

JURISDICTION:

The hearing was conducted and this decision was written pursuant to the *Individuals with Disabilities Act* (“IDEA”), P.L. 101-476, as amended by P.L. 105-17 and the *Individuals with Disabilities Education Improvement Act of 2004*, the District of Columbia Code, Title 38 Subtitle VII, and the District of Columbia Municipal Regulations, Title 5 [Chapter E30](#). The Due Process Hearing was convened on February 25, 2013, at the District of Columbia Office of the State Superintendent of Education (“OSSE”) Student Hearing Office 810 First Street, NE, Washington, D.C. 20003, in Hearing Room 2003 and Hearing Room 2006.

BACKGROUND AND PROCEDURAL HISTORY:

The student is [REDACTED] in third grade and attending (“School A”) a DCPS elementary school. The student has been diagnosed with Autism and has an individualized educational program (“IEP”) that prescribes a full time out of general education setting. The student is in a self-contained Autism program at School A in a classroom of approximately eight students.

Prior to the student being found eligible for special education, in July 2009, the student’s parent had an independent neuro-developmental assessment conducted by a clinical psychologist. The psychologist attempted to assess the student’s cognitive abilities. However, because of the student’s poor receptive language ability the evaluator was unable to complete the assessment to determine the student’s level of cognitive functioning. Nonetheless, based on the remaining elements of the evaluation the evaluator concluded that the student met the criteria for Autism.

The student’s parent provided the independent assessment to DCPS and in November 2009 a DCPS school psychologist conducted a review of the assessment, observed the student and met with his teachers. At the time the student was attending “School B,” another DCPS elementary school. The DCPS psychologist made recommendations in her report to the student’s multi-disciplinary team (“MDT”) that additional assessments be considered including a social history to further clarify other social/emotional programs and to determine the need for an adaptive behavior scale.

Based upon the 2009 independent evaluation and other data DCPS first determined the student eligible for special education on April 7, 2010, while he was in kindergarten at School B. The student’s initial IEP was developed on April 22, 2010. The IEP prescribed the following weekly services: 25 hours of specialized instruction outside general education and 1 hour of speech-language pathology outside general education. Since the time the student was found eligible no formal assessment to determine the student’s cognitive functioning has been conducted or re-attempted.

During school year (“SY”) 2011-2012 the student changed schools and began attending (“School C”) another DCPS elementary school. The student’s IEP was updated on October 16, 2011, at School C and prescribed the student be provided the following services: 26 hours per week of specialized instruction outside general education, 4 hours per month of speech-language pathology, and 120 minutes per month of behavioral support services. Attached to the student’s

IEP was a document listing activities related to the student's sensory input, balance and body awareness.

On July 19, 2012, the student's parent had an independent speech/language evaluation conducted that was reviewed by DCPS on October 10, 2012, in preparation for the student's annual IEP meeting. The independent evaluation revealed the student presents with severely delayed receptive and expressive language skills.

On October 16, 2012, DCPS convened the student's most recent annual IEP meeting. DCPS reviewed the independent speech language evaluation and other existing data including informal classroom based assessments and an October 9, 2012, Brigance Diagnostic Assessment ("Brigance"). The MDT determined the student continued to be eligible for special education services and the Autism classification.

On October 16, 2012, DCPS issued a prior written notice indicating the DCPS revised the student's present levels of performance, needs, impact, annual goals, objectives, and baselines for all areas of concern. The notice states that the IEP team considered, but rejected, motor skills/physical development as an area of concern and the student did not warrant occupational therapy services.

On December 21, 2012, Petitioner filed the current due process complaint alleging DCPS failed to fully evaluate the student with a formal measure of cognitive abilities. Petitioner also alleged the parent requested that DCPS conduct an occupational therapy ("OT") evaluation at the October 16, 2012, IEP meeting and DCPS refused. Petitioner alleged the following evaluations should have been conducted: psychological (including cognitive and educational assessments), adaptive behavior, assistive technology, and OT.² Petitioner requested DCPS be ordered fund independent evaluations and convene a meeting to review the evaluations and update the student's IEP.

