DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
Office of Dispute Resolution
810 First Street, N.E., 2nd Floor
Washington, DC 20002

STUDENT,[1] through her Parents, Petitioners,	)	Date Issued: 1/5/15
v.	)	Hearing Officer: Keith L. Seat, Esq.
District of Columbia Public Schools ("DCPS"), Respondent.	)	

HEARING OFFICER DETERMINATION

Background

Petitioners, Student's parents, filed a due process complaint on 10/22/14, alleging that Student had been denied a free appropriate public education ("FAPE") in violation of the Individuals with Disabilities Education Improvement Act ("IDEA") because DCPS failed in its affirmative duty to identify Student as a child suspected of needing special education or related services. Petitioners were unaware and were never informed by DCPS or anyone else about publicly-funded special education options, even though Student had been privately evaluated and diagnosed with ADHD in 2010. DCPS responded that it had not been aware of Student or her needs until the due process complaint was filed in this case because Student was never in public school and was never referred to DCPS for evaluation by her private schools, her parents or anyone else, and that DCPS's outreach policies are appropriate and sufficient to satisfy its Child Find obligations.

Subject Matter Jurisdiction

Subject matter jurisdiction is conferred pursuant to IDEA, 20 U.S.C. § 1400, *et seq.*; the implementing regulations for IDEA, 34 C.F.R. Part 300; Title V, Chapter E-30, of the District of Columbia Municipal Regulations ("D.C.M.R.") and 38 D.C. Code 2561.02.

[1] Personally identifiable information is provided in Appendix A.

Procedural History

The due process complaint in this case was filed on 10/22/14 and assigned to this Hearing Officer on 10/24/14. Respondent filed a response to the complaint on 11/6/14, following the 11/1/14 Order Denying Respondent's Motion to Dismiss and Notice of Insufficiency, which rejected Respondent's challenge to the sufficiency of the complaint. Respondent made no challenge to jurisdiction.

A resolution meeting took place on 10/30/14, but the parties neither settled the case nor agreed to end the resolution period early, so the standard 30-day resolution period concluded on 11/21/14. A final decision in this matter must be reached no later than 45 days following the end of the resolution period, which requires a Hearing Officer Determination ("HOD") by 1/5/15. A prehearing conference was held by telephone on 11/21/14 and a Prehearing Order issued on 11/24/14.

The due process hearing, which was closed to the public,

Counsel declined to discuss settlement at the beginning of the hearing. Mother was present for the entire hearing.

Neither party objected to the testimony of witnesses by telephone. The parties made no admissions and agreed on no stipulations.

Petitioners' Disclosure statement, submitted on 11/25/14, consisted of a witness list of 16 witnesses and documents P1 through P8. Petitioners' Disclosure statement and documents were admitted into evidence without objection.

Respondent's Disclosure statement, submitted on 11/25/14, consisted of a witness list of 3 witnesses and no documents. Respondent's Disclosure statement was admitted into evidence over objection (as to relevance and scope).

Petitioners' counsel presented 6 witnesses in Petitioners' case-in-chief (*see* Appendix A):

1. Mother/Parent
2. School D Psychologist
3. School B Assistant Principal
4. School F Special Education Coordinator
5. Special Education Expert – qualified over objection as an expert in the Development of Compensatory Education Plans
6. School E Academic Director

Hearing Officer Determination

Respondent's counsel presented 2 witnesses in its case (*see* Appendix A):

1. Resolution Team Manager, DCPS

2. Manager of Nonpublic Unit, Private and Religious Office, DCPS ("PRO Manager")

Petitioners' counsel did not present any rebuttal witnesses.

The issue to be determined in this Hearing Officer Determination is:

Issue: Whether DCPS denied Student a FAPE by failing to (1) locate, identify, and evaluate her, (2) develop an Individualized Education Program ("IEP") for her, (3) determine her educational placement and/or location, and/or (4) provide specialized instruction and related services for her, as Petitioners were never informed by DCPS about the availability of publicly-funded special education for Student, and Petitioners have personally funded all of Student's special education needs since the beginning of the 2010/11 School Year ("SY"), including her attendance at School F, a residential school.

