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

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OSSE
STUDENT HEARING OFFICE
2009 FEB 17 PM 12: 54

Confidential

STUDENT, through the legal guardian,[1]	)	
	)	
Petitioner,	)	
	)	
v.	)	Hearing Date:
	)	February 6, 2009
	)	
THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS,	)	
	)	
	)	
Respondent.	)	
	)	

HEARING OFFICER DECISION

Counsel for Petitioner:	Miguel Hull, Attorney at Law James E. Brown & Associates 1220 L Street, N.W., Suite 700 Washington, D.C. 2005 (202) 742-2000; Fax: (202) 742-2098
Counsel for DCPS:	Kendra Berner, Attorney at Law Office of the Attorney General 825 North Capitol Street, N.E.; 9th Floor Washington, D.C. 20002 (202) 442-5000; Fax: (202) 442-5097

[1] Personal identification information is provided in Attachment A.

I. JURISDICTION

This proceeding was invoked in accordance with the rights established under the Individuals With Disabilities Education Improvement Act of 2004 ("IDEIA"), 20 U.S.C. Sections 1400 et seq., Title 34 of the Code of Federal Regulations, Part 300; Title V of the District of Columbia ("District" or "D.C.") Municipal Regulations ("DCMR"), re-promulgated on February 19, 2003; and Title 38 of the D.C. Code, Subtitle VII, Chapter 25.

II. BACKGROUND

The Student is an -year-old, -grade student at a District of Columbia Public High School.[2] The Student has a disability classification of learning disabled under the Individuals with Disabilities Education Improvement Act ("IDEIA"). *Id.*

On January 8, 2009, the Student ("Petitioner") and her Parent filed a Due Process Complaint Notice ("Complaint") alleging that the District of Columbia Public Schools ("DCPS") failed to provide an appropriate educational placement for the Student.[3] The Complaint sought placement in a private school at DCPS expense compensatory education, and an order requiring DCPS to convene a meeting of the multidisciplinary team ("MDT") within ten days to review and revise Petitioner's individualized educational program ("IEP), and determine appropriate placement for Petitioner.

On January 26, 2009, counsel for DCPS filed its Response to Petitioner's Due Process Complaint. The Response asserted that the IEP team did not determine that the School Petitioner attends is an inappropriate placement and that the placement is appropriate.[4] The Response further asserted that, on January 9, 2009, DCPS sent Petitioner an invitation to an IEP meeting to review the most recent evaluations of the Petitioner and to discuss Petitioner's IEP.

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[2] Compl. at 1.
[3] Compl. at 4.
[4] Response at 1.

The due process hearing convened at 9 a.m. on February 6, 2009. Both Petitioner and her Parent were present at the hearing.[5]

Prior to the start of the due process hearing, Counsel for Petitioner withdrew the request for compensatory education. DCPS Counsel stipulated that DCPS was willing to conduct a functional behavioral assessment of Petitioner and is not opposed to an order asking the MDT to consider ordering a Vineland assessment.

At the outset of the hearing, Counsel for DCPS raised the issue of whether counsel for Petitioner actually represented Petitioner.[6] This was a dispositive issue because the Petitioner is eighteen and thus the Parent has no standing to bring the Complaint.[7] Although the Complaint was not well pled – in some places it referred to both Petitioner and her Parent as bringing the Complaint jointly and in others, such as the section on relief, it referred only to the Parent – this Hearing Officer found that, because Petitioner was present at and fully participating in the due process hearing, the standing challenge had no merit. Petitioner did not object to the issues raised in the hearing and appeared cognizant of the legal import of the proceedings. While it is conceivable that counsel for Petitioner represented only the Parent, without proof of the contrary, this Hearing Officer accepted his representation that he did indeed represent Petitioner.

Counsel for Petitioner presented four witnesses. Counsel for DCPS presented one witness. The five-day disclosures submitted by both parties were admitted as exhibits during the due process hearing. The hearing concluded after two hours of testimony.

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[5] Also present were the supervisor of counsel for DCPS, Quinne Harris Lindsey, and another DCPS counsel who was observing the hearing, Harsharen Bhuller. Neither of these attorneys participated in the hearing, although Attorney Harris Lindsey occasionally advised the attorney representing DCPS in the hearing.