DCPS filed a response to the complaint³ on December 28, 2012. DCPS denied the alleged denials of a FAPE and specifically denied that it failed to evaluate the student in all areas of suspected disability. DCPS asserted the student's IEP and educational placement are appropriate and that sufficient evaluations had been conducted and were considered in the developing the student's IEP. DCPS further asserted that OT was not a concern expressed by the most recent IEP team and, therefore, no OT evaluation was warranted or conducted.

The resolution meeting was held January 15, 2013, and was unsuccessful in resolving the issues. The parties expressed no desire to proceed directly to hearing but to allow the full 30-day

² At the hearing Petitioner withdrew with prejudice the claims as to the following evaluations that were originally listed in the complaint: FBA, audiological, speech-language.

³ DCPS' response is also styled as a motion to dismiss. Because the motion was not filed separately from the response and because there is insufficient basis from which to conclude the basis of such a motion in the response, the Hearing Officer did not consider the response to be a motion to dismiss and notified Respondent's counsel that if he desired to file such a motion it should be done so in accordance with the provisions of the SOP discussed below in provision #7. No subsequent motion to dismiss was filed.

resolution period expire before the 45-day timeline began. Thus, the 45-day period began on January 20, 2013, and ends (and the HOD is due) on March 6, 2012.

A pre-hearing conference was conducted on January 22, 2013.⁴ The Hearing Officer issued a pre-hearing order on January 29, 2013, outlining the issue to be adjudicated and setting the hearing date.

Prior to the hearing Petitioner filed a motion to compel DCPS to allow a classroom observation by an independent evaluator. The Hearing Officer granted the motion. However, Petitioner later filed a motion for sanctions against DCPS after Petitioner's counsel interpreted DCPS' response to be a refusal to comply with the order. After an inquiry by the Hearing Officer at the outset of the hearing the Hearing Officer concluded that DCPS did not refuse to comply with the order but was simply unable not facilitate the observation in the limited time prior to the hearing. Petitioner's motion for sanctions was denied.⁵

THE ISSUE ADJUDICATED:

Whether DCPS violated 34 C.F.R. §§ 300.301, and/or 300.304 and/or 300.305 by failing to evaluate the student in all areas of suspected disability prior to developing his most recent IEP dated October 16, 2012, and whether DCPS' failure to do so denied the student a free and appropriate public education ("FAPE").

RELEVANT EVIDENCE CONSIDERED:

This Hearing Officer considered the testimony of the witnesses and the documents submitted in the parties' disclosures (Petitioner's Exhibits 1-26 and Respondent's Exhibits 1-24) that were admitted into the record and are listed in Appendix A. The witnesses are listed in Appendix B.

FINDINGS OF FACT:⁶

1. The student is ██████ in third grade and attending School A, a DCPS elementary school. The student has been diagnosed with Autism and has an IEP that prescribes a full time out of general education setting. The student is in a self-contained Autism program at School A in a classroom of approximately eight students. (Petitioner's Exhibit 11-6, ██████ testimony)

⁴ The pre-hearing conference was convened on the first date that both counsel were available following the resolution meeting.

⁵ DCPS counsel requested on the record that the Hearing Officer reconsider his decision granting access for a classroom observation, or to clarify that the order was final and appealable. Based upon this HOD having now been issued, the February 21, 2013, order granting Petitioner's motion to allow an in-school observation is a final order.

⁶ The evidence that is the source of the Finding of Fact is noted within a parenthesis following the finding. The second number following the exhibit number denotes the page of the exhibit from which the fact was extracted. When citing an exhibit that has been submitted by more than one party separately the Hearing Officer may only cite one party's exhibit.