Petitioners seek the following relief:

1. A finding that DCPS denied Student a FAPE.

2. DCPS shall evaluate Student, determine her eligibility for special education, and develop an appropriate IEP.

3. DCPS shall place and fund Student at School F for the 2014/15 SY.

4. DCPS shall reimburse Petitioners for the costs of Student's education and related services from the 2010/11 SY to present.

5. For any denial of FAPE, DCPS, in the alternative, shall fund (a) appropriate compensatory education[2]; (b) appropriate compensatory education, with the form of implementation to be determined at the next IEP meeting[3]; or (c) an independent compensatory education evaluation,

[2] With regard to the request for compensatory education, Petitioners' counsel was put on notice at the prehearing conference that Petitioners must introduce evidence supporting the requested compensatory education, including evidence of specific educational deficits resulting from Student's alleged denial of FAPE and the specific compensatory measures needed to best correct those deficits, i.e., to elevate Student to the approximate position Student would have enjoyed had Student not suffered the alleged denial of FAPE. Respondent was also put on notice to be prepared to introduce evidence contravening the requested compensatory education in the event a denial of FAPE is found.

[3] Any delegation to a multidisciplinary/IEP team to determine the implementation of a compensatory education award made by the Hearing Officer would preclude the team from

to be followed by a new claim for compensatory education based on that evaluation.

6. Any other just and reasonable relief.

Oral closing arguments were made by counsel for both parties at the end of the due process hearing.

Findings of Fact

After considering all the evidence, as well as the arguments of both counsel, the Findings of Fact[4] are as follows:

1. Student is a resident of the District of Columbia. Petitioners are Student's parents ("Parents").[5]

2. Student has had challenges with executive functioning and being distracted since elementary school; her issues had become sufficiently serious that Parents had a private Neuropsychological Evaluation of Student conducted in November 2010, which diagnosed Student as having Attention Deficit Hyperactivity Disorder ("ADHD"), Anxiety Disorder, and Math Disorder.[7]

3. Parents shared the 2010 Neuropsychological Evaluation with School A (2010/11 and 2011/12 SYs) School B (2012/13 and 2013/14 SYs) – but not DCPS – to obtain testing accommodations and other accommodations for Student, including "100 percent extended time for quizzes, tests, and exams that involve reading, math, and/or writing."[8] School A and School B did not refer Student to DCPS for further evaluation and assistance, did not share the Neuropsychological Evaluation with DCPS, and did not provide information to or tell Petitioners about publicly-funded special education options.[9]

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reducing or discontinuing the award. *Reid ex rel. Reid v. Dist. of Columbia*, 401 F.3d 516, 526 (D.C. Cir. 2005).

[4] Footnotes in these Findings of Fact refer to the sworn testimony of the witness indicated or to an exhibit admitted into evidence. 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, 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.

[5] Mother.

[6] *Id.*

[7] P1-10; Mother.

[8] P1-12; Mother; School B Assistant Principal.

[9] Mother.

4. Student was next evaluated in June 2014 when she received a Psychological Evaluation and was again diagnosed with ADHD, Anxiety Disorder, and Math Disorder, as well as Major Depression.[10] The 2014 evaluation concluded that Student needed residential treatment in a therapeutic program.[11]

5. Student has never been in public school and was never referred to DCPS for evaluation by anyone.[12] Student has never gone through an eligibility determination nor had an IEP developed for her.[13]

6. Academically, Student performed reasonably well through March 2014, although her emotional issues became increasingly serious in the 2013/14 SY.[14]

7. In November 2013, Student attempted suicide and was hospitalized for 2 weeks, with another week as an outpatient.[15] Student again attempted suicide on 4/7/14 and was hospitalized for a week.[16] School B and School C knew of Student's hospitalizations, but DCPS did not.[17] Student wanted to transfer from School B to School C when her friend moved to School C in 2014; Student applied and was accepted at School C and transferred there in April 2014, just as her issues and difficulties peaked.[18]

