

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

Student Hearing Office
1150 5th Street, S.E.
Washington, DC 20003
Tel: 202-698-3819
Fax: 202-442-5556

OSSE
STUDENT HEARING OFFICE
2010 APR -5 AM 8:27

Confidential

STUDENT,¹

Petitioner,

v

DCPS,

Respondent.

Date Issued: April 2, 2010

Wanda I. Resto Torres, Hearing Officer

Case No:

Hearing Date: March 25, 2010 Room 7a

HEARING OFFICER DECISION

BACKGROUND

On January 25, 2010, parent's counsel filed a Due Process Complaint ("Complaint") against the District of Columbia Public Schools ("Respondent"), pursuant to the Individuals with Disabilities Education Improvement Act ("IDEIA"), alleging the Respondent denied the Student a Free Appropriate Public Education ("FAPE").² The Petitioner alleged that the Respondent failed to provide an appropriate placement for the Student. She also alleged that the Respondent failed to develop and/or implement an appropriate Individualized Education Program ("IEP"). She further alleged that the Respondent failed to "fully review, consider, and implement the Student's evaluations and assessments, along with their recommendations." As relief, she requested, *inter alia*, an order that the Respondent "fully review and implement the recommendations in the Student's current evaluations and assessment"; a full-time IEP; a

¹ Personal identification information is provided in Appendix A.

² 20 U.S.C. §1415(c)(2)(B)(i)(I)

dedicated aide; a full-time special education private placement; therapeutic wrap around services; a transition plan.

The Respondent denied every allegation and claimed that the Student has not been denied a free appropriate public education ("FAPE"), and objected to all the relief requested. The Respondent argued that the Student's level of services is appropriate and reasonably calculated to provide educational benefit. As to the recommendations in the Student's evaluations, the Respondent counter that it is not required to adopt any recommendation from an independent evaluator, especially where the evaluator bases his or her recommendations on no or very limited data from the Student's school setting. The Respondent further claimed that the Student's IEP is being implemented to the extent the Student is available for services. The Respondent asserted that the Student had a reading resource class during the first semester of this school year. For the second semester, she is scheduled to take Algebra I, English 1 and have a math resource class. The undersigned was appointed as the hearing officer on January 25, 2010.

FINDINGS OF FACT

The hearing was convened at 8:30 AM on March 25, 2010, in accordance with the rights established under the IDEIA and the implementing federal and local regulations, and the SOP.³ Respondent's counsel, Nia Fripp and her witnesses were timely; Petitioner's counsel, Joy Freeman-Coulbary arrived 20 minutes late to the hearing without the Petitioner. Counsel indicated that the Petitioner was aware of the time and date of the hearing. There was no further explanation from Counsel on the reason for her delay or her client's absence. Counsel requested that the hearing be delayed further to wait for the Petitioner, the request was denied.⁴

The Respondent requested the Complaint be dismissed.

³ IDEIA and 20 U.S.C. Sections 1400 et seq., Title 34 of the Code of Federal Regulations, Part 300; the Rules of the Board of Education of the District of Columbia; 34 CFR Part 300; and Title 5 District of Columbia Municipal Regulations (D.C.M.R.), Chapter 30, including §§3029-3033, and the Special Education Student Hearing Office Due Process Hearing Standard Operating Procedures ("SOP").

⁴ Petitioner's counsel also had missed the first scheduled prehearing conference.

After considering the Respondent's request for dismissal and no justifiable reason for the failure to appear by the Petitioner, this Hearing Officer determined the Petitioner failed to be prepared for the hearing and grants the Respondent's request to dismiss the Complaint.

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby ordered:

ORDERED, Petitioner's January 25, 2010 due process hearing complaint is **Dismissed**.

NOTICE OF RIGHT TO APPEAL

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This is the final administrative decision in this matter. Any party aggrieved by the Findings and/or Decision 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 Decision of the Hearing Officer in accordance with 20 USC §1451(i)(2)(B).

Dated: April 2, 2010



Hearing Officer