2. In July 2009 when the student was age five the student's parent had an independent neuro-developmental assessment conducted by a clinical psychologist, [REDACTED], Ph.D. [REDACTED] attempted to assess the student's cognitive abilities by administering the Test of Nonverbal Intelligence-3 ("TONI-3"). Because of the student's poor receptive language ability [REDACTED] was unable to complete the assessment and unable to determine the student's level of cognitive functioning. (Petitioner's Exhibit 3-2)
3. Based on the remaining elements of the evaluation, [REDACTED] concluded that the student met the criteria for Autism. He noted that the student "appears to have considerably more potential than typical Autism. The prognosis is good especially if he develops communicative language through effective speech and language intervention." (Petitioner's Exhibit 3-3)
4. The student's parent provided [REDACTED] assessment to DCPS. [REDACTED] Ph.D., a DCPS certified school psychologist, conducted a review of the independent assessment in November 2009. DCPS' review noted that [REDACTED] unsuccessfully attempted the non-verbal cognitive assessment. She also noted that the student's lack of cooperation resulted in an inability to assess his perceptual, auditory and tactile functions. [REDACTED] stated that she was able to observe the student's writing and concluded the student's fine motor coordination was below average and the gross motor was intact. (Petitioner's Exhibit 4-1)
5. [REDACTED] as a part of her review consulted with the student classroom teacher the teacher's aide and reviewed the student's classroom work. [REDACTED] concluded the student "has made minimal progress in academics ...he is in the lowest level in his class." (Petitioner's Exhibit 4-3)
6. [REDACTED] made recommendations to the student's MDT that additional assessments be considered including: "...social history to further clarify other social/emotional programs, including ADHD, family history of any related problems, and determine the need for an adaptive behavior scale. Consider formal ADHD evaluation though DCPS or referral outside DCPS for this purpose. OT evaluation, Speech and Language evaluation or review of existing assessments and an audiological evaluation per [REDACTED] report." (Petitioner's Exhibit 4-5)
7. The student was first found eligible on April 7, 2010, while attending kindergarten at School B. The student's initial IEP was developed on April 22, 2010. The IEP notes that psychological testing was conducted by [REDACTED] "based on the Pervasive Developmental Disorder Inventory (PDDBI), teacher and parent checklists and the BASC-2, administered by [REDACTED] during March 2010: [the student] is currently exhibiting symptoms associated with Autism, according the DCPS criteria... He is also delayed in fine motor coordination... In addition, he has severe sensory deficits he is oversensitive to visual tactile auditory and smell cues." The IEP prescribed 25 hours per week of specialized instruction outside special education and 1 hour per week of speech-language pathology outside general education (Petitioner's Exhibit-5-8, 5-11)

8. During SY 2011-2012 the student was attending School C. DCPS updated the student's IEP on October 16, 2011. The IEP prescribed the student be provided the following weekly services: 26 hours per week of specialized instruction outside general education, 4 hours per month of speech-language pathology, and 120 minutes per month of behavioral support services. Attached to the student's IEP that was a document from Solutions for Therapists, Inc. entitled "Individual School Treatment Ideas" with hand written notes on the document suggesting that the list be used to assist the student in his self regulation, body awareness and his sense of balance and movement. (Petitioner's Exhibit 6-1, 6-11, 6-12, 6-17, 6-18, 6-20)
9. In July 2012, the student's parent had him assessed at Georgetown University ("GU"). GU conducted a speech language evaluation that assessed student with severely delayed receptive expressive language skills and a fluency disorder. A GU pediatrician also examined the student and recommended the student have several evaluations including an OT evaluation and a psycho-educational evaluation. The parent provided the GU evaluations to DCPS. (Petitioner's Exhibits 7-3, 8-2)
10. In conjunction with DCPS' next annual review of the student's IEP in October 2012, DCPS prepared an "Analysis of Existing Data" form in which the student's special education case manager, [REDACTED] outlined the data used to determine the student continued eligibility for special education services and Autism classification. The document noted that in the academic areas the type of information reviewed by the MDT included informal classroom based assessments and a formal assessment using the October 9, 2012, Brigance. In the area of communication/speech and language the July 19, 2012, independent speech/language evaluation was reviewed on October 10, 2012. The data sheet indicated the student did not require OT to address motor skills/physical development. ([REDACTED] testimony, Petitioner's Exhibit 11-1, 11-2, 11-3, 11-4, 11-5, 11-6)
11. On October 16, 2012, DCPS convened the student's annual IEP meeting and concluded the student continued to be eligible. DCPS completed a disability worksheet confirming the student met the criteria for Autism. DCPS issued a prior written notice indicating the DCPS revised the student's present levels of performance, needs, impact, annual goals, objectives, and baselines for all areas of concern. The notes indicate that the MDT considered, but rejected, motor skills/physical development as an area of concern. The description of other factors related to the proposal or refusal states: "the student does not require occupational therapy as motor skills/physical development continue not be an area of concern." The DCPS prior written notice also stated that the MDT had enough information to make decisions about the student's educational needs and to determine in all areas of concern that the student continued to have a disability and whether any additions or modifications to the special education and related services were needed. ([REDACTED] testimony, Petitioner's Exhibits 10-1, 12-1, 15-1, 21-2)
12. The student's parent attended his most recent October 16, 2012, IEP meeting. The parent maintains that during the meeting she asked the team if there would be any other evaluations and specifically whether an OT evaluation would be conducted. She