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[10] P3-15; Mother.
[11] P3-14,15.
[12] Mother; PRO Manager.
[13] Mother.
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] Mother; P2.
[21] Mother; P4-1.
[22] *Id.*
[23] *Id.*

10. After stabilizing at School D, Student moved to an out-of-state residential program at School E for a few months until she was required to leave due to her aggressive behavior; Student then transferred to another out-of-state residential program, School F, where she remains (as of the due process hearing).[25]

11. DCPS did not become aware of Student and that she might have a disability until the filing of the due process complaint in this case on 10/22/14.[26] On that date, Petitioners' counsel also requested an evaluation, IEP and placement for Student by letter to DCPS.[27] DCPS is seeking to evaluate Student in another state where she attends School F, and has told Parents that DCPS will then determine eligibility, develop an IEP if appropriate, and offer Student a FAPE.[28]

12. The D.C. Office of the State Superintendent of Education ("OSSE") on 3/22/10 issued a detailed memorandum prescribing a Comprehensive Child Find System, which requires each Local Education Agency ("LEA") to have in place "policies and procedures to ensure all children with disabilities and who are in need of special education and related services are identified, located, and evaluated."[29] The OSSE requirements apply to children who are merely suspected of having a disability and who are advancing from grade to grade.[30] Further, DCPS is "responsible for all Child Find activities for children enrolled by their parents in private school. All Child Find activities must include activities similar to the activities undertaken for children attending public school."[31]

13. DCPS conducts similar Child Find processes for private and public schools.[32] DCPS is required to consult with private schools 4 times per year, so conducts quarterly meetings.[33] DCPS has numerous points of contact at private schools who are invited to the quarterly meetings; the larger organization which includes School A is at every meeting;

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[24] *Id.*
[25] Mother; School E Academic Director.
[26] Resolution Team Manager; PRO Manager.
[27] P5.
[28] Resolution Team Manager.
[29] P7-2.
[30] P7-10.
[31] P7-12.
[32] PRO Manager.
[33] *Id.*

School B is invited but rarely attends.[34] The Child Find process is reviewed at the quarterly meetings, along with other presentations on professional development.[35]

14. DCPS gives private schools Welcome Packets, also called Nonpublic Reference Guides, which include an introductory letter, a referral form, a residency form, and a teacher questionnaire form.[36] The forms can be used for referring to DCPS any child suspected of a disability to begin the eligibility process.[37]

15. Private schools are very willing to give Welcome Packets out to parents, as well as to make referrals to DCPS, so that children can get needed services.[38] In the 2013/14 SY, private schools made 190 referrals to DCPS of students who were suspected of having a disability.[39] This school year there have only been 16 referrals thus far, but there is usually a large influx after the winter holidays.[40] School A has previously made referrals to DCPS; School B receives packets and made a referral to DCPS.[41] DCPS has paid the tuition of 2 students at School B in the last 4 years or so out of about 100 students in School B's Special Program (*see* Appendix A) which provides additional services for children with learning differences.[42]

16. DCPS asked School B to send home Welcome Packets with students.[43] However, School B does not routinely distribute DCPS special education information, because the parents of School B's students usually obtain private evaluations and generally would not be interested in the options available through DCPS.[44] In particular, School B saw no need to advise Petitioners about special education options, because Student already had an evaluation.[45] School B does not pursue evaluations through DCPS unless requested by individual parents; Petitioners did not request a DCPS evaluation.[46] School B does provide information about publicly-funded special education options to families who do not have the economic means to obtain private testing and evaluations.[47] In the 2014/15 SY, DCPS

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[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] School B Assistant Principal.
[43] PRO Manager.
[44] School B Assistant Principal.
[45] *Id.*
[46] *Id.*
[47] *Id.*

asked School B for a list of students in its Special Program, but School B refused to provide the list.[48]

Conclusions of Law

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

The overall purpose of the IDEA is to ensure that "all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A).