[6] Counsel for DCPS raised this issue again in the closing argument submitted to this Hearing Officer on February 13, 2009. Counsel for Petitioner filed a Motion for Continuance to address this issue, but the Motion is mooted by this decision on the merits.

[7] Children in the District of Columbia reach the age of majority on their eighteenth birthday, which for this Student was on November 11, 2008. When a child with a disability reached the age of majority under State law (except for a child who has been determined to be incompetent under State law), all rights accorded to parents under Part B of IDEIA transfer to the child. 34 C.F.R. § 300.520. Thus, under ordinary circumstances, students who have reached the age of majority file due process complaints on their own behalf as their parents lack standing to do so.

III. RECORD

Due Process Complaint Notice, filed January 8, 2009;
DCPS Response, filed January 26, 2009;
Petitioner's Five-Day Disclosure, which named six witnesses and included a packet of twenty documents, filed January 30, 2009;
DCPS Five-Day Disclosure, which named eight witnesses and included a packet of three documents, filed January 30, 2009;
DCPS Supplemental Disclosure, which included one additional document, filed February 3, 2009
Attendance Sheet, dated February 6, 2009;
Compact Disc of Hearing conducted on February 6, 2009;
Petitioner's Written Closing Argument, dated February 11, 2009; and
DCPS Written Closing Argument, dated February 13, 2009.

IV. ISSUE PRESENTED

Whether DCPS denied the Student a FAPE when it failed to provide an appropriate placement for Petitioner.

V. FINDINGS OF FACT

1. Petitioner is a special education student at a DCPS High School.[8]
2. Petitioner turned eighteen years old on November 17, 1990. On December 9, 2008, DCPS held an MDT/IEP meeting to discuss Petitioner's IEP.[9]
3. Petitioner did not attend the meeting.[10] Apparently, Petitioner "was not in class and available for the meeting."[11] The Parent may or may not have participated by telephone.[12] Petitioner's Educational Advocate ("Advocate") attended the meeting.[13]
4. The IEP team developed a new IEP for Petitioner at the meeting on December 9, 2008.[14] The IEP requires that Petitioner receive 22.5 hours per week of specialized instruction and

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[8] Compl. at 1.
[9] Petitioner Exhibit 4 at 1 (MDT Meeting Notes).
[10] *Id.*; Petitioner Exhibit 3 at 1 (sign-in sheet attached to Petitioner's Dec. 9, 2008, IEP).
[11] Petitioner Exhibit 4 at 4.
[12] Compare Petitioner Exhibit 4 at 5 with Petitioner Exhibit 3 at 1.
[13] Testimony of Advocate.
[14] *Id.*; Petitioner Exhibit 3.

30 minutes per week of speech-language pathology.[15] Petitioner did not sign the IEP and it is unclear whether the Parent ever signed the IEP.[16]

5. The Petitioner's December 9, 2008, IEP contains a transition plan.[17] Petitioner's transition plan projects that she will obtain a high school diploma on June 15, 2012, when she is 21.
6. The MDT/IEP team noted that the school was in possession of the Parent's request for an independent clinical evaluation of the Petitioner.[18] Nonetheless, the team did not order any clinical evaluation to be performed.[19]
7. The MDT/IEP team also reviewed a comprehensive psychological evaluation of Petitioner conducted on November 12, 2008.[20] The evaluation noted that Petitioner's overall cognitive ability is in the extremely low range.[21] It further noted that Petitioner may have difficulties with visual motor integration.[22] She also exhibited psychotic symptoms and indicators of depression.[23]
8. The evaluator recommended that Petitioner be evaluated by an occupational therapist due to her observed difficulties with fine motor functioning.[24] The evaluator also recommended that a Vineland evaluation be conducted to determine if she meets criteria for mild mental retardation.[25] The evaluator further recommended that Petitioner receive individual psychotherapy "to address the feelings of inadequacy that she currently harbors due to her

