

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

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**Confidential**

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STUDENT HEARING OFFICE  
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<p>STUDENT<sup>1</sup>, by and through Parent</p> <p>Petitioners,</p> <p>v.</p> <p>District of Columbia Public Schools</p> <p>Respondent.</p>	<p><b>HEARING OFFICER'S DECISION</b></p> <p><b>Date: February 2010</b></p> <p><b><u>Hearing Officer: Wanda I. Resto</u></b></p>
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<sup>1</sup> Personally identifiable information is attached as Appendix A to this decision and must be removed prior to public distribution.

## I. PROCEDURAL BACKGROUND

On December 18, 2009, parent's counsel filed a Due Process Complaint ("Complaint") against the District of Columbia Public Schools ("Respondent"), pursuant to the Individuals with Disabilities Education Improvement Act ("IDEIA"), asserting the Respondent denied the Student a Free Appropriate Public Education ("FAPE").<sup>2</sup>

The Petitioner alleged that the Respondent failed to provide the Student with triennial re-evaluations as agreed by the multidisciplinary team ("MDT") in April 2009, failed to evaluate the Student for the suspected disabilities, and assistive technology needs. The Petitioner further alleged the Student did not receive related services during the tenure at PLC and was discharge from adaptive physical education and occupational therapy without appropriate evaluation to determine his continued needs. The Petitioner claims the Student has an inappropriate individualized education program ("IEP") because the goals are transferred yearly; there is no baseline, and no accommodations for his needs. The Petitioner argues that the Student is misclassified; should be learning disabled, speech/language, and other health impaired ("OHI"). Additionally, the Petitioner claims the Student has an inappropriate educational placement and has not received educational benefit for 7 years.

The Petitioner requested that the Respondent be deemed to have denied the Student a FAPE and ordered to immediately issue a Prior Written Notice for the Student to attend a full time non public special education placement that can address his learning, academic, behavioral and emotional needs for the remainder of the 2009-2010 school year. The Petitioner also requested the Respondent fund the placement and transportation of the Student. Additionally the Petitioner requested that DCPS fund a clinical psychological, occupational therapy, speech language, assistive technology adaptive physical, neuropsychological evaluations and a functional behavior assessment ("FBA").

On January 5, 2010, the DCPS' filed a Response to the Petitioner's Administrative Due Process Complaint. The Respondent asserted it has provided the Student with an appropriate individualized education program ("IEP") and placement; and that the Student is making slow progress. The evaluations are being completed and the psychological will be done independently. No seizures at school since 2005. The Student's 2008 and 2009 IEPs includes goals accommodations and extended school year ("ESY") and were signed by the parent in agreement. The Respondent argued that the lack of multiple classifications does not harm the Student (and is only important to determine eligibility). The Respondent further asserted the Student was exited from adaptive physical education based on the informal evaluation of the provider. Additionally, the Respondent asserted that it provided a FAPE.

A telephonic pre-hearing conference call for the above reference matter was held January 20, 2010 at 4:00 PM as agreed by Counsels. Attorney Elizabeth Jester participated on behalf of the Petitioner. Attorney Kendra Berner participated on behalf of the Respondent.<sup>3</sup>

The Petitioner reiterated her claims and alleged that the Student has not been provided educational benefit for 7 years. The Respondent reiterated its position.

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<sup>2</sup> 20 U.S.C. §1415(c)(2)(B)(i)(I).

<sup>3</sup> A telephonic pre-hearing conference was convened on January 14, 2010 at 4:30 PM as agreed by Counsels. Attorney Kendra Berner was not available. Counsels agreed to reschedule the telephonic pre-hearing conference for January 20, 2010.

A hearing was held on February 5, 2010. The Petitioner presented a disclosure letter dated January 29, 2010 to which thirty-seven documents were attached, labeled P-1 through 37 and which listed five witnesses; three witnesses testified. The Respondent presented a disclosure letter dated January 29, 2010 identifying twelve witnesses and to which one document was attached, labeled DCPS; no witnesses testified. The Petitioner objected to DCPS documents claiming it was a product of negotiations. The documents were admitted because the content was discussed during the resolution session.<sup>4</sup>

The hearing was conducted in accordance with the rights established under the IDEIA and the implementing federal and local regulations, and the SOP.<sup>5</sup>

## II. ISSUE(S)

1. Does the Petitioner have claims for which there is an applicable exception to the 2 years statutory deadline for filing a complaint?
2. Did the Respondent fail to provide required evaluations and discharged from adaptive physical education without appropriate evaluations?
3. Was the Student denied assistive technology and related services?
4. Did the Respondent fail to develop an appropriate IEP for the Student?
5. Did the Respondent fail to include in the Student's IEP other suspected disabilities?
6. Was the Student provided with an appropriate educational placement?

