

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

Student Hearing Office  
810 First Street, N.E., 2<sup>nd</sup> Floor  
Washington, DC 20002

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Student Hearing Office  
July 9, 2014

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STUDENT, <sup>1</sup>	)	
through the Parent,	)	
	)	Date Issued: July 8, 2014
Petitioner,	)	
	)	Hearing Officer: John Straus
v.	)	
	)	
District of Columbia Public Schools	)	
	)	
Respondent.	)	
	)	

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**HEARING OFFICER DETERMINATION**

**Background**

The Petitioner, the Student’s mother, filed a due process complaint notice on April 14, 2014, alleging that Student had been denied a free appropriate public education (“FAPE”) under the Individuals with Disabilities Education Act (“IDEA”).

The Petitioner alleged that the District of Columbia Public Schools (“DCPS”) failed to provide an appropriate Individualized Education Program (“IEP”) for the Student. Specifically, the Petitioner argued the placement is not restrictive enough to meet the student’s special education needs; the IEP does not provide the student with a dedicated aide to manage the student’s disruptive behavior and there is no Behavior Intervention Plan (“BIP”) based on a Functional Behavioral Assessment (“FBA”). The Petitioner also alleged that DCPS failed to timely comprehensively evaluate Student in all areas of suspected disability, when DCPS failed to conduct a neurological assessment based on the Student having a motor vehicle accident at age 4 and DCPS failed to conduct an FBA and develop a BIP based on student’s behaviors of hyperactivity and inattentiveness that negatively impacted his academic progress in the classroom. A third issue regarding receipt by the Petitioner of the Student’s records was withdrawn at the outset of the hearing.

The Petitioner sought funding of an independent a FBA and neurological assessment, develop an IEP with increased hours of special education services outside the general education

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<sup>1</sup> Personal identification information is provided in Appendix A.

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setting and a BIP based on the FBA; and award of compensatory education with tutoring and counseling provided by an independent provider.

DCPS asserts the following:

1. The December 17, 2013 IEP was developed by a properly constituted IEP team and provides student with the same level of academic and behavioral services as found on student's initial IEP, which was developed on February 28, 2013. The IEP team examined the student's work samples, IEP progress reports, and DC-CAS scores at the December 17, 2013 meeting, and concluded that student had been receiving educational benefit; therefore, at the time of the December 17, 2013 meeting, the IEP team had no cause to consider increasing the level of academic and behavioral supports found on student's original IEP. DCPS maintains that student's needs do not rise to the level of a dedicated aide.
2. The student's behaviors up until and through December of 2013 were adequately contained through counseling sessions and IEP accommodations. DCPS acknowledged that, at the beginning of 2014, the student exhibits a greater amount of negative behaviors. Consequently, after obtaining parental consent on March 11, 2014, DCPS began the process of conducting an FBA. Upon review of the FBA, DCPS will develop a behavior intervention plan.
3. The Petitioner provides no basis in her complaint suggesting a need for a neurological assessment. The school psychologist has spoken with the Petitioner regarding student's accident, the Petitioner did not mention any lingering neurological concerns stemming from that incident. DCPS asserts that the IEP team does not require a neurological assessment in order to determine student's eligibility classification or necessary IEP services. Furthermore, in addition to the FBA, DCPS is also conducting a comprehensive psychological assessment, which contains many of the same educational components as a neurological assessment.

### **Subject Matter Jurisdiction**

Subject matter jurisdiction is conferred pursuant to the Individuals with Disabilities Education Act ("IDEA"), as modified by the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. Section 1400 et. seq.; the implementing regulations for the IDEA, 34 Code of Federal Regulations ("C.F.R.") Part 300; and Title V, Chapter E-30, of the District of Columbia Municipal Regulations ("D.C.M.R."); and 38 D.C. Code 2561.02.

### **Procedural History**

The due process complaint was filed on April 14, 2014. The case was originally assigned to Hearing Officer Massey on April 14, 2014. This Hearing Officer was assigned to the case on May 15, 2014.