"The IEP is the 'centerpiece' of the IDEA's system for delivering education to disabled children," *D.S. v. Bayonne Bd. of Educ.*, 54 IDELR 141 (3d Cir. 2010), *quoting Polk v. Cent. Susquehanna Intermediate Unit 16*, 853 F.2d 171, 173 (3d Cir. 1988), and is the primary vehicle for providing a FAPE. *S.H. v. State-Operated Sch. Dist. of the City of Newark,* 336 F.3d 260, 264 (3d Cir. 2003).

The Act's FAPE requirement is satisfied "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." *Smith v. Dist. of Columbia*, 846 F. Supp. 2d 197, 202 (D.D.C. 2012), *citing Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 203, 102 S. Ct. 3034, 73 L. Ed. 2d 690 (1982). The IDEA imposes no additional requirement that the services so provided be sufficient to maximize each child's potential commensurate with the opportunity provided other children. *Rowley*, 458 U.S. at 198. Congress, however, "did not intend that a school system could discharge its duty under the [IDEA] by providing a program that produces some minimal academic advancement, no matter how trivial." *Hall ex rel. Hall v. Vance County Bd. of Educ.*, 774 F.2d 629, 636 (4th Cir. 1985).

A Hearing Officer's determination of whether a child received a FAPE must be based on substantive grounds. In matters alleging a procedural violation, a Hearing Officer may find that a child did not receive a FAPE only if the procedural inadequacies (i) impeded the child's right to a FAPE; (ii) significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) caused a deprivation of educational benefit. 34 C.F.R. 300.513(a). In other words, an IDEA claim is viable only if those procedural violations affected the child's *substantive* rights.

"Based solely upon 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 with a FAPE." 5-E D.C.M.R. § 3030.3. The burden of

[48] PRO Manager.

proof is on the party seeking relief. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62, 126 S. Ct. 528, 537, 163 L. Ed. 2d 387 (2005).

Issue: *Whether DCPS denied Student a FAPE by failing to (1) locate, identify, and evaluate her, (2) develop an IEP for her, (3) determine her educational placement and/or location, and/or (4) provide specialized instruction and related services for her, as Petitioners were never informed by DCPS about the availability of publicly-funded special education for Student, and Petitioners have personally funded all of Student's special education needs since the beginning of the 2010/11 SY, including her attendance at School F, a residential school.*

Petitioners have been through unimaginably difficult times with their daughter and deserve all the support and assistance that the law allows, which should be forthcoming now and in the future. As to the past, Mother's testimony at the due process hearing was highly credible and there is little, if any, dispute over the relevant facts in this case. However, those facts are not sufficient to establish liability on the part of DCPS, for the law does not impose *per se* or automatic liability on a school district any time a child in need of special education and related services is not identified, located and evaluated, as discussed below.

The basic legal framework at issue was set forth by U.S. District Judge Lamberth in *D.L. v. Dist. of Columbia*, 302 F.R.D. 1, 6-7 (D.D.C. 2013), *leave to appeal denied* (Jan. 30, 2014), as follows:

> [T]he IDEA requires that states and the District of Columbia "establish policies and procedures to ensure ... that free appropriate public education [FAPE] ... is available to disabled children." *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 518 (D.C. Cir. 2005) (internal quotations omitted); *see also* 20 U.S.C. § 1412(a)(1)(A). Under the IDEA, "[s]chool districts may not ignore disabled students' needs, nor may they await parental demands before providing special instruction." *Reid*, 401 F.3d at 518. Instead, the IDEA imposes an affirmative obligation on school systems to "ensure that all children with disabilities residing in the State ... regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated." *Id.* at 519 (internal quotations omitted); § 1412(a)(3)(A). The District's laws implementing the IDEA require that once a potential candidate for special education services is identified, the District must conduct an initial evaluation and make an eligibility determination within 120 days. D.C. Code § 38–2561.02(a). The duties to identify, evaluate, and determine eligibility for disabled children are collectively known as the "Child Find" obligation.

Moreover, the District's Child Find obligation extends to D.C. resident students in private school and to those attending school out of state. *See Dist. of Columbia v. Abramson, 493 F. Supp. 2d 80, 85 (D.D.C. 2007); N.G. v. District of Columbia*, 556 F. Supp. 2d 11, 27 -28 (D.D.C. 2008).

