District of Columbia
Office of the State Superintendent of Education
Office of Dispute Resolution
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Parent, on behalf of Student,[1]	)	**Room: 2004**
Petitioner,	)	**Hearing: March 3, 2016**
	)	**HOD Due: March 15, 2016**
v.	)	**Hearing Officer: Michael Lazan**
	)	**Case No.: 2015-0416**
District of Columbia Public Schools,	)	
	)	
Respondent.	)	

HEARING OFFICER DETERMINATION

I. Introduction

This is a case involving an X year old student who is not currently eligible for services. (the "Student")

A Due Process Complaint("Complaint") was received by District of Columbia Public Schools ("DCPS" or "Respondent") pursuant to the Individuals with Disabilities Education Act ("IDEA") on December 31, 2015 in regard to the Student. On January 7, 2016, Respondent filed a response. A resolution meeting was held on January 15, 2016. The resolution period ended on January 30, 2016.

II. Subject Matter Jurisdiction

This due process hearing was held, and a decision in this matter is being rendered, pursuant to the Individuals with Disabilities Improvement Act ("IDEIA"), 20 U.S.C. Sect. 1400 et seq., its implementing regulations, 34 C.F.R. Sect. 300 et seq., Title 38 of

[1]Personally identifiable information is attached as Appendix A and must be removed prior to public distribution.

the D.C. Code, Subtitle VII, Chapter 25, and the District of Columbia Municipal Regulations, Title 5-E, Chapter 30.

III. Procedural History

On February 4, 2016, this Hearing Officer held a prehearing conference. Attorney A, Esq., counsel for Petitioner, appeared. Attorney B, counsel for Respondent, appeared. A prehearing conference order issued on February 9, 2016, summarizing the rules to be applied in this hearing and identifying the issues in the case.

There was one hearing date in this case, on March 3, 2016. This was a closed proceeding. Petitioner was represented by Attorney A, Esq. Respondent was represented by Attorney B, Esq. Petitioner moved in Exhibits 1-37. Respondent objected to Exhibits 1-8, 24-26, 28-29, and 31-32 on relevance and related grounds. Exhibit 3 was withdrawn by Petitioner. The objection to Exhibits 5 and 8 were sustained, and the objections to Exhibits 3, 6, 31 and 32 were withdrawn. The other objections were overruled. Exhibits 1-2, 4, 6-7, and 9-37 were admitted. Respondent moved into evidence Exhibits 1, 2, 4, 5, and 14. There were no objections. Exhibits 1, 2, 4, 5, and 14 were admitted.

The parties presented oral closing statements on the date of the hearing, as supplemented by written statements submitted on March 9, 2016.

Petitioner presented as witnesses: Witness A, Psychologist (Expert: School Psychology and Eligibility Determinations); Witness B, Advocate (Expert: Special Education and Assessments); and Petitioner. Respondent presented as a witness: Witness C, a Psychologist (Expert: School Psychology, Evaluations for Eligibility).

IV. Credibility.

I found all the witnesses in this case to be credible. No material inconsistencies were found with respect to any witness.

V. Issues

As identified in the Prehearing Conference Summary and Order and in the Due Process Complaint, the issues to be determined are as follows:

1. Did DCPS fail to timely conduct evaluations of the Student within 120 days of the referral? If so, did DCPS violate D.C. Code Sect. 38-2561.02(a) and related provisions of the IDEA? If so, did DCPS deny the Student a FAPE?

Petitioner contends that she made several verbal requests to evaluate the Student in August, 2014 and a written request in September, 2015.

2. Did DCPS fail to identify, locate and/or evaluate the Student in the 2014-2015 school year? If so, did DCPS violate 20 U.S.C. Sect. 1412(a) (3) (A), 34 C.F.R. Sect. 300.111(a) and related provisions of the IDEA? If so, did DCPS deny the Student a FAPE?

Petitioner contends that "Child Find" was triggered because: 1) the request for evaluations; and 2) the Student's difficulty in school.

3. Did DCPS fail to provide the Petitioner with notice of their decision not to proceed with evaluations of the Student in the 2014-2015 school year? If so, did DCPS violate 34 C.F.R. Sect. 300.503? If so, did DCPS deny the Student a FAPE?

Issue 4 was withdrawn by oral application at the hearing.

As relief, Petitioner requests that the Student be classified as either speech and language impaired or other health impaired, and be provided with compensatory tutoring.

DCPS's position is that it was unaware of any Student special education needs in the 2014-2015 school year. They stated that they did meet with the parent after her 2014-2015 request, that the Student was then placed in an "RTI" classroom, and an evaluation is currently being conducted.