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Neither Petitioner nor Respondent waived the resolution meeting. A resolution meeting took place on April 28, 2014, at which time parties agreed to keep the resolution period open. The 30-day resolution period ended on May 14, 2014, the 45-day timeline to issue a final decision began on May 15, 2014 and the final decision was initially due by June 28, 2014. *See* 34 C.F.R. §§ 300.510 and .515.

The due process hearing began on June 17, 2014. At the end of a full day of testimony, the hearing had not concluded. The Respondent requested and was granted a continuance to June 25, 2014, and the due process hearing concluded on that date. As a result, the due date for the final decision was extended until July 8, 2014.

The due process hearing was a closed hearing.

Neither party objected to the testimony of witnesses by telephone. The Petitioner participated in person on June 17, 2014 and via telephone on June 25, 2014.

Petitioner presented two witnesses: the Petitioner and an educational consultant. The Petitioner requested the educational consultant be certified as an expert witness. DCPS objected because the Petitioner did not include the witness' curriculum vitae in her disclosure as required by the Prehearing Order. The Hearing Officer did not certify the witness as an expert because the Petitioner did not provide the curriculum vitae in a timely manner.

DCPS presented three witnesses: DCPS School Psychologist; DCPS Special Education Teacher ("SET"); and DCPS Social Worker. The DCPS school psychologist was certified as an expert in school psychology.

The Petitioner's Disclosure Statement, filed and served on June 10, 2014, consisted of a witness list of four (4) witnesses and documents P-01 through P-43. The Petitioner's documents P-14 through P-16, P-21, P-22, and P-31 were admitted into evidence over objection. The Petitioner's document P-43 was not admitted because it was not disclosed to the Respondent in a timely manner pursuant to 34 C.F.R. § 300.512(b).

The Respondent's Disclosure Statement, filed and served on June 10, 2014, consisted of a witness list of four (4) witnesses and documents R-1 through R-22. The Respondent's documents were admitted into evidence without objection.

The issues to be determined in this Hearing Officer Determination are as follows:

Issue#1 - Whether denied the Student a FAPE by failing to provide an appropriate IEP and school placement on December 17, 2013 that would enable the Student to access the curriculum (see 34 C.F.R. § 300.320(4)(i)); specifically, the placement is not restrictive enough to meet the student's special education needs, the IEP does not provide the student with a dedicated aide to manage the student's disruptive behavior and the BIP is not based on a FBA. 34 C.F.R. §§ 300.324(b)(1) and 300.116.

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Issue #2 – Whether DCPS denied the Student a FAPE by failing to timely comprehensively evaluate the Student in all areas of suspected disability, when DCPS failed to (a) evaluate Student by conducting a neurological assessment since January 20, 2013 based on the Student having a motor vehicle accident at age 4, (b) conduct a FBA since January 20, 2013 and develop a BIP since February 28, 2013 based on student’s behaviors of hyperactivity and inattentiveness that negatively impacted his academic progress in the classroom. 34 C.F.R. §§ 300.324(a)(2), 300.304(c) (evaluate in all areas of suspected disability).

For relief, the Petitioner requested DCPS to fund a FBA and neurological assessment; develop an IEP with increased hours of special education services outside the general education setting and a BIP based on the FBA and an award of compensatory education with tutoring and counseling provided by an independent provider.

At the start of the hearing, the parties made stipulations regarding the Student’s current school and grade. The parties also stipulated that the Student does not have the services of a dedicated aide and his IEP, dated December 17, 2014, would be reviewed on June 18, 2014 by the IEP team

### **Findings of Fact**

After considering all the evidence, as well as the arguments of both counsel, this Hearing Officer’s Findings of Fact<sup>2</sup> are as follows:

1. The Student is a resident of the District of Columbia. The Petitioner is the Student’s mother.
2. The Student was involved in a \_\_\_\_\_ accident \_\_\_\_\_ As a result of the accident, he was hospitalized and received multiple surgeries. As a result his surgeries and hospitalizations, he missed a great amount of his Pre-Kindergarten classes. Therefore, the student was retained and repeated Pre-Kindergarten.<sup>3</sup>
3. The Petitioner was concerned the Student may be a student with a disability under the IDEA. On November 28, 2012, the Petitioner signed informed written consent to have the Student evaluated to determine whether the student is a student with a disability under the IDEA.<sup>4</sup>
4. On December 11 and 12, 2012, the student received a psychological assessment, dated January 10, 2013. The evaluator interviewed the Petitioner. The Petitioner stated she believes the Student is a student with Attention Deficit Hyperactivity Disorder

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<sup>2</sup> 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.

<sup>3</sup> P-5, R-3, Testimony of Petitioner.

<sup>4</sup> P-37, R-1, R-2, Testimony of Petitioner

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(“ADHD”) because of her experience with her older son who has a diagnosis of ADHD. The assessment included a Kaufman Test of Educational Achievement, Second Edition (“KTEA-II”) which yielded average academic scores in all areas except written expression where the assessment yielded a below average score. The Petitioner, teacher and Student were given the Behavior Assessment System for Children, Second Edition (“BASC-2”). Both the Petitioner’s and teacher’s ratings placed the student in the clinically significant range for Hyperactivity and the Student’s rating placed himself in the at-risk range for Hyperactivity. The evaluator stated the student exhibits symptoms of ADHD that impact his classroom behavior and writing skills. The evaluator recommended that the Student be determined a student with an Other Health Impairment (“OHI”) under the IDEA and that he receive specialized instruction in writing.<sup>5</sup>

5. The Student received an independent assessment at Children’s Hospital in January 2013 to determine the source of migraine headaches. The results of the assessment were inconclusive. The Petitioner provided a copy of the assessment to the evaluator.<sup>6</sup>
6. On January 31, 2013, the Multidisciplinary team, including the Petitioner, reviewed the January 10, 2013 psychological assessment report and determined the student is a student with OHI under the IDEA.<sup>7</sup>
7. On February 28, 2013, the IEP team developed an IEP that included goals in the area of written expression and social and emotional goals. The IEP team determined the student required 90 minutes per week of specialized instruction in the general education setting, 60 minutes per week of specialized instruction outside the general education setting, 60 minutes per month of behavioral support services in the general education setting and 60 minutes per month of behavioral support services outside of the general education setting. The team also determined the student did not require the support of a dedicated aide. The Petitioner did not attend the meeting.<sup>8</sup>
8. On March 9, 2013, the Petitioner agreed to implementation of the February 28, 2013 IEP.<sup>9</sup>
9. On October 24, 2013, the Petitioner requested, via email, documentation of behaviors exhibited by the student in class in order to address the behaviors at the upcoming IEP team meeting.<sup>10</sup>
10. The Student was involved in two behavior incidents at school in December 2013. One incident involved the student hanging off a two story railing. The school contacted the Petitioner, via telephone, and requested a manifestation determination meeting.

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<sup>5</sup> P-5, R-3

<sup>6</sup> Petitioner

<sup>7</sup> P-18, R-4, SET

<sup>8</sup> P-4, R-5, SET, DCPS Social Worker

<sup>9</sup> R-6, SET

<sup>10</sup> P-30

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However, the Petitioner did not agree to attend a manifestation determination meeting due to the fact that an IEP team meeting was scheduled for the following week. The student was not suspended as a result of the incident.<sup>11</sup>