requested the evaluation but was told it was not needed and would not be done. DCPS has never asked the parent to evaluate the student in the time he has attended DCPS (Parent's testimony)

13. School A provides the student individual and group speech/language therapy. In addition, the DCPS speech/language pathologist, [REDACTED] consults with a DCPS occupational therapist once every two weeks in a 45-minute group speech/language and OT joint session for all students in the student's classroom. The speech language pathologist has never observed any behaviors by the student that would warrant her to refer the student for an OT evaluation. ([REDACTED] testimony)
14. A DCPS OT provider, [REDACTED], works with the student's provider at School A collaborates with the speech language evaluator in the student's classroom. [REDACTED] has engaged with the student approximately ten times during the current school year and observed the student in class. The group sessions are held for 45 minutes twice a month. In her opinion the student does not appear to have OT concerns in the classroom and works well in a group. However, she concluded that if the student had documented self-stimulating behaviors in school it would be a concern to an OT provider and reason for the student to have an OT evaluation. She did not attend the student's most recent IEP or give input as to whether he needs an evaluation or would benefit from OT services. [REDACTED] testimony)⁷
15. DCPS school psychologist, [REDACTED] conducted a brief observation of the student and participated in the student's most recent IEP meeting on October 16, 2012. [REDACTED] created a document entitled "Data Evaluation Review" as a part of the student's triennial evaluation. [REDACTED] believed she had sufficient data to make the determination that the student still met the criteria for eligibility. Although cognitive information for the student is important [REDACTED] did not conclude that it was vital to developing the student's IEP and educational goals. She believed that as long as there were other assessments she did not have to assess the student again as a part of his triennial evaluation. The student displayed no maladaptive behaviors during her observation of the student and she does not believe the student needs any additional evaluations. ([REDACTED] testimony, Respondent's Exhibit 12)
16. Petitioner engaged the services of an independent clinical psychologist, [REDACTED], [REDACTED], to review the student's previous evaluations for the purpose of rendering an opinion as to whether a comprehensive psychological evaluation including cognitive assessment are warranted. [REDACTED] concluded there are no cognitive scores for the student and it is of vital importance for special education programming that a student's cognitive functioning be measured if it is measurable. [REDACTED] opined that only in the instance of profound intellectual deficiency is the cognitive functioning not measured for a student and based upon all the data reviewed this student's cognitive abilities are measurable. [REDACTED] also stated that the student's adaptive functioning should be

⁷ Designated as an expert in OT evaluation.

assessed to help determine if the student is functioning with an intellectual disability. (██████████, Petitioner's Exhibit 3-6)