VI. Findings of Fact

1. The Student is a X year old who is not eligible for services. He is a resident of Washington, D.C. and he lives with his parent, the Petitioner in this case. He has had difficulty in school and, according to an outside mental health agency, he is diagnosed with Attention Deficit Hyperactivity Disorder. (Testimony of Witness A; Testimony of Petitioner)

2. He has attended School A, [redacted] school, since he started his academic career. He was on grade level until Grade A, during 2012-2013, when he began receiving poor grades in core subjects. In particular, he was found to be "below basic" in reading and "approaches basic" in math, though he met the "standard" in science and social studies. At this time, his teacher stated that he needed a "high level" of support and was reading "significantly below" level. He was on a level "B" in reading. (Testimony of Witness A; P-11-1-3)

3. For the next school year, during 2013-2014, in Grade B, the Student's grades decreased more. During this year, after the first marking period, the Student's grades were "1" or "below basic" in all academic subjects except for science. He made *no progress* in reading during the school year. He remained on a Level "B" in reading. (P-12)

4. For the next school year, during 2014-2015, in Grade C, the parent began to express concern. She reported that the Student could not do the work, that he did not want to go to school, and that he was having behavioral difficulties. She met with the Special Education Coordinator, Administrator A, in September, 2014, to get additional help for the Student. She was told that the District would "look into it" but that both teachers had to be at the meeting. She also met with Administrator A in December, and this time the Student's reading and math teachers were there. Administrator A told the teachers to give the Student work on "his level," and the Student was pulled out of class and given extra help with his reading on Saturdays. Still, he could not do much of his work during the school year. At the end of the year, the parent had a conference with the school suggesting he be retained. (Testimony of Petitioner)

5. During this time, even though the parent had met with the Special Education Coordinator, DCPS did not explain anything to the parent about the Student's right to special education services. (Testimony of Petitioner)

6. His grades reflected his poor performance. For the 2013-2014 school year, he was graded as "1" or "below basic" in all academic subjects. Some progress was made in reading, from kindergarten to first grade level, because of the Lexia reading intervention program. Nevertheless, he continued to struggle with many reading skills and needed additional intervention in reading. (P-13-13)

7. During the summer, 2015, the Student went to summer school, but there was still little to no meaningful improvement in the Student's academic performance. (Testimony of Petitioner)

8. At or about this time, the parent retained counsel. A June 25, 2015 letter from counsel requested an evaluation for special education and related services. The evaluation that was requested was for a comprehensive psychological and a Functional Behavior Assessment ("FBA"). A follow-up letter was sent on July 21, 2015, and then a follow-up email and another letter was sent on August 27, 2015. (P-24; P-26; P-27)

9. Also during this summer, the parent sought help from the District of Columbia Department of Behavioral Health ("the Department"). A treatment plan from the Department in or about August, 2015 called for a psychiatrist to monitor psychotropic medication, and a social worker to: 1) teach study skills; 2) assist the parents in developing an organizational system to increase on-task behaviors and completion of chores and school assignments; 3) consult with teachers to improve school performance; 4) encourage communication between teachers and parents; 5) teach the student mediational and self-control strategies; 6) use instruction and role-modeling to build social skills; and 7) "explore" and identify stressful events and factors that contribute to an increase in impulsivity. (P-7)

10. Also at this time, the Student's "regular" doctor told the parent that the Student needed to see a psychiatrist. At the psychiatrist's office, there was a diagnosis made, and the Student started medication management in September, 2015. (Testimony of Petitioner)

11. On the first day of the 2015-2016 school year, in Grade D, the parent did not know what class he would be in. Then, there was a meeting with the parent on September 9, 2015, wherein it was agreed that the Student would receive additional support. DCPS also agreed to move forward with the evaluation process at this meeting.

He was then placed in a Response to Intervention, or "RTI," classroom, which he likes. There are ten to fifteen children in the classroom, which he is in for the entire school day. As a result of his going to the RTI classroom, he wants to go to school, is focusing more, and is understanding more from the lessons. The RTI support is part of the evaluation process. (Testimony of Petitioner; Testimony of Witness C; R-1-3; R-5-2)

12. In general, an "RTI" program is a series of tiered interventions designed by a school or school district to help struggling general education students. The first "tier" is ordinarily a more generalized kind of intervention. Then, if that level of intervention does not work, students are assigned to a second "tier," which is more targeted, small group instruction. If progress is not seen within 6-8 weeks on the second tier, students are then assigned to a third "tier," involving more intensive, individualized work. (Testimony of Witness A)

