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

Frances Raskin, Due Process Hearing Officer
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Washington, D.C. 20003
(202) 698-3819
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Confidential

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STUDENT HEARING OFFICE
2009 APR 14 AM 9: 26

STUDENT, through the legal guardian[1]	)	
	)	
Petitioner,	)	
	)	
v.	)	Hearing Date: None held
	)	
	)	
THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS,	)	
	)	
	)	
Respondent.	)	
	)	

HEARING OFFICER DETERMINATION

Counsel for Petitioner:

Miguel Hull, Attorney at Law
James E. Brown & Associates
1220 L Street, N.W.; Suite 700
Washington, D.C. 20005
(202) 742-2000; Fax: (202)742-2098

Counsel for DCPS:

Tanya Chor, Attorney at Law
Office of the Attorney General
825 North Capitol Street, N.E.; 9th Floor
Washington, D.C. 20001
(202) 442-5000; Fax: (202) 497-5097

[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

Petitioner is the mother of the Student, an year-old, special-education student at a District of Columbia Public Schools ("DCPS") middle school. Both Petitioner and the Student reside in the District of Columbia.

On February 26, 2009, Petitioner filed a Due Process Compliant Notice ("Complaint") alleging that District of Columbia Public Schools ("DCPS") failed to:

(a) Complete re-evaluations requested by Petitioner and recommended by the Student's previous evaluations;
(b) Convene a meeting of the multidisciplinary team ("MDT") at the recommendation of the MDT and the request of Petitioner; and
(c) Develop an appropriate individualized educational program ("IEP") for the Student.

As a remedy, Petitioner sought an order finding that DCPS denied the Student a free, appropriate, public education; requiring DCPS to fund an independent comprehensive psychological and occupational therapy evaluations, a formal classroom observation, and a functional behavioral assessment ("FBA"); and within 10 days of receipt of all of the evaluations, convene a meeting of the MDT/IEP team to review the evaluations, review and revise the Student's IEP as needed.

Counsel for DCPS filed a Response to the Complaint on March 12, 2009. The Response asserted:
(a) The Student began the 2008-2009 school year with a current psycho-educational evaluation and a current FBA;
(b) DCPS has made multiple attempts to reconvene the MDT meeting but was unsuccessful in obtaining a response from Petitioner; and
(c) The Student has an appropriate IEP that was updated on September 16, 2008.

The due process hearing was scheduled for April 3, 2009, at 11:00 a.m. Prior to the start of the hearing, the parties entered into a settlement.

III. TERMS OF SETTLEMENT

On April 3, 2009, DCPS proposed and Petitioner accepted the following proposed settlement:

In lieu of the formal Due Process Hearing in the above-referenced matter, the parties to this action, agreed to resolve this matter according to the terms and conditions set forth below:

a. DCPS will conduct a psychoeducational evaluation of the Student, to be completed on or before May 13, 2009. DCPS will provide a copy of the evaluation and report to counsel for Petitioner within three (3) days of their completion. If DCPS is unable to complete the psychoeducational evaluation by May 13, 2009, DCPS authorizes Petitioner to obtain this evaluation at DCPS expense.

b. DCPS will fund an independent classroom evaluation to be conducted by an evaluator of Petitioner's choice, with the hourly rate not to exceed the rate set by the DCPS Chancellor's Office. This observation must be completed by May 13, 2009, and a copy of the evaluation and report shall be provided to counsel for DCPS Tanya Chor as well as the Special Education Coordinator for Middle School.

c. DCPS will fund independent clinical psychological, speech and language, and social history evaluations to be conducted by an evaluator of Petitioner's choice, with the hourly rate not to exceed the rate set by the DCPS Chancellor's Office. These observations must be completed by May 28, 2009, and copies of the evaluations and reports shall be provided to counsel for DCPS Tanya Chor as well as the Special Education Coordinator for and

d. DCPS shall conduct hearing screening for the Student by May 13, 2009, unless DCPS has already conducted a hearing screening for the Student since August 1, 2008.

ORDER

Upon consideration of Petitioner's request for a due process hearing, the response thereto, and the terms of the Settlement Agreement, it is this 13th day of April 2009 hereby:

ORDERED that DCPS will conduct a psychoeducational evaluation of the Student, to be completed on or before May 13, 2009. DCPS will provide a copy of the evaluation and report to counsel for Petitioner within three (3) days of their completion. If DCPS is unable to complete the psychoeducational evaluation by May 13, 2009, DCPS authorizes Petitioner to obtain this evaluation at DCPS expense;

IT IS FURTHER ORDERED that DCPS will fund an independent classroom evaluation of the Student to be conducted by an evaluator of Petitioner's choice, with the hourly

rate not to exceed the rate set by the DCPS Chancellor's Office. This observation must be completed by May 13, 2009, and a copy of the evaluation and report shall be provided to counsel for DCPS Tanya Chor as well as the Special Education Coordinator for

IT IS FURTHER ORDERED that DCPS will fund independent clinical psychological, speech and language, occupational therapy, and social history evaluations to be conducted by an evaluator of Petitioner's choice, with the hourly rate not to exceed the rate set by DCPS for such evaluations. These evaluations must be completed by May 28, 2009. Copies of the evaluations and reports shall be provided to counsel for DCPS Tanya Chor as well as the Special Education Coordinator for within three (3) days of their completion;

IT IS FURTHER ORDERED that DCPS shall conduct hearing screening for the Student by May 13, 2009, unless DCPS has screen the Student's hearing since August 1, 2008;

IT IS FURTHER ORDERED that DCPS shall convene a meeting of the MDT/IEP team, to include the Student's Parent, no later than fifteen (15) business days after receipt of all of the evaluations ordered herein;

IT IS FURTHER ORDERED that, for scheduling the meeting only, DCPS shall receive one day of delay for every day of delay caused by Petitioner; and

IT IS FURTHER ORDERED that this Order is effective immediately.

By: _____/s/_____
Frances Raskin
Hearing Officer

NOTICE OF APPEAL RIGHTS

The decision issued by the Hearing Officer is final, except that any party aggrieved by the findings and decision of the Hearing Officer shall have 90 days from the date of the decision of the hearing officer to file a civil action with respect to the issues presented at the due process hearing in a district court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. § 415(i)(2).

Distributed to:

Miguel Hull, Attorney at Law
Tanya Chor, Attorney at Law
Hearing Office