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[15] Testimony of Advocate; Petitioner Exhibit 3 at 5.
[16] The first page of the copy of the IEP submitted as Petitioner Exhibit 3 is unsigned. The first page of the copy of the IEP submitted as DCPS Exhibit 2 is signed, although not likely by the Parent (the signature is identical to the signature in box indicating that Parent attended by phone and it is highly unlikely that this signature is the Parent's signature since she was present at the meeting).
[17] Petitioner Exhibit 3 at 7.
[18] Petitioner Exhibit 4 at 5 (noting the school received the evaluation request on October 20, 2008).
[19] See Petitioner Exhibits 3 and 4.
[20] Testimony of Advocate. This Hearing Officer found the testimony of the Advocate credible because his testimony was in accord with the exhibits entered into evidence, many of which were drafted by DCPS personnel, and with other witnesses.
[21] Petitioner Exhibit 9 at 17.
[22] *Id.*
[23] *Id.*
[24] Petitioner Exhibit 9 at 19.
[25] *Id.*

perceived educational and interpersonal inadequacies."[26] The MDT/IEP team did not address the evaluator's recommendations for additional evaluations and psychotherapy.[27] The IEP/MDT team did order that the Petitioner receive a functional behavioral assessment.[28]

9. The psycho-educational evaluation also recommended that Petitioner receive specialized instruction in a self-contained, special-education classroom with a low teacher-student ratio.[29] The IEP also requires that the Student receive the specialized instruction outside of the general education classroom.[30]

10. Most of Petitioner's classes are general education classes.[31] These are inclusion classes that include both a general education teacher and a special education teacher who works with the students who need specialized instruction.[32]

11. The Special Education Coordinator taught Petitioner in her English class during the 2007-2008 school year.[33] When Petitioner participated in class, she performed well.[34] However, Petitioner had poor attendance that year.[35] Petitioner also does not like adults to interact with her and would not tell the teacher when she had difficulties.[36] She refused to communicate with other students in the class, with the exception of one friend in her class.[37]

12. The Special Education Coordinator and other teachers at the school attempted to

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[26] *Id.*
[27] *See* Petitioner Exhibit 4.
[28] Testimony of Advocate; Petitioner Exhibit 4 at 1.
[29] Petitioner Exhibit 9 at 19.
[30] Testimony of Advocate; Petitioner Exhibit 3 at 5. The requirement regarding the setting for the specialized instruction appears in a box below the heading "Least Restrictive Environment." In that box, the person preparing the IEP was to provide "a brief statement describing student needs that require removal from general education . . ." The statement in the box labeled "specialized instruction" is as follows: " has difficulties in the general education classroom and needs individualized attention."
[31] Testimony of Special Education Coordinator. This Hearing Officer found the testimony of the Special Education Coordinator credible because her testimony was uncontroverted and she appeared to have genuine concern for Petitioner's welfare.
[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.*

compensate for Petitioner's absences from class by providing tutoring during the lunch hour. Petitioner refused their assistance.[38] Petitioner also refused an after-school tutoring program.[39]

13. Petitioner needs 23.5 Carnegie units to graduate from high school with a diploma.[40] At the beginning of the 2008-2009 school year, she had 4.5 Carnegie units.[41]
14. At the end of the 2006-2007 school year, Petitioner's grade point average was 0.50 on a 4.0 scale.[42] She was absent eighteen days that year.[43] At the end of the 2007-2008 school year, her grade point average was 0.73.[44] She was absent 68.5 days that year.[45] At the beginning of the 2008-2009 school year, Petitioner ranked 179 of 282 students, which is above the median.[46]
15. At least twice a week during the 2008-2009 school year, Petitioner did not attend school.[47] Her progress report for the 2008-2009 school year through December 2, 2008, showed that Petitioner had 51.5 unexcused absences from home room.[48] She is failing all of her classes.[49] As of the date of the hearing, Petitioner had missed seventeen consecutive days of school.[50] Petitioner was to be disenrolled from school if she missed twenty consecutive days.[51]
16. Until recently, Petitioner came to school but did not go to class.[52] Petitioner spent much of

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[38] *Id.*
[39] *Id.*
[40] Petitioner Exhibit 13 at 2.
[41] *Id.*
[42] *Id.*
[43] *Id.*
[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] Testimony of Petitioner. The Parent testified that her daughter does not "hook" school. This Hearing Officer gave more weight to forthright admission of Petitioner.
[48] Petitioner Exhibit 11.
[49] *Id.*; Petitioner Exhibit 4 at 2 and Exhibit 12.
[50] Testimony of Special Education Coordinator
[51] *Id.*
[52] *Testimony of Special Education Coordinator.*

the school day wandering the hallways of the school or hanging out in the bathrooms.[53]