17. Petitioner engaged the services of an independent occupational therapist, ██████████, to review the student's previous evaluations and conduct an observation of the student for the purpose of rendering an opinion as to whether an OT evaluation is warranted. ██████████ pointed to the student's 2009 neuro-developmental assessment that indicated that although the student's gross motor coordination was intact, his fine motor coordination was below average for his age and that the student had difficulty coordinating and integrating varying kinds of sensory input. (██████████ testimony⁹ Petitioner's Exhibit 3-2, 3-3)
18. ██████████ also made note that the student's 2011 IEP contained a list of sensory related elements that apparently were to address the student's sensory related issues. ██████████ was of the opinion that the list was a "sensory diet" that was modified for this student but needs to be monitored by an occupational therapist. In her opinion it is necessary to conduct some form of evaluation formal or informal of the student to make a determination that whether OT services are warranted. During her observation of the student ██████████ determined that the student had some motor planning, sequencing and self-regulation issues which an OT evaluation would assess. (██████████ testimony, Petitioner's Exhibit 3-2, 3-3)

CONCLUSIONS OF LAW:

Pursuant to IDEA §1415 (f)(3)(E)(i) a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education ("FAPE").

Pursuant to IDEA §1415 (f)(3)(E)(ii) in matters alleging a procedural violation a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies impeded the child's right to FAPE, significantly impeded the parent's opportunity to participate in the decision making process regarding provision of FAPE, or caused the child a deprivation of educational benefits. An IDEA claim is viable only if [DCPS'] procedural violations affected the student's substantive rights." *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006)

34 C.F.R. § 300.17 provides:

A free appropriate public education or FAPE means special education and related services that--
(a) Are provided at public expense, under public supervision and direction, and without charge;
(b) Meet the standards of the SEA, including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved;

⁸ This witness was designated as an expert in clinical psychology.

⁹ This witness was designated as an expert in occupational therapy.

and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Sec. 300.320 through 300.324

Pursuant to 5E DCMR 3030.14 the burden of proof is the responsibility of the party seeking relief.¹⁰ *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528 (2005). In this case the student/parent is seeking relief and has the burden of proof that the action and/or inaction or proposed placement is inadequate or adequate to provide the student with FAPE.

Based solely upon the evidence presented at the due process hearing, an impartial hearing officer must determine whether the party seeking relief presented sufficient evidence to prevail. See DCMR 5-3030.34. The normal standard is preponderance of the evidence. See, e.g. *N.G. V. District of Columbia* 556 f. Sup. 2d (D.D.C. 2008) se also 20 U.S.C. §1451 (i)(2)(C)(iii).

ISSUE: Whether DCPS violated 34 C.F.R. §§ 300.301, and/or 300.304 and/or 300.305 by failing to evaluate the student in all areas of suspected disability prior to developing his most recent IEP dated October 16, 2012, and whether DCPS' failure to do so denied the student a free and appropriate public education ("FAPE").

Conclusion: Petitioner sustained the burden of proof by a preponderance of the evidence that DCPS' failure to conduct a cognitive assessment of the student and failure to conduct an occupational therapy evaluation in response to the parent's request significantly impeded the parent's opportunity to participate in the decision making process regarding provision of FAPE.

Pursuant to 34 C.F.R. §300.301 DCPS must conduct a full and individual initial evaluation, in accordance with §300.305 and §300.306, before the initial provision of special education and related services to a child with a disability.

34 C.F.R. § 300.304 (b)(4) provides:

In conducting the evaluation, the public agency must ensure —

The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

34 C.F.R. § 300.305 (b) provides, regarding additional requirements for reevaluations:

(B) In the case of a reevaluation of a child, [the IEP Team and other qualified professionals, as appropriate, must-- (1) Review existing evaluation data on the child, including] whether the child continues to need special education and related services; and (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet

¹⁰ The burden of proof shall be the responsibility of the party seeking relief. Based solely upon the evidence presented at the hearing, an impartial hearing officer shall determine whether the party seeking relief presented sufficient evidence to meet the burden of proof.

the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum... (d)(1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of-- (i) That determination and the reasons for the determination; and (ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs. (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

The parent in this case in 2009 provided DCPS an independent evaluation that was sufficient for the student to be determined eligible for special education under the classification of Autism. However, the evaluation never determined the student's cognitive abilities. For three years and two subsequent annual IEP reviews the student's cognitive abilities have not been conclusively determined.

