with two other students at the school. However, the school social worker at the DCPS high school was not aware of Student's ongoing problems with particular students, Student has requested additional behavioral support on occasion that has been denied, Student did not receive an FBA and BIP until April of 2013, the BIP has not yet been implemented, and Student's most recent comprehensive psychological reevaluation makes no mention of Student's history of emotional issues and/or behavior problems and did not include any assessment(s) to determine Student's social/emotional status and/or behavioral support needs.

Given the lack of evaluation data concerning Student's social/emotional status and needs despite her history of emotional and behavioral issues in school, the hearing officer is unable to determine whether Student should be classified as ED and provided with additional behavioral supports. As a result, the hearing officer concludes that DCPS has denied Student a FAPE, not by failing to classify her as ED and add additional behavioral supports, but by failing to collect the evaluation data necessary to determine whether Student requires the additional classification of ED and additional behavioral supports.²⁶ To remedy this denial of FAPE, the hearing officer

²⁶ The hearing officer is aware that Petitioner's claim for failure to comprehensively evaluate Student was dismissed on *res judicata* grounds in light of the parties' previous settlement of that claim when it was asserted in a prior Complaint. Nevertheless, to the extent that DCPS lacks sufficient evaluation data to determine whether Student is properly classified and has been provided with proper programming, the failure to collect that data within the context of this claim constitutes a denial of FAPE that the hearing officer has authority to address. *Letter to Armstrong*, 28 IDELR 303 (OSEP June 11, 1997) (due process system must allow hearing officer authority to order any relief necessary to ensure student receives FAPE).

will order DCPS to conduct a clinical assessment of Student sufficient to determine whether she should be classified as ED, and if so, what services and supports she requires to address her social/emotional needs; and to convene a meeting to review that evaluation, and if appropriate, revise Student's IEP and discuss and determine placement. The hearing officer will also order DCPS to review and revise to the extent necessary Student's recently developed BIP during the meeting.

2. Appropriateness of IEP and/or Placement/Location

As noted above, the FAPE required by IDEA is tailored to the unique needs of a disabled child by means of an IEP. *See Rowley, supra*. As a result, a disabled child's IEP must be reasonably calculated to enable the child to receive educational benefit by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction. *Id.* Moreover, under IDEIA, a public agency must provide an appropriate educational placement for each child with a disability, so that the child's needs for special education and related services can be met. *See* 34 C.F.R. § 300.17; 34 C.F.R. §§ 300.114-300.120. In this regard, a FAPE consists of special education and related services that, *inter alia*, include an appropriate secondary school and are provided in conformity with the Student's IEP. *See* 34 C.F.R. § 300.17.

In the instant case, DCPS concedes that Student's current IEP should reflect that she is to receive full-time services at 25 hours per week, which she is currently receiving in the self-contained ID program at the DCPS high school. Therefore, the hearing officer will order DCPS to promptly convene a meeting to revise Student's IEP to include 25 hours per week of specialized instruction.

Petitioner further argues, however, that Student's IEP is inappropriate for failure to provide Student with a full-time therapeutic setting for students with ED, as well as ID, and speech/language services. As noted above, however, given the lack of evaluation data concerning Student's social/emotional status and needs, the hearing officer is unable to determine whether Student should be classified as ED. As a result, the record contains insufficient evidence for the hearing officer to determine whether Student requires a full-time therapeutic setting for ED students, with the result that Petitioner has been unable to meet its burden of proof on this claim.²⁷

With respect to Petitioner's claim that the IEP is inappropriate for failure to include speech/language services, the evidence in this case demonstrates that Student was exited from speech/language services in January 2012 based upon Student's December 2011 speech/language evaluation, which revealed that Student's overall language score was 81 and, as a result, she no longer qualified for speech/language services under DCPS's guidelines. Based on this evidence, the hearing officer concludes that Petitioner has failed to meet its burden of proving that Student's current IEP is inappropriate for failure to include speech/language services. Nevertheless, as DCPS is being ordered herein to conduct two IEP/MDT meetings for Student,

²⁷ The hearing officer notes that DCPS is being ordered herein to collect the evaluation data necessary to determine whether Student requires an ED classification and programming to address ED, and if appropriate, to discuss and determine a proper placement for Student.

the hearing officer strongly encourages DCPS to revisit this issue to address Parent's concerns in this regard.