17. The school contacts a student's parent when the student is caught wandering the halls.[54] The Special Education Coordinator and other staff also attempt to talk to the student, escort the student to class, or otherwise motivate the student to go to class.[55] These methods had no effect on Petitioner's behavior and did not result in any improvement in her attendance.[56] This is in part due to the fact that Petitioner is not receptive to adults.[57] She often reacts to authority figures with rudeness and hostility.[58] She also appears to be depressed.[59]

18. The school Petitioner attends is not her neighborhood school.[60] At the MDT/IEP meeting, the team agreed that Petitioner's current school is an interim placement at this time.[61] The team predicted that Petitioner's academic performance may improve if she attended her neighborhood school and got away from her friends at her current school.[62] Petitioner is influenced by her friends to skip class.[63] Petitioner also has had several physical altercations with female peers and women outside the school.[64]

19. of Washington, D.C. would be able to implement Petitioner's IEP.[65] At Petitioner would be placed in a class with students close

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[53] *Id.*; Testimony of Petitioner. This Hearing Officer found Petitioner's testimony credible when she answered questions because her answers were forthright, even when her admissions were not in her best interest, and she did not contradict the other testimony at the hearing.
[54] Testimony of Special Education Coordinator.
[55] *Id.*
[56] Testimony of Special Education Coordinator.
[57] *Id.*
[58] *Id.*
[59] Testimony of Special Education Coordinator; *see also* Petitioner Exhibit 9 at 17 (noting that she may be depressed, hyperactive, exhibiting symptoms of psychosis). The Special Education Coordinator believes there are "safety issues" in Petitioner's home. The Special Education Coordinator stated that Petitioner will not participate in meetings if the Parent is present. The Special Education Coordinator and the Parent testified that Petitioner ran away from home at least once last year.
[60] Testimony of Special Education Coordinator; Petitioner Exhibit 4 at 4.
[61] Testimony of Advocate, Special Education Coordinator; Petitioner Exhibit 4 at 4.
[62] Testimony of Special Education Coordinator; Petitioner Exhibit 4 at 3.
[63] Testimony of Special Education Coordinator.
[64] Testimony of Special Education Coordinator, Parent.
[65] Testimony of Director of This Hearing Officer found the Director's testimony credible because it was not contradicted by any other testimony.

to her age and functioning on her academic level.[66] The class would have a low student-teacher ratio with seven students, one teacher, and one teacher's aide.[67] This Hearing Officer took judicial notice that is a smaller school than Petitioner's current school.

20. At , Petitioner would be subject to discipline for leaving or missing class.[68] If students miss class or walk out of class, they would be sent to the Director's office where they would receive academic instruction.[69] Students are subject to out-of-school suspension for leaving the school building.[70] If a student is suspended for more than two days, sends a packet of schoolwork for the student to complete at home.[71]

21. If a student has ten days of unexcused absences from that student is referred to the Child and Family Services Agency and would fail the quarter.[72] After fifteen unexcused absences, refers the student to truancy court.[73]

22. provides door-to-door transportation to ensure students with attendance problems arrive at school.[74] However, some students will not board the bus when it arrives at their homes. The bus is a "short" bus, which is a colloquial term to describe the buses that transport children with disabilities (these buses are generally shorter in length than other school buses and, as a result, there is a social stigma associated with riding a "short" bus).[75] Petitioner asserted that she would not get on a "short" bus.

23. Petitioner visited and liked it better than her current school.[76] Petitioner believes she would be more likely to attend class at However, she does not

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[66] *Id.*
[67] *Id.*
[68] *Id.*
[69] *Id.*
[70] *Id.*
[71] *Id.*
[72] *Id.*
[73] *Id.*
[74] *Id.*
[75] *Id.*
[76] Testimony of Petitioner.
[77] *Id.*

want to attend school until she is twenty-two.[78]

24. Petitioner does not attend class at her current school in part because she does not like the other students.[79] Petitioner admitted that she would not attend class at if she did not like the students there.[80] Petitioner also admitted that she would learn more if she went to class.[81]

VI. CONCLUSIONS OF LAW

The burden of proof is properly placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 56-57 (2005). Under IDEIA, a Petitioner must prove the allegations in the due process complaint by a preponderance of the evidence. 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).