## III. FINDINGS OF FACT

1. Both the parent and the Student reside within the District of Columbia. The Student is attending a DCPS during the 2009-2010 school year.<sup>6</sup>
2. The Student's has specific learning disabilities ("SLD") under the IDEIA.<sup>7</sup> The Student's most recent IEP is dated April 14, 2009 and provides 24.5 hours of specialized instruction, 60 minutes of occupational therapy, 60 minutes of speech language pathology, and 60 minutes of behavioral support services weekly. <sup>8</sup> The Student received 6 hours of occupational therapy between August

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<sup>4</sup> The Petitioner's objection to DCPS Exhibit No. 1, an authorization of independent evaluations result of a Resolution Session meeting was overruled. Under IDEIA, the Resolution Meeting is an integral part of the due process proceeding. 20 U.S.C. §1415(f)(1)(B)(i); 34 C.F.R. §300.510. Due process proceedings are dissimilar to ordinary civil litigation where settlement negotiations are not mandated, and a party's willingness to settle might be viewed as an indication of vulnerability. Under IDEIA, only the hearing officer can enforce compliance with the procedures related to the Resolution Session meeting. Therefore, evidence relating to the Resolution Meeting is relevant to the proceeding.

<sup>5</sup> IDEIA and 20 U.S.C. Sections 1400 et seq., Title 34 of the Code of Federal Regulations, Part 300; the Rules of the Board of Education of the District of Columbia; 34 CFR Part 300; and Title 5 District of Columbia Municipal Regulations (D.C.M.R.), Chapter 30, including §§3029-3033, and the Special Education Student Hearing Office Due Process Hearing Standard Operating Procedures ("SOP").

<sup>6</sup> P 1- Complaint filed December 18, 2009.

<sup>7</sup> 20 U.S.C. §1401 [30].

<sup>8</sup> P 34 -April 14, 2009 IEP.

and January; he received 4.5 hours of Speech/Language services between August and January; and received 8 hours of counseling services between August and December.<sup>9</sup>

3. In April 2009 the Student was discharged from adaptive physical education without an evaluation. The Adaptive Physical Education teacher recommended the Student not be provided adaptive program services and recommended a structured physical education program instead.<sup>10</sup>
4. The Student has been at the current placement for over 2 years he is in the 7<sup>th</sup> grade; reading at the 1<sup>st</sup> grade level. He has difficulties reading and sounding out letters. The goals on the Student's IEP were the same for a few years. The Occupational Therapist told the Petitioner the Student was not progressing and required assistive technology services; services the Student had previously received. The Student's 2006 evaluations expired; the Petitioner consented to reevaluations in April 2009; the evaluations have not been provided. The Student's self-esteem has suffered because of physical violence and bullying occurring at the current school. The Student's teacher has told the Petitioner that the Student cannot focus and do his work independently. The Student's classroom has approximately 20 students, one teacher and a teacher's aide. The Student is far behind his peers learning levels; he cannot work independently and is not improving. During a class observed by the Petitioner the Student could not follow his teacher's instruction; accomplish neither that assignment nor the homework without the assistance of the Petitioner. The Student's tests are sent home prior to the examination date to practice; and the Student forgets to bring the papers home. The Petitioner has not received any progress reports for services. The Student requires structured small classes where his tasks are broken down. ESY services have been discussed and provided to the Student. The Petitioner choice of school has small classes and reading tasks are individualized for the Student.<sup>11</sup>
5. The Student was interviewed and observed in school, his IEP's, psychological, speech and language evaluations, social history and educational records for the past six years were reviewed. The Student was observed during time at the cafeteria; it was difficult for him to interact with his peers because he lacks the social cues. The Student's classes are in the fourth floor making transition between classes chaotic. The Student requires order in his assignments and organization to assist his executive functions deficits. The classroom had no protocol for commencing class or the lesson. The Student was provided instruction in a lecture format and there was no indication that the Student was grasping the information; the student was not able to form any question or answer. There were 10 students in the class; neither accommodations nor individualized attention were provided for the Student. The teacher indicated that the Student's work was over his head. The work was not individualized for the Student; or any pullout session to work on the Student's IEP goals. The transition into the Math class was also chaotic. During the Math class the Student was required to find the common denominator; however the Student lacks the fundamental skills to address that Math task. The teacher used visuals that were not connected to the Student's processing and there was no assistive technology. The Student's educational evaluation scores reflect that he has not achieved any progress; his scores are flat. The standard scores have shown no improvement in Broad Reading and Math. The Student's level of functioning is at the first grade; he has made minimal educational progress. The Student's intellectual functioning and disability are not being addressed. The Student has a borderline intelligence quotient and he can learn. The Student's classification on his IEP has