13. Though it is not typical for an RTI program, the Student's small classroom for the 2015-2016 school is considered a "tier three" intervention. (Testimony of Witness A; Testimony of Witness C)

14. The small classroom has resulted in improvements for the Student, as reflected by his grades. He was still considered "below basic" or "1" in reading and writing, but his grades increased to "2" in math and social studies. Teacher comments indicated that he is striving to do his best, worked to his fullest potential, and was making strides in the "Fundations" program. His current reading level was O. (P-14-1)

15. Prior Written Notice was provided to proceed with an evaluation was dated January 15, 2016. Consent was received on January 18, 2016. (P-30-1; R-4)

16. A District evaluator reviewed the Student's classroom-based and formal math and reading assessments in or about January, 2016. A DIBELS assessment indicated he is "far below" grade level expectancy in reading. His overall performance was at the 7th percentile in math on a "Unit 1" assessment. A classroom based assessment indicated he was at the 2nd grade level in writing, with difficulty with sentence structure. An observation was also conducted at this time, during "Fundations" instruction. He participated in this instruction. Work samples reviewed showed that he benefitted from graphic organizers during this time. His speech and language issues were addressed through small group instruction. (P-9)

17. Witness C was assigned to evaluate the Student in January, 2016. She testified that she would complete the evaluation within two business days of the hearing, and that such evaluation will consist of a "Conners" assessment, a cognitive assessment, and an achievement assessment. (Testimony of Witness C)

VII. Conclusions of Law

Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

The burden of proof in a special education due process hearing lies with the party seeking relief. 5-EDCMR 3030.3; Schaffer v. Weast, 546 U.S. 49 (2005). However, in reviewing a decision with respect to the manifestation determination, the hearing officer must determine whether DCPS has demonstrated that the child's behavior was not a manifestation of such child's disability. 5 DCMR Sect. 2510.16

The central purpose of the IDEA is to ensure that all children with disabilities have available to them special education and related services designed to meet their unique needs and provided in conformance with a written IEP (i.e., free and appropriate public education, or "FAPE"). 20 U.S.C. Sects. 1400(d)(1(A), 1401(9)(D), 1414(d); 34 C.F.R. Sects. 300.17(d), 300.320; Shaffer v. Weast, 546 U.S. 49, 51 (2005).

Pursuant to the Supreme Court's decision in Board of Education of the Hendrick Hudson Central School District, Westchester County v. Rowley, 458 U.S. 176, (1982), the IEP must, at a minimum, "provid[e] personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." Branham v. District of Columbia, 427 F.3d 7 (D.C. Cir. 2005).

In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies: (i) Impeded the child's right to a FAPE; (ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) Caused a deprivation of educational benefit. 34 CFR Sect. 300.513(a).

1. Did DCPS fail to timely conduct evaluations of the Student within 120 days of the referral? If so, did DCPS violate D.C. Code Sect. 38-2561.02(a) and related provisions of the IDEA? If so, did DCPS deny the Student a FAPE?

2. Did DCPS fail to identify, locate and/or evaluate the Student in the 2014-2015 school year? If so, did DCPS violate 20 U.S.C. Sect. 1412(a) (3) (A), 34 C.F.R. Sect. 300.111(a) and related provisions of the IDEA? If so, did DCPS deny the Student a FAPE?

Federal regulations at 34 C.F.R. Sect. 300.301(b) provide that, "(c)onsistent with the consent requirements in 34 C.F.R. Sect. 300.300, either a parent of a child or a public

agency may initiate a request for an initial evaluation to determine if the child is a child with a disability."

District of Columbia law, at DC Code Sect. 38-2561.02(a) implements this provision. The Code reads, in part, as follows: "DCPS shall assess or evaluate a student who may have a disability and who may require special education services within 120 days from the date that the student was referred for an evaluation or assessment."

However, as stated by the D.C. Circuit: "(a)n IDEA claim is viable only if those procedural violations affected the student's substantive rights." Lesesne ex rel. B.F. v. D.C., 447 F.3d 828,834 (D.C. Cir. 2006); see also Kruvant v. District of Columbia, 99 Fed. Appx 232, 233 (D.C. Cir. 2004).

Also at issue here is "child find." The "child find" provisions of the IDEA require each State to have policies and procedures in effect to ensure that "[a]l1 children with disabilities residing in the State ... who are in need of special education and related services, are identified, located, and evaluated." 20 U.S.C. Sect. 1412(a) (3) (A); 34 C.F.R. Sect. 300.111(a). Child find must include any children "suspected of being a child with a disability under Section 300.8 and in need of special education, even though they are advancing from grade to grade." 34 C.F.R. Sect. 300.111(c) (1).