11. On December 17, 2013, the IEP team convened. The team discussed the behavior incidents. The team offer an involuntarily transfer; however, the Petitioner did not agree to an involuntary transfer. The team held a manifestation review and determined the student's disability impacted his behavior. The team noted the Student is receiving social work services to address concerns that the Student's behavior is impeding his learning or that of other children. The SET noted the Student can write five paragraphs on a topic he chooses. The team made no changes to his written expression goals and one out his three social emotional goals. The team added two additional social emotional goals to the IEP. The team did not change the hours of services. Finally, the team determined the student continues to not require the support of a dedicated aide.<sup>12</sup>
12. At the December 17, 2013, IEP team meeting, the Petitioner expressed concerns about the IEP because she believed the Student was not making academic progress. She disputed the SET's assertion that the student is able to produce five paragraphs because he takes four hours to complete his homework. The Petitioner questioned the IEP team about the measurability and specificity of his goals. She expressed concerns regarding the student's behaviors. The Petitioner stated she was getting calls three times per week from the school which was affecting her job. She stated the IEP must address the student's inattention and inability to focus. The Petitioner did not sign the IEP because she did not agree with the IEP.<sup>13</sup>
13. On January 2, 2014, the Petitioner, through counsel, requested the student be evaluated. The request included a request for a comprehensive psychological assessment and a FBA to develop a BIP.<sup>14</sup>
14. On January 7, 2014, the Petitioner, via email, requested another IEP team meeting to update the Student's IEP. The Petitioner also made verbal requests.<sup>15</sup>
15. On January 24, 2014, the Petitioner, through counsel, requested a status report regarding her request for evaluations.<sup>16</sup>
16. On February 18, 2014, the student was suspended for two days for bullying behavior.<sup>17</sup>
17. On March 11, 2014, the Petitioner executed consent to have the Student evaluated again. The Petitioner did not receive the consent form prior to March 11, 2014.<sup>18</sup>

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<sup>11</sup> Petitioner, DCPS Social Worker

<sup>12</sup> P-3, R-10, Petitioner, SET, DCPS Social Worker

<sup>13</sup> Petitioner

<sup>14</sup> P-21

<sup>15</sup> P-39, P-40, Petitioner

<sup>16</sup> P-22

<sup>17</sup> P-11, Petitioner

<sup>18</sup> P-38, R-11

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18. A FBA was completed on April 30, 2014. The FBA included six observations over a two to three week period. Target behaviors identified by the evaluator included: unwanted touching of peers and tantrums.<sup>19</sup>
19. A draft BIP was developed on May 27, 2014. The BIP contains suggested new behaviors for the student such as completing and submitting classwork and homework; demonstrating engagement in and focus upon the topics in his classes; appropriate and respectful interaction with peers and adults; refraining from intimidating behaviors with peers and adults and complying with adult requests and directions. The DCPS Social Worker reviewed the draft BIP during the week of June 16, 2014. The School Social Worker states the student does not require a dedicated aide even though it states he does need a dedicated aide in the draft BIP. The inclusion of the dedicated aide in the draft BIP is a typo and refers to a classroom aide rather than a dedicated aide.<sup>20</sup>
20. On April 26, 2014 and May 8, 2014, the Student received another psychological assessment, dated June 6, 2014. The assessment included another interview with the Petitioner. The Petitioner provided information about the automobile accident when the student was four years old. The evaluator stated the Student continues to be a student with OHI due to the Student's school performance being impacted by his ADHD.<sup>21</sup>
21. On June 18, 2014, the IEP team reviewed the June 6, 2014 psychological assessment, FBA and draft BIP.<sup>22</sup>
22. The Student has not exhibited behavioral problems since April 2014.<sup>23</sup>

### 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:

“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 D.C.M.R. E-3030.3. The burden of proof in an administrative hearing is properly placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49 (2005).

**DCPS did not deny the Student a FAPE by failing to provide an appropriate IEP and school placement on December 17, 2013 that would enable Student to access the curriculum**

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<sup>19</sup> R-14, DCPS Social Worker

<sup>20</sup> R-15, DCPS Social Worker

<sup>21</sup> R-16, Petitioner, DCPS School Psychologist

<sup>22</sup> Petitioner, SET

<sup>23</sup> SET

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An IEP is the written document memorializing the collaborative effort between parents and district personnel to develop an educational plan for a student with a disability. The IEP describes the child's individual needs and proscribes the proper placement and services designed to meet those unique needs. *Schaffer*, 546 U.S. 49 (U.S. 2005); 34 C.F.R. § 300.320. Pursuant to *Schaffer v. Weast*, 554 F.3d 470 (4<sup>th</sup> Cir. 2009), the Hearing Officer must focus on the adequacy of the IEP at the time it was created, and ask if it was reasonably calculated at that time to enable the student to receive educational benefits. *Id.*, 554 F.3d 470 (4<sup>th</sup> Cir. 2009).

