

DISTRICT OF COLUMBIA
Office of the State Superintendent of Education
Office of Review & Compliance
Student Hearing Office

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Confidential

<p>STUDENT¹, by and through parent, Petitioner, us. District of Columbia Public Schools, Respondent.</p>	<p><u>HEARING OFFICER'S DETERMINATION</u></p> <p>Counsel for Petitioner/Parent: Fatamata Barrie, Esq.</p> <p>Asst. Attorney General for DCPS: Harsharen Bhuller, Esq.</p> <p><u>Hearing Officer</u> H. St. Clair, Esq.</p>
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¹ Identifying personal information is attached to this decision as Appendix A and must be detached prior to public distribution.

BACKGROUND

On October 21, 2008, Counsel for the Parent filed the herein Complaint with the District of Columbia Office of the State Superintendent of Education (OSSE), Student Hearing Office (SHO), complaining the District of Columbia Public Schools (DCPS) and a DCPS public charter school, denied the student a Free Appropriate Public Education (FAPE). Specifically, Counsel for the Parent complained the January 30, 2008 MDT recommended an eye examination of the student and that, to date, DCPS had failed to complete the examination. For relief, an ophthalmological evaluation was requested.

The Student Hearing Office, OSSE, scheduled a hearing in this matter for December 30, 2008 that was continued on the unopposed motion of Petitioner to 4:00 P.M., Tuesday, January 13, 2009 at the Student Hearing Office, OSSE, 1150 Fifth Street, SE - First Floor, Hearing Room 5B, Washington, D.C. 20003. The hearing convened as rescheduled.

JURISDICTION

The hearing convened under Public Law 108-446, The Individuals with Disabilities Education Improvement Act of 2004, Title 34 of the Code of Federal Regulations, Part 300, and Title V of the District of Columbia Municipal Regulations.

ISSUE: Did DCPS inappropriately fail to complete the January 30, 2008 MDT recommended eye examination of the student?

FINDINGS of FACT

By facsimile dated December 22, 2008, the disclosed 6 witnesses and 10 documents.

By facsimile dated December 22, 2008, DCPS disclosed 1 witness and 8 documents.

The documents were placed into the record and are referenced/footnoted herein where relevant.

The parties submitted this case to the hearing officer on the documents.

In consideration of the documents herein, the hearing officer found the following facts:

1. On January 30, 2008, the MDT met at _____ and completed an IEP that disability coded the student Multiply Disabled (Traumatic Brain Injury-Speech/Language Impaired-Learning Disabled);² the MDT recommended an eye examination of the student.³

2. To date, DCPS had not completed the eye examination.

CONCLUSIONS of LAW

DCPS is required to make FAPE available to all children with disabilities within the jurisdiction of the District of Columbia.

IDEIA 2004 requires DCPS to fully evaluate every child suspected of having a disability within the jurisdiction of the District of Columbia, ages 3 through 21, determine eligibility for special education services and, if eligible, provide same through an appropriate IEP and Placement. The requirement includes the completion of MDT recommended evaluations of a student. At 34 CFR 300.304(c)(4), An LEA is required to assess a student “. . . in all areas related to the suspected disability, including, if appropriate, health, vision” DCPS failed to follow the regulation in this matter.

SUMMARY of the DECISION

The parent was the prevailing party in this matter.

In consideration of the foregoing, the hearing officer made the following

ORDER

1. According to Superintendent’s Directive 530.6, DCPS will fund an independent ophthalmological evaluation of the student. Within 15 schooldays of receipt of the last evaluation report⁴, DCPS will convene an MDT/IEP/ Placement meeting during which evaluations will be reviewed, the IEP reviewed and revised as appropriate and

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² Parent Document No 2

³ Par. Doc. No 3, pages 4 & 5

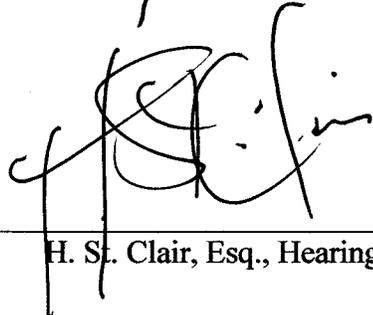
⁴ DCPS issued a IEE letter for a neurological evaluation and an auditory assessment on 11/13/2008, DCPS Doc. No 8

placement discussed and determined. If a DCPS placement is recommended, a Notice of Placement will be issued within 5 schooldays of the said meeting; if a non-public placement is recommended, a Notice of Placement will be issued within 30 days of the said meeting.

2. At the said MDT/IEP/Placement meeting, the form, amount and delivery of compensatory education, if any, will be discussed and determined. For disputes under this paragraph, either party may request a hearing.

3. For the said MDT/IEP/Placement meeting, scheduling is to be through and notices are to be sent to Counsel for the Parent except that, for everyday of unavailability of parent/ educational advocate/Counsel for the Parent, the deadline herein will be extended one day. In the event of independent evaluation(s) sent to DCPS, Counsel for the Parent will verify by telephone the receipt of the evaluation report copy(ies) by the DCPS person addressee. For disputes under this paragraph, documentation of the parties will be relied upon to determine the good faith of each party.

Dated this 22nd day of January, 2009



H. St. Clair, Esq., Hearing Officer

This is THE FINAL ADMINISTRATIVE DECISION. Appeal can be made to a court of competent jurisdiction within ninety (90) days of the issue date of this decision.