District of Columbia
Office of the State Superintendent of Education

Office of Review and Compliance
Student Hearing Office

1150 5th Street, SE
Washington, DC 20003
Tel: 202-698-3819
Fax: 202-698-3825

OSSE
STUDENT HEARING OFFICE
2009 AUG 25 PM 2:46

Confidential

STUDENT[1], by and through his Parent Petitioners, v. DCPS Respondent. Case	HEARING OFFICER'S DETERMINATION Hearing Dates: July 13, 2009 August 13, 2009 <u>Representatives:</u> Counsel for Petitioners: Roberta Gambale, Esq. 1220 L Street, NW Suite 700 Washington, DC 20002 Counsel for DCPS: Candance Sandifer, Esq. Office of General Counsel 825 North Capitol St. NE Washington, DC 20002 <u>Hearing Officer:</u> <u>Coles B. Ruff, Esq.</u>

[1] Personally identifiable information is attached as Appendices A & B to this decision and must be removed prior to public distribution.

JURISDICTION:

The hearing was conducted and this decision was written pursuant to the *Individuals with Disabilities Act* (I.D.E.A.), P.L. 101-476, as amended by P.L. 105-17 and the *Individuals with Disabilities Education Improvement Act of 2004* (I.D.E.I.A.), District of Columbia Code, Title 38 Subtitle VII, and the District of Columbia Municipal Regulations, Title 5 Chapters 25 and 30 revised.

PROCEDURAL BACKGROUND:

A Due Process Hearing was convened on July 13, 2009, and reconvened and concluded on August 13, 2009, at the Van Ness School, 1150 5th Street, SE, Washington, DC 20003. The hearing was held pursuant to a due process complaint submitted by the counsel for the parent and student filed on May 12, 2009, alleging the issues outlined below.

RELEVANT EVIDENCE CONSIDERED:

The Hearing Officer considered the representations made on the record by each counsel which may have resulted in stipulation of fact if noted, the testimony of the witness(es) and the documents submitted in the parties' disclosures (Petitioner's Exhibits 1-12 and DCPS 1-7) which were admitted into the record.

ISSUE(S): [2]

1. Did DCPS fail to provide the student with a free and appropriate public education ("FAPE") by failing to develop an appropriate Individualized Educational Program ("IEP") when it convened the multidisciplinary team ("MDT") meeting on March 31, 2009?

2. Did DCPS fail to provide the student with a FAPE by failing to adequately address the student's transition/vocational training needs?

3. Did DCPS fail to provide the student with a FAPE by failing to comply with the December 3, 2009, Hearing Officer's Determination ("HOD")?

4. Did DCPS fail to provide the student with a FAPE by failing to provide an agreeable compensatory education program for past denials of FAPE?

---

[2] The alleged violation(s) and/or issue(s) raised in the complaint may or may/not directly correspond to the issue(s) outlined here. However, the issue(s) listed here were reviewed during the hearing and clarified and agreed to by the parties as the issue(s) to be adjudicated. Any other issue(s) raised in the complaint was withdrawn.

SUMMARY OF THE RELEVANT EVIDENCE:

The Hearing Officer considered the representations made on the record by each counsel, the testimony of the witness(es) and the documents submitted in the parties' disclosures (Petitioner's Exhibits 1-20 and DCPS Witness List) which were admitted into the record. The parties agreed at this hearing to settle the due process complaint and agreed to relief for Petitioner as is described in the Order below.

FINDINGS OF FACT:

The parties reached an agreement to settle the due process complaint and asked that the settlement be incorporated into a Hearing Officer's Determination (HOD).[3]

CONCLUSIONS OF LAW:

The Hearing Officer concludes based upon the agreement reached by the parties that with the Order the below the due process complaint is settled.

ORDER:

1. DCPS shall immediately place the student at School B (Senior High School) for the 2009-2010 School Year to complete vocational services in the school's auto shop program, in addition to completing the student's remaining credits for high school graduation[4]; and the student shall have access to the school's learning lab for extra academic support.

2. If DCPS has not provided an updated transition assessment to Petitioner's counsel by the date of this Order, DCPS shall fund and Petitioner shall obtain an independent transitional assessment (at DCPS approved rate(s) if applicable).

3. Within thirty calendar days of the issuance of this Order or within ten (10) school days of DCPS's receipt of the independent vocational assessment, whichever is later, DCPS convene a MDT meeting to change the disability classification to the appropriate classification and review and revise the student's IEP as appropriate including the transition plan after consideration of the transition assessment.

---

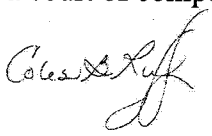
[3] The parities agreed to relief on all issues except the compensatory education plan and left it to the Hearing Officer to make a determination as to what he believed reasonable in the award of compensatory education. Petitioner did not object to a continuation of the existing compensatory education plan until a MDT meeting was convened at the student's new placement and the provisions of this HOD have been effectuated by DCPS. This Hearing Officer concluded that because the relief granted would be verified and completed at the ordered MDT meeting equity warranted continuation of compensatory services until DCPS fully complied with this HOD.

[4] At the time of the hearing the remaining credits for graduation appear to be English and Spanish.

4. The services being provided to the student through the compensatory education plan proposed by DCPS on April 24, 2009, (DCPS Exhibit 7) shall continue beyond the termination date identified in that plan and shall be continued until the date of the MDT meeting directed to be convened pursuant to this HOD.

APPEAL PROCESS:

This is the final administrative decision in this matter. Appeals on legal grounds may be made to a court of competent jurisdiction within 90 days of the rendering of this decision.



Coles B. Ruff, Esq.
Hearing Officer
Date: August 23, 2009