DISTRICT OF COLUMBIA

Office of the State Superintendent of Education
Office of Review & Compliance
Student Hearing Office

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2009 APR 20 PM 12: 48
OSSE
STUDENT HEARING OFFICE

Confidential

STUDENT[1], by and through parents, Petitioner, *vs.* District of Columbia Public Schools, Respondent.	**HEARING OFFICER'S DETERMINATION** Counsel for Petitioners/Parents: Domiento C. R. Hill, Esq. Asst. Attorneys General for DCPS: Linda M. Smalls, Esq., for Tiffany Puckett, Esq. Impartial Hearing Officer H. St. Clair, Esq.

[1] Identifying personal information is attached to this decision as Appendix A and must be detached prior to public distribution.

BACKGROUND

On December 4, 2008, the MDT determined that the student needed a triennial reevaluation. The MDT further determined that the reevaluation would be completed by February 4, 2009 and scheduled the same day as the date for the MDT to reconvene and to review and revise the IEP. The parent(s) went to the School on February 4, 2009 for the MDT meeting and was informed the reevaluation had not been completed. On March 6, 2009, Counsel for the Parents 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 Parents complained DCPS had failed to complete a triennial reevaluation of the student and, for relief, requested independent evaluations and an MDT meeting.

The Student Hearing Office, OSSE, scheduled a hearing in this matter for 11:00 A.M., April 10, 2009 that the undersigned rescheduled for 1:00 P.M., Friday, April 17, 2009 at the Student Hearing Office, OSSE, 1150 Fifth Street, SE - First Floor, Hearing Room 4A, Washington, D.C. 20003. At the request of the parties, the hearing convened at 12:30 P.M., April 17, 2009.

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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 fail to complete a triennial reevaluation of the student?**

FINDINGS of FACT

By facsimiles dated April 2nd and April 6th, 2009, the parent disclosed 5 witnesses and 11 documents.

By facsimile dated April 6, 2009, DCPS disclosed 10 witnesses and 5 documents.

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

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

Because this regulation contains its limitations, it's limited only by the limitations. Further, because the evaluations setout above in the Findings of Fact Nos 1-3 are more than three years ago, DCPS violated the limitation at paragraph (b)(2) of the rule.

The purpose of a reevaluation is to reestablish the existence of the student's disability and any resulting and/or continuing need for special education services. The student could no longer be disabled, more so or less so.

SUMMARY of the DECISION

The Parent met her burden in this matter.

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

ORDER

Provided DCPS does not deliver to Counsel for the Parent completed occupational therapy and adaptive physical education assessments along with a completed speech/language evaluation, the parent is authorized to arrange independent assessments/evaluations for which DCPS will pay according to Superintendent's Directive 530.6. Within 15 schooldays of completion/receipt of the last evaluation 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.

Dated this 20th day of April, 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.