The purpose of the IDEA is to provide a "cooperative process" between parents and schools, and a central component of this collaboration is the IEP process. *Schaffer v. Weast*, 546 U.S. 49 (U.S. 2005). The IEP is the cornerstone of the IDEA that sets forth the FAPE that is offered to a child with a disability eligible to receive special education and related services under the IDEA. *See* 34 CFR 300.17. The failure of an IEP to address a child's educational needs will likely result in a denial of FAPE. *Forest Grove Sch. Dist. v. T. A.*, 52 IDELR 151 (U.S. 2009). As described by the U.S. Supreme Court, the IEP is a comprehensive statement of the educational needs of a child with a disability and the specially designed instruction and related services a district will employ to meet those needs. *Burlington Sch. Comm. v. Massachusetts Dept. of Educ.*, 556 IDELR 389 (U.S. 1985).

A parent's disagreement with the IEP alone is not sufficient grounds for the Hearing Officer to find a denial of FAPE. Although parents are "equal" participants in the IEP process, they do not have veto power over the IEP. If the team cannot reach consensus, the public agency must provide the parents with prior written notice of the agency's proposals or refusals, or both, regarding the child's educational program. 34 CFR 300.503 (a); *Letter to Richards*, 55 IDELR 107 (OSEP 2010); and *Buser v. Corpus Christi Indep. Sch. Dist.*, 20 IDELR 981 (S.D. Tex. 1994), *aff'd*, 22 IDELR 626 (5<sup>th</sup> Cir. 1995).

A district's obligation to provide FAPE to a student with a disability is satisfied when the district provides the student with the personalized educational program necessary to allow the child to derive an educational benefit from that instruction. In other words, the FAPE requirement of the IDEA demands access to educational opportunity only, not the specific achievement of educational results. *Board of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 553 IDELR 656 (U.S. 1982). The IEP does not operate as a contract offering guarantees that a student will achieve a certain amount of academic proficiency. *Coale v. State Dept. of Educ.*, 35 IDELR 149 (D. Del. 2001). *See also*, *Schaffer*, 554 F.3d 470 (4<sup>th</sup> Cir. 2009) (holding that the parents could not use the student's 10<sup>th</sup>-grade IEP to show that his eighth-grade IEP was inappropriate, as the eighth-grade IEP was reasonably calculated to provide FAPE at the time it was developed).

### **The placement meets the student's special education needs**

DCPS, as the local and state education agency, is to make certain that the educational placement, for each child with a disability within its jurisdiction, is able to implement the student's IEP. Pursuant to 34 C.F.R. § 300.115(a), DCPS "must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services." The continuum required must include instruction in regular

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classes, special classes, special schools, home instruction, and instruction in hospitals and institutions.

In this case, the December 17, 2013 IEP provides the student with an hour and a half of specialized instruction in regular classes and one hour of specialized instruction in special classes per week. The December 17, 2013 IEP also provides one hour of counseling service in regular classes and one hour of counseling in special classes per month. There is nothing in the record indicating the student required more services than was provided in the December 17, 2013 IEP. The KTEA-II yielded average scores. The Petitioner did not state how much more instruction time is necessary in special classes. The information available to the IEP team was the Student was performing at his grade level in all area with the exception of writing. The IEP provides enough time for the student to benefit in that area of concern.