Here, Student had increasingly serious emotional and academic issues, which came to a head in the spring of 2014. But Student had never attended a public school and was

never referred by her private schools (or anyone else) to DCPS for evaluation, so DCPS was unaware of Student and her needs until Petitioners filed the due process complaint in this case. Once DCPS became aware of Student, it began moving forward to evaluate Student and determine her eligibility for special education and related services, activities which are not at issue in this case and hopefully will provide a viable alternative for Student's care and educational needs going forward.

The heart of this dispute is that Petitioners assert that even though DCPS was not previously aware of Student, it should have been aware of her and is legally responsible for not having identified her and provided special education and related services. However, the law does not impose *per se* liability on a school district for failing to identify every child who might be suspected of having a disability. *See Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 245, 129 S. Ct. 2484, 2495, 174 L. Ed. 2d 168 (2009) (parents must have a remedy if school district "unreasonably" fails to identify a child with disabilities); *Bd. of Educ. of Fayette County, Ky. v. L.M.*, 478 F.3d 307, 313 (6th Cir. 2007) (claimant "must show that school officials overlooked clear signs of disability and were negligent in failing to order testing"). It is this Hearing Officer's conclusion that Petitioners have not met their burden of showing that DCPS acted unreasonably or negligently in not identifying Student prior to the filing of the due process complaint.[49] It is clear that the facts in this case are far different from those in cases in which liability was found on the part of the school district. In all the cases cited by Petitioner, or found in independent research, liability is only imposed on the district for violating Child Find obligations when there are clear notifications or other specific reasons for the district to know that it needed to take action.

First, Petitioners correctly emphasize that *N.G. v. Dist. of Columbia*, 556 F. Supp. 2d 11, 29 (D.D.C. 2008), stands for the proposition that DCPS has an affirmative obligation under Child Find. But that affirmative duty is not unbounded and the facts are instructive. N.G. was attending a DCPS school and attempted suicide in the spring of 2002, which resulted in a formal diagnosis of clinical depression of which her parents informed DCPS, but that did not trigger Child Find. In the 2002/03 SY, N.G.'s grades dropped precipitously and her parents had her tested in January 2003 by a clinical psychologist and gave the report to her DCPS teachers, school counselor, principal and vice principal, but that did not trigger Child Find. It was only after her parents followed up on indications of ADHD with an ADHD expert and DCPS was ultimately informed of N.G.'s formal diagnosis of ADHD and major depression that DCPS needed to evaluate her. *Id.* at 27-29. The court explained that it was only "[u]pon receiving notice" about N.G.'s two potentially qualifying disabilities

[49] As no liability is found, no detailed analysis is needed of whether the statute of limitations limits the claims in this case to 2 years. *Cf. D.K. v. Abington Sch. Dist.*, 696 F.3d 233, 245-48 (3d Cir. 2012) (neither statutory exceptions to the IDEA's statute of limitations nor common law equitable tolling doctrines applied to Child Find claims).

that the IDEA required action by DCPS. *Id.* at 29. Here, of course, DCPS received no notice about Student at all, much less about potentially qualifying disabilities.[50]

Next, in *G.G. ex rel. Gersten v. Dist. of Columbia*, 924 F. Supp. 2d 273, 275 (D.D.C. 2013), the child was in a DCPS school which might have suspected he had a disability based on "serious anxiety, including clenching his fists and teeth, continually repeating nonsensical phrases, and banging his head on his desk" during 1st grade in the 2009/10 SY, especially when he got worse in the 2d grade in 2010/11. But even G.G.'s parents meeting with the principal and others from the school in the spring of 2011 to discuss their concerns was not sufficient to trigger Child Find obligations. At that meeting "everyone agreed to seek out a neuropsychological examination," which diagnosed the child with Asperger Syndrome in March 2011, but that was not enough. Child Find was finally triggered and DCPS's 120 days for evaluation and an eligibility determination began only when parent's counsel wrote a letter to the school in June 2011 insisting on an IEP. *Id.* at 275, 279. Here, none of those facts exists other than a letter from Petitioners' counsel on 10/22/14, which has resulted in action by DCPS.