IDEA guarantees children with disabilities the right to a free and appropriate public education with services designed to meet their individual needs. 20 U.S.C. §§ 1400(d)(1)(A),1412(a)(1). 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)..."

20 U.S.C. § 1401(9), 34 C.F.R. § 300.17, 30 DCMR Sec. § 3001.1.

Special education is defined as "specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability." 20 U.S.C. § 1401(28), 34 C.F.R. § 300.39, 30 DCMR Sec. § 3001.1. FAPE "consists of educational instruction specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child to benefit from the instruction." *Bd. of Education v. Rowley*, 458 U.S. 176, 188-89, 73 L.

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[78] *Id.*
[79] *Id.*
[80] *Id.*
[81] *Id.*

Ed. 2d 690, 102 S. Ct. 3034 (1982) (citation omitted). DCPS is obligated to provide a FAPE "for all children residing in the state between the ages of 3 and 21, inclusive." 34 C.F.R. § 300.101.

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 benefits. 20 U.S.C. § 1415 (f)(3)(E)(ii). In other words, an IDEA claim is viable only if those procedural violations affected the student's *substantive* rights. *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006) (emphasis in original; internal citations omitted). *Accord, Kruvant v. District of Columbia,* 99 Fed. Appx. 232, 233 (D.C. Cir. 2004) (denying relief under IDEA because "although DCPS admits that it failed to satisfy its responsibility to assess [the student] for IDEA eligibility within 120 days of her parents' request, the [parents] have not shown that any harm resulted from that error").[82]

VII. DISCUSSION

IDEIA "imposes no clear obligation upon the District of Columbia beyond the requirement that [disabled] children receive some form of specialized education." *Kerkam v. McKenzie*, 882 F.2d 884, 886 (D.C. Cir. 1988) (citing *Bd. of Educ. v. Rowley*, 458 U.S. 176, 195

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[82] See also, *C.M. v. Bd. of Educ.*, 128 Fed. Appx. 876, 881 (3d Cir. 2005) (per curiam) ("[O]nly those procedural violations of the IDEA which result in loss of educational opportunity or seriously deprive parents of their participation rights are actionable."); *M.M. ex rel. D.M. v. Sch.* Dist., 303 F.3d 523, 533-34 (4th Cir. 2002) ("If a disabled child received (or was offered) a FAPE in spite of a technical violation of the IDEA, the school district has fulfilled its statutory obligations."); *Roland M. v. Concord Sch. Comm.*, 910 F.2d 983, 994 (1st Cir. 1990) (en banc) ("[P]rocedural flaws do not automatically render an IEP legally defective") (citations omitted); *W.G. v. Bd. of Trustees*, 960 F.2d 1479, 1484 (9th Cir. 1992) (rejecting the proposition that procedural flaws "automatically require a finding of a denial of a FAPE"); *Thomas v. Cincinnati Bd. of Educ.*, 918 F.2d 618, 625 (6th Cir. 1990) (rejecting an IDEA claim for technical noncompliance with procedural requirements because the alleged violations did not result in a "substantive deprivation" of student's rights); *Burke County Bd. of Educ. v. Denton*, 895 F.2d 973, 982 (4th Cir. 1990) (refusing to award compensatory education because procedural faults committed by Board did not cause the child to lose any educational opportunity).

(1982)). The District is required only to make available a "basic floor of opportunity" that is "reasonably calculated to enable the child to receive educational benefits . . . sufficient to confer some educational benefit upon the [disabled] child," or a program "individually designed to provide educational benefit." 882 F.2d at 886.

Here, counsel for Petitioner failed to prove any procedural inadequacy in the development of Student's IEP that resulted in the Student's inability to access a FAPE or otherwise hamper her ability to progress academically. Counsel for Petitioner did not prove that the content of the IEP was inappropriate. Nor did he establish that Petitioner's school either (1) failed to make specialized instruction available to Petitioner or (2) that the specialized instruction the school provided was inappropriate.