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<sup>9</sup> P 35-37 -Encounter Tracker Forms for Occupational Therapy, Speech/Language and Counseling services August and January 2008-2010 school years.

<sup>10</sup> P 2 -Adaptive Physical Education Report and testimony of the Petitioner.

<sup>11</sup> Testimony of the Petitioner; and P 25 Student work samples.

been learning disabled and then changed to specific learning disabilities in April 2009. The Student's goals are not measuring his progress there is no baseline; there are no short term indicators of skills. The Student is reading at first grade level; the written expression goals are missing a baseline; there are no indicators to show where the Student is and what skills he has mastered. The Student has difficulties in math there are no math goals. The Student requires accommodations, needs more time to frame questions; additional time to answer and none of these are provided. A comparison of the IEP of April 14, 2008 versus the April 14, 2009; shows the 2008 has goals in Math and in the 2009 there are no goals and no baseline for written expression. The Student cannot understand his homework and reading a paragraph as complicated as assigned in his class; it is beyond his comprehension. The Student is barely able to read a small number of words; he needs work to be broken down, with reinforcement and individual attention to slowly build his confidence to work independent. The Student needs help with decoding words and processing them; he requires constant repetition to learn the skills. The Student has been bullied in school and teased and requires counseling. The Student requires an integrated program where all the related services work together within a structured class that also works on his executive function deficits. Prior to exiting the Student from adaptive physical education services there should have been a formal evaluation and a MDT meeting decide whether the Student still requires that service. At the Student's current placement the specialized instruction is not provided for a student with learning disabilities; there is a small teacher/student ratio but no different style of learning is applied. In the opinion of the Expert Witness the Student qualifies for the designation of other health impaired because he has problems focusing and hyperactivity that impact his ability to function in the classroom. 12

6. Academy is a private school which focuses on Students with learning disabilities. The Student's educational records, evaluations and IEPs were reviewed. The classroom chosen for the Student has four computers; each student has a cubicle, there are approximately 8 to 10 students who are similar academically and in age; there is one special education certified teacher and a teacher' assistant. Counseling can be provided through a social worker on staff. The Student was accepted there's a space available; his specialized instruction can be met. A MDT meeting can be convened in 30 days to review the Student's program. The tuition for the school is approximately \$45,000 a year. The School offers a full-time special education program, the Student's IEP related service of occupational therapy speech and language and counseling services can be provide.<sup>13</sup>

#### **IV. CONCLUSIONS OF LAW**

##### **FAPE Determination**

The Respondent is required to fully evaluate every child suspected of having a disability within the jurisdiction of the District of Columbia, ages 3 through 22, determine their eligibility for special education and related services and, if eligible, provide special education and related services through an appropriate IEP and Placement, designed to meet their unique needs and prepare them for further education, employment, and independent living.<sup>14</sup>

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<sup>12</sup> Testimony of Special Education Expert, P18-23 Educational Evaluation , P24 summary of the scores, P 25 Student work samples, P 31 32 33 and 34 2006-2009 IEPs and P2 Adaptive PE Report.

<sup>13</sup> Testimony of the director of admission of the private school.

<sup>14</sup> 20 U.S.C. § 1400 et seq. and 5 D.C.M.R. § 3000.2 (2006).