Further, in *Integrated Design & Electronics Acad. Pub. Charter Sch. v. McKinley*, 570 F. Supp. 2d 28, 34 (D.D.C. 2008), the court held that the "school was made aware of K.M.'s aberrant behavior by her October 17, 2005 suicide attempt, which took place on the campus, and an October 30, 2005 letter from K.M.'s treating physician recommending home instruction for her." Here again, there was no similar awareness by DCPS, as Student was not a DCPS student and no physician recommendation was given to DCPS.

Similarly, in *Long v. Dist. of Columbia*, 780 F. Supp. 2d 49, 57 (D.D.C. 2011), Child Find obligations were triggered by the school (for which DCPS was the LEA) sending the student for a psycho-educational evaluation in 2006 and then 3 years later DCPS apologizing to the student's mother for "'not following through on the referral process,' indicating that DCPS was well aware of" the student's suspected learning disability. DCPS also conceded that the eligibility "process began back in 2006" and promised compensatory education from 2006 if the student was found eligible for special education services. *See also Scott v. Dist. of Columbia*, 2006 WL 1102839, at *8 (D.D.C. Mar. 31, 2006) (student in DCPS school where "obvious need for evaluations and the parental request for them" triggered Child Find).

Here, despite Student's worsening emotional issues, including a suicide attempt in November 2013, Student was doing reasonably well academically through March 2014. But even if DCPS had known Student was struggling, that would not have been sufficient to trigger its Child Find obligations. *See D.K. v. Abington Sch. Dist.*, 696 F.3d 233, 249 (3rd Cir. 2012) ("Child Find does not demand that schools conduct a formal evaluation of every struggling student. . . . A school's failure to diagnose a disability at the earliest possible

[50] Unlike DCPS, School B did know of Student's hospitalizations in November 2013 and April 2014 and neither referred Student to DCPS for evaluation nor discussed options with Parents for obtaining publicly-funded assistance through DCPS.

moment is not *per se* actionable, in part because some disabilities 'are notoriously difficult to diagnose and even experts disagree about whether [some] should be considered a disability at all.' *A.P. ex rel. Powers v. Woodstock Bd. of Educ.*, 572 F. Supp. 2d 221, 226 (D.Conn. 2008).").

Petitioners also claim that DCPS did not do everything it should have to ensure that Petitioners were actually aware of the option of publicly-funded special education for Student. However, the evidence established that DCPS provided special education information to School A and School B, and any lack of awareness by Petitioners was because they did not obtain information from the private schools. Indeed, School B explained that it passed on information from DCPS about publicly-funded special education options only to parents it viewed as needing the information due to their limited economic circumstances, and that most parents in the private school prefer to rely on private evaluations and services.[51] Such an approach may meet the needs of families in the private school, but cannot be the basis for finding liability against DCPS. *See Jamie S. v. Milwaukee Pub. Sch.*, 668 F.3d 481, 498 (7th Cir. 2012) ("Child-find inquiries, like other aspects of the IDEA, are necessarily child specific. There is no such thing as a 'systemic' failure to find and refer individual disabled children for IEP evaluation – except perhaps if there was 'significant proof' that [the district] operated under child-find *policies* that violated the IDEA"). This Hearing Officer concludes that Petitioners did not prove liability in this case based on flaws in DCPS's Child Find policies, or implementation of those policies.

ORDER

Petitioners have failed to meet their burden of proof on the issue in this case. Accordingly, **it is hereby ordered** that all claims and requests for relief are **dismissed with prejudice**.

IT IS SO ORDERED.

Dated in Caption

/s/ *Keith Seat*
Keith L. Seat, Esq.
Hearing Officer

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

[51] Petitioners provided no evidence from School A, despite listing 4 witnesses from School A in its Disclosure and getting a Notice to Appear timely issued for School A's Principal.

controversy within ninety (90) days from the date of the Hearing Officer Determination in accordance with 20 U.S.C. § 1415(i).