Based on [REDACTED] expert testimony, cognitive abilities are essential to effectively program for a student's educational concerns. It is apparent from the evidence presented that the student has been consistently provided special education services and the DCPS professionals that either provide him services or have assessed him are satisfied that the student's needs are being met. Nonetheless, there remains a significant degree to doubt as to what the student is truly capable of cognitively and whether the services and goals developed for the student are targeted to the student's true abilities. Without the assessment of the student's cognitive abilities the goals and services may be aimed to high or too low to effectively address the student's needs.¹¹

Although the DCPS school psychologist testified that all necessary data is present to determine if the student continues to be eligible and meets the disability classification criteria, she did not refute the expert opinion of [REDACTED] that the student's cognitive abilities need to be determined in order to effectively program for the student. Consequently, the Hearing Officer concludes, based on the expert testimony of the clinical psychologist, [REDACTED] that absence of accurate cognitive data for the student significantly impedes the parent's opportunity to participate in the decision making process regarding provision of FAPE. Thus, the Hearing Officer orders that DCPS fund a comprehensive psychological evaluation of the student.

34 C.F.R. § 300.303 provides:

- (a) General. A public agency must ensure that a re-evaluation of each child with a disability is conducted in accordance with Sec. Sec. 300.304 through 300.311--
 - (1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
 - (2) If the child's parent or teacher requests a reevaluation.
- (b) Limitation. A reevaluation conducted under paragraph (a) of this section--
 - (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and

¹¹ FOF # 16

(2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

The parent credibly¹² testified that she asked that an occupational therapy evaluation be conducted at the student's October 16, 2012, IEP meeting. Although the DCPS meeting notes do not reflect that the parent made that request, the DCPS prior notice clearly states that DCPS rejected consideration of occupational therapy. Based upon the parent's testimony and the documentation in the prior notice, the Hearing Officer concludes that the parent made the request for the OT evaluation.

Although DCPS personnel were clearly of the mind that the student did not need OT services or an OT evaluation, the credible testimony of [REDACTED] who was designated as an expert in OT provided sufficient basis that the student's documented sensory needs and the IEP attached list of sensory activities supports the conclusion that the student's OT needs should be formally assessed.

In addition, there is sufficient evidence the student has documented sensory, balance and movement issues that make the parent request for the evaluation more than reasonable.¹³ DCPS witnesses did not sufficiently refute the evidence that the student is need of an OT evaluation. The Hearing Officer concludes DCPS' failure to conduct the requested OT evaluation significantly impeded the parent's opportunity to participate in the decision making process regarding provision of FAPE to the student.

Appropriate Relief:

IDEA authorized District Courts and Hearing Officers to fashion "appropriate" relief, e.g., 20 U.S.C. § 1415(i)(2)(C)(iii), and such authority entails "broad discretion" and implicates "equitable considerations." *Florence County Sch. Dist. For v. Carter*, 5

Petitioner sought as relief that DCPS be ordered to fund the following independent evaluations: comprehensive psychological including an adaptive assessment, occupational therapy and assistive technology, and convene a meeting to review the evaluations and update the student's IEP as appropriate. The Hearing Officer concludes that based upon Petitioner meeting the burden of proof that Petitioner is entitled to the relief directed to be provided in the Order below.

ORDER:

1. DCPS shall, within thirty (30) calendar days of the issuance of this Order, conduct an assistive technology assessment for this student.

¹² The witness' testimony was found credible based upon her forthrightness and demeanor during the hearing.

¹³ FOF #s 6, 7, 8, 9

2. DCPS shall, within thirty (30) calendar days of the issuance of this Order, fund the following independent evaluations at OSSE approved rates: comprehensive psychological evaluation (including adaptive assessment) and occupational therapy evaluation.
3. DCPS shall, within thirty (30) calendar days of its receipt of the above listed independent evaluations convene IEP team meeting for the student to review the student's recent evaluations and review and revise the student's IEP as appropriate.
4. All other relief requested by Petitioner in the complaint is denied.

APPEAL PROCESS:

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. §1415(i)(2).

/S/ Coles B. Ruff

Coles B. Ruff, Esq.
Hearing Officer
Date: March 6, 2013