The applicable regulations define a FAPE as “special education and related services that are provided at public expense; meet the standards of the SEA; include an appropriate pre-school, elementary school, or secondary school; and are provided in conformity with an individualized education program (IEP).”<sup>15</sup>

### **Burden of Proof**

The burden of proof is the responsibility of the party seeking relief, in this case the parent. It requires that based solely upon the evidence presented at the hearing, an impartial hearing officer shall determine whether the party seeking relief presented sufficient evidence to meet the burden of proof that the action and/or inaction or proposed placement is inadequate or adequate to provide the student a FAPE.<sup>16</sup>

### **Statute of limitations**

The Petitioner claimed that for the past seven years the Respondent has misrepresented the Student’s needs to the Petitioner; has repeated the goals and the Student has made no progress and therefore she is entitled to claims prior to two years limitations. The Respondent alleged that all claims prior to 2006 including claims for compensatory education are barred by the two-year statute of limitations in the IDEIA.

A parent or a public agency may file a due process complaint on any of the matters relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child.<sup>17</sup>

The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint.<sup>18</sup>

The IDEIA provides explicit exceptions to the timeline for requesting a due process hearing. The Petitioner did not prove than any of the exception applied.<sup>19</sup>

Thus, Petitioner’s claims prior to the 2006-2007 SY are barred by the statute of limitations.

### **Appropriateness of IEP**

The Petitioner claimed the Student has an inappropriate individualized education program because the goals were transferred yearly; there is no baseline, and no accommodations for his needs. The Petitioner argued that the Student is misclassified; should be learning disabled and other health impaired (“OHI”).

It is the Respondent’s responsibility to ensure that the services provided to the child address all of the child’s identified special education and related services needs and must be based on the child’s unique needs and not on the child’s disability.”<sup>20</sup>,

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<sup>15</sup> 34 C.F.R. § 300.17.

<sup>16</sup> 5 D.C.M.R. § 3030.3.

<sup>17</sup> 34 C.F.R §§ 300.507, 503(a)(1) and (2).

<sup>18</sup> 34 C.F.R §§ 300.507(a)(2) and section 615(b)(6)(B).

<sup>19</sup> Section 615(f)(3)(D) and § 300.511(f).

Current law requires that local and state education agencies make certain that the student's IEP contains a statement of the student's present level of academic achievement and functional performance, and that it include: 1) a written statement of the student's measurable annual goals, 2) a description of how the student's progress toward meeting the annual goals will be measured, and 3) any statement of the special education needs and related services and supplementary aids for a student to advance properly toward attaining the annual goals.<sup>21</sup>

Pursuant to 20 U.S.C. § 1414 (d)(2)(A), there is also a requirement that at the beginning of each school year, there be in place an IEP that meets these statutory requirements for each student who needs one.

The Respondent did not comply with these cited IDEIA obligations. The evidence demonstrated that the Student has an IEP issued on April 14, 2009 that fails to contain current performance levels due to the public agency's failure to conduct re-evaluations that could be incorporated into the child's program. The Petitioner proved that the Student's current IEP fails to address this Student's unique needs, the goals and the present level of performance were inappropriate. In view of the fact that the IEP is the mechanism through which a FAPE is delivered to disabled students, failure to provide the student with an appropriate IEP, is a denial of FAPE. See *Scott v. District of Columbia*, (D.C. Cir) 03-1672 DAR (March 31, 2006).

#### **Termination of services**

The Petitioner alleged that the Respondent discharge the Student from adaptive physical education without an evaluation to determine his continued needs.

The law requires that a public agency must evaluate a child with a disability before determining that the child is no longer a child with a disability.<sup>22</sup>

In the case at hand, the unchallenged evidence was the Student's adaptive physical education services were removed from his IEP during April 2009. The services were removed without an evaluation being administered.

#### **Failure to Provide Related Services**

The Petitioner alleged the Student did not receive counseling, occupational and speech and language services during the tenure at PLC.

The IDEA at requires the DCPS if the Student is eligible, provide special education and related services through an appropriate IEP and Placement, designed to meet their unique needs and prepare them for further education, employment, and independent living.<sup>23</sup>

The evidence was that the Student did not receive assistive technology and all of his required related services.

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<sup>20</sup> 5 D.C.M.R. § 3002.1.

