District of Columbia
Office of the State Superintendent of Education

Office of Compliance and Review
Student Hearing Office

1150 5th Street, S.E.
Washington, D.C. 20003
202-698-3819; 202-698-3825 (Fax)

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OCT 15 2009
STUDENT HEARING OFFICE

CONFIDENTIAL

STUDENT[1], by and through his Parent Petitioners, v. District of Columbia Public Schools ("DCPS") Respondent. Case # 2009-1030	HEARING OFFICER'S DETERMINATION Date of Hearing: August 26, 2009 Date of Complaint: July 14, 2009 Representatives: Counsel for Petitioners: Zachary Nahass, Esq. 1220 L Street, NW Suite 700 Washington, DC 20005 Counsel for DCPS: Linda Smalls, Esq. Nia Fripp, Esq. Office of General Counsel 825 North Capitol St. NE Washington, DC 20002 Hearing Officer: Coles B. Ruff, Esq.

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

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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 August 26, 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 July 14, 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 1-7 and DCPS Exhibits 1-13) which were admitted into the record.

ISSUE(S): [2]

1. Did DCPS deny the student a free and appropriate public education by failing to provide the student with an appropriate IEP?

2. Did DCPS deny the student a free and appropriate public education by failing to timely review and revise the student's IEP?

3. Did DCPS deny the student a free and appropriate public education by failing to implement the student's IEP?

4. Did DCPS deny the student a free and appropriate public education by failing to conduct and review or fund an educational evaluation following the Petitioner's request?

[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.

FINDINGS OF FACT [3]:

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). 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.

CONCLUSIONS OF LAW:

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

ORDER:

1. DCPS shall fund and the parent shall obtain and independent educational evaluation of the student in accordance with DCPS guidelines and rates.

2. Within fifteen (15) school days of DCPS's receipt of the independent evaluation, DCPS is to convene an multidisciplinary team ("MDT") meeting including all necessary personnel in accordance with 20 U.S.C.§1414(d) to:

    a. Review the independent evaluation and any progress reports of IEP report card generated during the 2008-09 School Year;

    b. Review and revise the student's IEP as appropriate to include a statement of the student's present levels of academic and functional performance, measurable annual goals, and a description of how and when progress toward those goals will be measured; and,

    c. Discuss and determine appropriate placement.

3. DCPS will be given a day for a day extension of any of the prescribed time frames in this Order for any delay caused by the student, the parent(s) and/or their representative(s).

4. The independent evaluation shall be faxed to the DCPS resolution team.

5. The MDT meeting shall be scheduled through the parent's counsel.

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[3] The evidence that is the source of the finding of fact is noted within a parenthesis following the finding. When citing an Exhibit that is the same for both parties but submitted separately, the Hearing Officer will cite only one party's Exhibit.