3. Alleged Failure to Provide Access to Records

Under IDEA, the parents of a disabled child must be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child. 34 C.F.R. § 300.501(a).

In the instant case, Petitioner argues that DCPS has failed to provide Parent with access to all of Student's educational records, and in particular Student's previous evaluations, old discipline records, and incident reports. DCPS disagrees, insisting that prior to the instant due process hearing it provided Petitioner with copies of all of Student's educational records in its possession.

A review of the evidence in this case reveals that DCPS provided Petitioner with a variety of educational records for Student, and as a result, Petitioner disclosed for inclusion in the administrative record in this case an array of Student's educational records, including IEPs dating back to 2009, various PWNs, evaluation reports, notifications of final disciplinary action, IEP progress reports, progress reports, attendance summaries and other educational records. Hence, although DCPS failed to provide Petitioner with the opportunity required by statute to go into a DCPS facility to inspect and review all education records with respect to the identification, evaluation, and educational placement of Student and the provision of FAPE to Student, the hearing officer concludes that said failure was a mere procedural violation that did not rise to the level of the denial of FAPE. *See* 34 C.F.R. § 300.513(a)(2) (hearing officer may find procedural inadequacies constituted denial of FAPE only where said inadequacies impeded child's right to FAPE, significantly impeded parent's opportunity to participate in decision-making process, or caused deprivation of educational benefit). Nevertheless, the hearing officer will order DCPS to allow Parent an opportunity to visit Student's current DCPS high school for the purpose of inspecting and reviewing Student's educational records. *See* 34 C.F.R. § 300.513(a)(3) (nothing in § 300.513(a)(2) shall preclude hearing officer from ordering LEA to comply with procedural requirements under §§ 300.500 – 300.536).

4. Compensatory Education

Under the theory of compensatory education, courts and hearing officers may award educational services to be provided prospectively to compensate for a past deficient program. *Reid v. District of Columbia*, 401 F.3d 516, 522 (D.C. 2005). In the instant case, in light of the hearing officer's determination that there is insufficient evaluation data to determine whether Student has received deficient programming, an award of compensatory education is unwarranted at this time. Therefore, the hearing officer will deny as premature Petitioner's request for compensatory education.

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby ordered:

1. Within ten school days of the issuance of this Order, DCPS shall convene an IEP meeting to revise Student's IEP to include 25 hours per week of specialized instruction.
2. Within fifteen school days of the issuance of this Order, DCPS shall conduct a clinical assessment of Student sufficient to determine whether Student should be classified as Emotionally Disturbed, and if so, what services and supports Student requires to address her social/emotional needs.
3. Within fifteen school days of receipt of Student's clinical assessment report, DCPS shall convene an MDT meeting to review that report, and if appropriate, revise Student's IEP and discuss and determine placement. At this meeting, DCPS shall also review, and to the extent necessary, revise Student's BIP that was developed in April 2013.
4. Within fifteen school days of the issuance of this Order, DCPS shall allow Parent an opportunity to visit Student's current DCPS high school for the purpose of inspecting and reviewing Student's educational records regarding the identification, evaluation, and educational placement of Student and the provision of FAPE to Student.
5. Petitioner's request for compensatory education is denied as premature at this time.

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within ninety (90) days from the date of the Hearing Officer Determination in accordance with 20 U.S.C. § 1415(i).

Date: 5/12/2013

/s/ Kimm Massey

Kimm Massey, Esq.
Hearing Officer