<sup>21</sup> 20 U.S.C 1412 (a)(1), 1412 (a)(12)(A)(i), 1414(d)(3), (4)(B) and (7) and 1414(e).

<sup>22</sup> 34 C.F.R. § 300.301(e).

<sup>23</sup> 20 U.S.C. § 1400. and 5 D.C.M.R. § 3000.2 (2006) .

## **Evaluations and suspected disabilities;**

The Student evaluations expired in April 2009, the Petitioner consented to reevaluation and the Respondent authorized after the due process complaint for the Student to get the evaluations independently.

According to the IDEIA DCPS, as the local education agency is responsible for ensuring that every evaluation, of each child with a disability, shall occur "at least once every three years, unless the parent and the local educational agency agree that a reevaluation is unnecessary."<sup>24</sup>

Furthermore, D.C. Municipal Regulations places the obligation to conduct re-evaluations of the student upon the LEA.<sup>25</sup> The Petitioner proved the Respondent failed to adequately evaluate the Student and that the Student requires evaluations.

### **Suspected Disability**

The Petitioner claims the Student has been misclassified and the Student disability should include OHI.

Once a child has been referred to an IEP team for an eligibility to determine the educational needs of such child; the IDEIA requires the local educational agency to:

(A) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parents, that may assist in determining - whether the child is a child with a disability . . . ;

(B) not use any single procedure as the sole criterion for determining whether a child is a child with a disability . . . ; and

(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.<sup>26</sup>

No single procedure should be used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.<sup>27</sup> The results of the evaluations must be given considerable weight in determining the child's eligibility for services and in the development of the child's IEP.<sup>28</sup>

Furthermore, under local law the Respondent has the responsibility to ensure that the services provided to the child address the entire child's identified special education and related services needs and must be based on the child's unique needs and not on the child's disability.<sup>29</sup>

Here the evidence was scanty; a brief statement from the expert and no evidence of current formal evaluations to explain or to justify a change or expansion of disabilities. The Student is due evaluations;

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<sup>24</sup> 20 U.S.C. 1414(b)(1)(3), and 1412 (a)(6)(B).

<sup>25</sup> 30 DCMR § 3005.

<sup>26</sup> 20 U.S.C. § 1414(a)(1)(C)(i).

<sup>27</sup> 34 C.F.R. §300.304(b)(2).

<sup>28</sup> 34 C.F.R. §300.305(a).

<sup>29</sup> 5 D.C.M.R. § 3002.1.

with the current evaluations the MDT must make adjustment to the IEP that addresses all of the Student's disabilities, needs in services and provides appropriate educational programming.

An IEP based on evaluations that are not sufficiently comprehensive and/or fails to address all areas of a student's "suspected disability" is not an appropriate IEP. See *Roca v. District of Columbia* 43 IDELR 58, (March 14, 2005).

### **Educational placement**

The IDEIA and its regulations require that when determining the educational placement of a child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. It also states that the determination of the educational placement of a child with a disability must be based on a child's IEP.<sup>30</sup>

The Student requires accommodations, needs more time to frame questions; additional time to answer and none of these are provided. The Student is barely able to read a small number of words; he needs work to be broken down, with the reinforcement and individual attention to build his confidence to work independently. The Student needs help with decoding words and processing them; he requires constant repetition to learn the skills. The Student has been bullied in school and teased; requires counseling. The Student requires an integrated program where all the related services work together within a structured class that also works on his executive function deficits. The uncontested evidence was that the current placement is not meeting the Student's needs.

The unchallenged evidence was that the private educational placement sought by the Petitioner is an appropriate educational placement for the Student because, he requires a full time outside of general education program that is also structured in music, art, recess and at lunch time; that the Student needs more structure, supervision and immediate reinforcement to receive educational benefit. The class proposed for the Student at HRA has a small student/teacher ratio; a social worker; and counseling available. The other students in the classroom are also classified with learning disabilities. The Student's related services and his IEP can be fully implemented and he will be able to receive educational benefit. Furthermore, IDEIA mandates and requires that where, as here, a student has been denied FAPE; the funding of a proper placement is an appropriate relief.

