

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

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Confidential

OSSE
STUDENT HEARING OFFICE
2009 MAR 30 AM 9:43

<p>STUDENT¹, by and through parent, Petitioner, <i>vs.</i> District of Columbia Public Schools, Respondent.</p>	<p><u>HEARING OFFICER'S DETERMINATION</u></p> <p>Counsel for Petitioner/Parent: Domiento C.R. Hill, Esq.</p> <p>Asst. Attorney General for DCPS: (non-appearing)</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.

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.

SUMMARY of the PROCEEDING

The student attended a private special education day-school in Virginia. On December 23, 2008, the MDT met at the day-school and recommended vineland and assistive technology assessments for the student; DCPS was notified of the recommendations on January 2, 2009.

On February 17, 2009, 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) denied the student a Free Appropriate Public Education (FAPE). Specifically, Counsel for the Parent complained DCPS failed to complete vineland and assistive technology assessments of the student as the December 23, 2008 MDT recommended. For relief, independent vineland and assistive technology assessments were requested.

The Student Hearing Office, OSSE, scheduled a hearing in this matter for 1:00 P.M., Tuesday, March 24, 2009 at the Student Hearing Office, OSSE, 1150 Fifth Street, SE - First Floor, Hearing Room 5B, Washington, D.C. 20003. The hearing convened as scheduled.

On March 5, 2009, DCPS filed a Notice of Insufficiency complaining that the parent had not signed the herein Complaint as setout in the SHO Standard Operating Procedures Manual Sec. 301.2C(e). Also on March 5, 2009, Petitioner filed an Opposition. The hearing officer noted that nowhere in *IDEIA 2004* is there a requirement that a parent sign a Due Process complaint and further noted that the Notice of Insufficiency did not mention as missing any of the requirements of sufficiency set out at 34 CFR 300.508(b).

The hearing convened on March 24, 2009 at 1:33 A.M.

No one appeared for DCPS.

The March 5, 2009 Notice of Insufficiency was DENIED.

By facsimile dated March 17, 2009, the parent disclosed 12 witnesses and 12 documents.

Counsel for the Parent moved for a Default Finding.

The hearing officer noted that *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, further noted that DCPS is required to complete MDT recommended evaluations of students and GRANTED the motion for a Default Finding.

To date, DCPS had failed to complete the December 23, 2008 MDT recommended vineland and assistive technology assessments of the student.

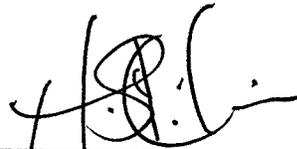
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In consideration of the foregoing, the hearing officer made the following

ORDER

1. According to Superintendent's Directive 530.6, DCPS will fund independent vineland and assistive technology assessments of the student. Within 15 schooldays of receipt of the last assessment report, DCPS will convene an MDT/IEP/Placement meeting during which evaluations will be reviewed, the IEP reviewed and revised as appropriate and 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 every day of unavailability of parent/educational advocate/Counsel for the Parent, the deadline herein will be extended one day. In the event of independent assessments sent to DCPS, Counsel for the Parent will verify by telephone the receipt of the assessment 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 30th day of MARCH, 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.