### **The Student does not require a dedicated aide to manage his disruptive behavior**

Districts are required to provide those services that are necessary in order for a child to receive meaningful educational benefit. *Rowley*, 553 IDELR 656 (U.S. 1982). The question is whether the IEP was appropriately designed at the time of creation so as to convey a meaningful benefit.

In this case, December 17, 2013 IEP team correctly denied the inclusion of a dedicated aide in the IEP. Regardless of any reasons given by DCPS for its refusal to include an aide in the IEP; there is nothing in the record that indicates that an aide is necessary to provide the student with meaningful educational benefit. The Petitioner failed to provide any evidence regarding how a dedicated aide would provide meaningful education benefit. In fact, it is not at all clear what the job duties would entail for the sought after dedicated aide.

### **The BIP is based on a FBA**

Prior to December 2013, the Student's behaviors did not require a BIP. The IEP team did not develop a BIP at the December 17, 2013 IEP meeting and no FBA was developed prior to the December 17, 2013 IEP meeting. The student's behaviors occurred shortly before the IEP team convened. The FBA takes two to three weeks to complete; therefore, there was not enough time for DCPS to conduct a FBA prior to the December 17, 2013 IEP meeting.

DCPS did conduct a FBA that was completed on April 30, 2014 and included included six observations over a two to three week period. DCPS also developed a draft BIP on May 27, 2014. The target behaviors in the FBA are addressed by the replacement behaviors in the BIP. Therefore, the BIP is based on the FBA.

### **DCPS did not fail to timely comprehensively evaluate Student in all areas of suspected disability when DCPS failed to conduct a neurological assessment**

Pursuant to D.C. MUN. REGS. Tit. 30, § 3005.7, DCPS shall ensure that "the child is assessed in all areas related to the suspected disability [and] in evaluating each child with a disability...the evaluation is sufficiently comprehensive to identify all of the child's special

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education and related services needs...” Medical services for diagnostic and evaluation purposes, such as the requested neurological assessment, are related services that must be provided or paid for by a local education agency if necessary to assist a child with a disability to benefit from special education. 34 C.F.R. § 300.34(a).

In this case, the Petitioner argued that a Neurological Assessment is necessary because the Student was involved in an automobile accident when he was four years old. The January 10, 2013 psychological assessment states the student is a student with OHI under the IDEA. The Petitioner did not object to the disability category at the January 31, 2013 Multidisciplinary team meeting. She did not object to the disability category at the December 17, 2013 IEP team meeting either. There is nothing in the record that indicates how the student’s IEP would be different if a neurological assessment were completed by DCPS.

The Petitioner did obtain an independent neurological assessment of the student in January 2013 and provided a copy to DCPS staff. The assessment was inconclusive regarding the etiology of the student’s migraine headaches. There is nothing in the record that indicates another neurological assessment would not provide any additional information to the IEP team regarding the student’s disability or IEP needs.

**DCPS did not deny the student a FAPE by failing to timely comprehensively evaluate Student in all areas of suspected disability when DCPS failed to conduct a FBA and develop a BIP**

Pursuant to 34 C.F.R. § 300.530(f)(1)(i), “if the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP team must conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child.” In this case, the December 17, 2013 IEP team did convene a manifestation determination and determined that the student’s behaviors were a manifestation of the Student’s disability. Therefore, DCPS was obligated to obtain parental consent to conduct a FBA and develop a BIP.

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 this case, the hearing officer finds the procedural violation did not impede the Student’s right to a FAPE; significantly impede the Petitioner’s opportunity to participate in the decision making process or cause a deprivation of educational benefit. The student was never suspended for the behavioral incident in December 2013. The student was suspended two days in February 18, 2014. There were no other suspensions during the 2013 – 2014 school year. The student’s behaviors have improved since April 2014 without the benefit of a BIP.

**ORDER**

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Petitioner failed to meet her burden of proof on the issue presented.

The complaint is **DISMISSED** with prejudice.

All requested relief is denied.

**IT IS SO ORDERED.**

**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: July 8, 2014

*/s/ John Straus*  
Hearing Officer