Local law also requires the LEA to ensure that the educational placement decision for a child with a disability is based on the child's IEP.<sup>31</sup>

Once developed, the IEP is then implemented through appropriate placement in an educational setting suited to the student's needs. *Roark ex rel. Roark v. District of Columbia*, 460 F. Supp. 2d 32, 35 (D.D.C. 2006).

It is the Hearing Officer's determination that: 1) DCPS failed to present evidence refuting Petitioner's allegation that the Student does not have an appropriate program; and; 2) DCPS failed to demonstrate that it offered and can provide the Student with a placement to meet his unique needs or provide an educational benefit.

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<sup>30</sup> 20 U.S.C. 1412(a)(5), and 34 C.F.R. § 300.116.

<sup>31</sup> 5 D.C.M.R. § 3013.1(e).

## V. SUMMARY OF DECISION

The uncontroverted evidence was the Student did not receive s assistive technology needs and related services. The Student was discharged from adaptive physical education without an appropriate evaluation. It is the Hearing Officer's determination that Petitioner satisfied her burden by showing that DCPS failed to provide an appropriate placement for the Student and it constitutes a denial of FAPE. The Petitioner proved that HRA can provide the specialized instruction and related services the Student's IEP requires and therefore is an appropriate placement. The Petitioner failed to provide evidence sufficient to justify changing the Student's disability classification. The Petitioner did not prove that there was an exception applicable to her claims beyond the two years statutory limitations.

Upon consideration of Petitioner's request for a due process hearing, reviewing the documents in the record, the case law, and the above findings of fact, this Hearing Officer determines that the DCPS has denied the Student a FAPE and issues the following:

## VI. ORDER

**ORDERED**, the Respondent will by March 15, 2010 issue a Prior Notice of Placement to the Academy. The Respondent shall fund the placement of the Student at the private school with transportation and related services for the 2009-2010 school year, **it is further;**

**ORDERED**, Within 30 calendar days of the Student's enrollment at the private school a MDT/IEP meeting be convened at the school. DCPS shall be invited to this meeting. At this meeting, the MDT will determine if the Student requires a functional behavior assessment and a BIP, the MDT will also reviewed and revised if necessary the Student's IEP. If a representative of the DCPS fails to attend, the MDT shall proceed to review and revise the Student's IEP, **it is further;**

**ORDERED**, DCPS is to fund the IEEs requested by the parent to be performed by the parent's selected independent evaluator on or before April 30, 2010. DCPS shall funds these IEEs:

- a. Clinical Psychological; and
- b. Occupational therapy, speech/language, assistive technology, adaptive physical education evaluations;
- c. Social history, and
- d. Neuropsychological evaluation

After the IEEs are completed the Petitioner has 5 school days to remit copies of the IEE reports to the DCPS Office of Special Education's Legal Unit and the Special Education Coordinator at HRA and propose three dates and times to convene the Student's MDT/IEP to review the assessment results, discuss the Student's disability classification, revise his IEP as necessary, **it is further;**

**ORDERED**, the Respondent will schedule all meetings at a mutually agreeable time through the parent and parent's counsel. And provide counsel a copy of the meeting notice by facsimile, **it is further;**

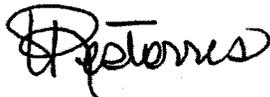
**ORDERED**, that any delay in meeting any of the deadlines in this Order because of Petitioner's absence or failure to respond promptly to scheduling requests, or that of Petitioner's representatives, will extend the deadlines by the number of days attributable to Petitioner or Petitioner's representatives. The Respondent shall document with affidavits and proofs of service for any delays caused by Petitioner or Petitioner's representatives, **it is further;**

**ORDERED**, in the event that the Respondent should fail to comply with the terms herein, and an issue arises out of the noncompliance the Petitioner may file a request for a hearing and the hearing can be scheduled within 20 calendar days.

This order resolves all matters presented in the Petitioner's December 18, 2009 due process hearing complaint; and the hearing officer makes no additional findings.

**NOTICE OF RIGHT TO APPEAL**

This is the FINAL ADMINISTRATIVE DECISION. An Appeal can be made to a court of competent jurisdiction within ninety (90)-days of this Order's issue date pursuant to 20 U.S.C. § 1415 (i)(1)(A), (i)(2)(B) and 34 C.F.R. §300.516)



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**Wanda Iris Resto - Hearing Officer**

**Signed: February 11, 2010**