In a perfect world, Petitioner would receive one-on-one instruction and a multitude of services to address her suspected disabilities. However, IDEIA does not require DCPS to "maximize the potential" of this Student. *McKenzie*, 882 F.2d at 886 (noting that the Supreme court stressed the lack of any such requirement four separate times in *Rowley*, 458 U.S. at 189, 197 n. 21, 198, 199). Rather, it only has to provide a "basic floor of opportunity." 882 F.2d at 886. Here, the root of the problem is that Petitioner has refused to make any effort to access the educational opportunities offered at her school.

Petitioner's own testimony, as well as her pattern of behavior over three years, established that she was not interested in attending school. Her testimony also undermined any presumption that she would perform better at a private school. She stressed that she would not take the school bus to and that she likely would not attend classes if she does not like the other students there. Although Petitioner testified that she wants to obtain a diploma, she made it perfectly clear hat she does not want to attend school until she is years old.

Considering that she is still in grade at age and has only 4.5 of the 23.5 Carnegie units required for a high school diploma, it is highly unlikely that Petitioner will earn a diploma before June 2012.[83] Thus, counsel for Petitioner failed to establish that Petitioner would be any more academically successful in a private placement. Petitioner also failed to prove that DCPS committed any procedural violations of IDEIA, much less impeded Petitioner's right to FAPE or deprived her of educational benefits.

Nonetheless, Petitioner is clearly in need of additional evaluations, and perhaps additional services, as recommended by the comprehensive psychological evaluation and evidenced by her demeanor at the due process hearing. Although counsel for Petitioner opted not to plead this issue in the Complaint, this Hearing Officer will heed the evaluator's recommendation that Petitioner receive an evaluation with an occupational therapist to assess her difficulties with fine motor functions, a clinical evaluation, and a Vineland to determine if she meets the criteria for mild mental retardation. Petitioner's demeanor and defiance at the due process hearing convinced this Hearing Officer that she should be evaluated in all areas of suspected disability.

Moreover, a social history evaluation is warranted as a result of the home safety issues raised by the Special Education Coordinator. The Parent requested the clinical evaluation in October 2008, one month before Petitioner reached the age of majority.[84] Finally, DCPS stipulated that an FBA was warranted.

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[83] Testimony of Director, Special Education Coordinator.

[84]

VIII. DECISION

Upon consideration of Petitioner's Complaint, the parties' Five-Day Disclosures, Petitioner's withdrawal of her claim for compensatory education, and the stipulation of the parties prior to the hearing, it is this 16th day of February 2009 hereby:

ORDERED that Petitioner failed to prove her claim in the Complaint alleging that DCPS failed to provide her a FAPE for the 2007-2008 and 2008-2009 school years, and thus this claim through February 6, 2009, is **DISMISSED WITH PREJUDICE**;

IT IS FURTHER ORDERED that Petitioner shall obtain independent clinical, social history, occupational therapy, and Vineland evaluations, as well as a functional behavioral assessment at the expense of DCPS;

IT IS FURTHER ORDERED that, within five business days of receiving the reports of these evaluations, counsel for Petitioner must provide the evaluations and reports to counsel for DCPS, Kendra Berner, as well as the special education coordinator for the Student's school;

IT IS FURTHER ORDERED that within fifteen (15) school days of receiving all of Petitioner's evaluations, DCPS shall convene an MDT/IEP meeting to review the evaluations; review and revise Petitioner's IEP, as necessary; and discuss and determine an appropriate placement for Petitioner;

IT IS FURTHER ORDERED that DCPS shall include Petitioner in all meetings and decisions regarding her education, including evaluations, development of IEPs, placement, and transition plans;

IT IS FURTHER ORDERED that DCPS shall not include the Parent in these meetings unless Petitioner specifically requests her presence;

IT IS FURTHER ORDERED that DCPS shall receive a one-day extension of the MDT/IEP meeting for every day of delay caused by Petitioner; and

IT IS FURTHER ORDERED that this Order is effective immediately.

Notice of Right to Appeal Hearing Officer's Decision and Order

This is the final administrative decision in this matter. Any party aggrieved by the findings and/or decision 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 of the entry of the Hearing Officer's Decision, in accordance with 20 U.S.C. Section 1415(i)(2)(B).

/s/

Frances Raskin
Hearing Officer

Issued: February 17, 2009

Copies to:

Miguel Hull, Attorney at Law
Kendra Berner, Attorney at Law
Hearing Office