Federal case law indicates that these provisions impose an affirmative duty to identify, locate, and evaluate all such children. Reid v. District of Columbia, 401 F.3d 516, 518-19 (D.C. Cir. 2005); Hawkins v. District of Columbia, 539 F. Supp. 2d 108 (D.D.C. 2008). Consistent with the statutory language, the "child find" obligation "extends to all children suspected of having a disability, not merely to those students who

are ultimately determined to have a disability." N G. v. District of Columbia, 556 F. Supp. 2d 11 (D.D.C. 2008).

a) 2014-2015 school year: Failure to Evaluate/Child Find.

There is nothing especially clear in the record to establish that the parent requested an "evaluation" of the student for the 2014-2015 school year. Instead, the parent testified, without rebuttal, that she sought extra help for the Student from the District toward the beginning of the 2014-2015 school year. She reported that the Student was not and could not do the work, that he did not want to go to school, and that he was having behavioral difficulties at or about this time. Documentation in the record is consistent with the parent's view. During the prior school year, the Student had done poorly. After the first marking period, the Student's grades were "1" or "below basic" in all academic subjects except for science. He remained on a Level "B" in reading, which was the same level that he was at by the end of the previous year.

Since the parent did not specifically request an evaluation, I will not hold the District accountable on the grounds that they failed to evaluate the Student within 120 days. However, under these facts, I agree with the parent that "child find" was triggered by this conversation. A parental expression of concern may trigger the "child find" obligation. See, e.g., C.C. Jr. v. Beaumont Ind. Sch. Dist., 65 IDELR 109 (E.D. Tx 2015). Moreover, a Student's failure to progress may trigger a child find obligation – even where a District has steadily increased the level of general education interventions for the student. In fact, in a relatively recent case, the student had a high average IQ, and was on grade level in academic areas but the school district was still held accountable on "child find" grounds. Central Sch. Dist. V. K.C., 2013 WL 3367484 (E.D. Pa.

2013)(student continued to struggle despite accommodations and deemed eligible as a student with a learning disability); see also Compton Unified Sch. Dist. v. Addison, 598 F.3d 1181 (9th Cir. 2010)(behaviors and poor grades should have resulted in an evaluation). This is consistent with the view of the parent's two experts, both of whom testified that the Student should have been identified as a potential candidate for special education during the *prior* school year. In fact, it is arguable that the District should have been alerted to this Student's need for extra help as far back as Grade A, for the 2012-2013 school year, when his teacher said he needed he needed a "high level" of support and was reading "significantly below" level.

Accordingly, I find that Student should have been evaluated during his grade C year, during the 2014-2015 school year, and that the school district accordingly violated "child find" at that time.

b) 2015-2016 school year: Failure to Evaluate.

The record establishes that Petitioner sent multiple correspondences to DCPS requesting an evaluation through her attorneys during the summer of 2015. A June 25, 2015 letter from her counsel requested an evaluation for special education and related services. The evaluation that was requested was for a comprehensive psychological and an FBA. A follow-up letter was sent on July 21, 2015, and then a follow-up email and letter was sent on August 27, 2015.

No evaluation was conducted and no IEP had been created as of the date of the hearing, which was March 3, 2016. This was more than eight months after the original request for an evaluation. DCPS counsel argued that they did not receive these documents, but called no witnesses and presented no written evidence to support this

contention. Moreover, it was never contended that the letters were sent to an address or phone number that did not correspond to a DCPS address or phone number. It is clear, on this record, that DCPS has been tardy in responding to this request for an evaluation.

Nevertheless, the record is not clear that any harm resulted from the failure to provide this Student with an IEP for the 2015-2016 school year. The Student has been in a small class setting during this school year, a classroom which the District considers a Tier 3 "RTI" or "Response to Intervention" classroom. Even though the credible testimony of Witness A is to the effect that a Tier 3 RTI intervention is supposed to be more of a 1:1 kind of intervention, it does not matter how this classroom is labelled. What is undisputable is that the Student has been succeeding in this small class during the 2015-2016 school year. The parent specifically testified to this on direct. She stated that the Student likes this classroom, which has from ten to fifteen students in it, mentioning also that he is in there all day. She added that he wants to go to school more, is focusing more, and is understanding more in the "RTI" classroom.

Accordingly, I find that the failure to evaluate here is a procedural violation, and that DCPS did not deny the Student a FAPE by failing to timely evaluate him for the 2015-2016 school year.

VIII. Relief

As a remedy, Petitioner asserts that appropriate relief in this matter is to order compensatory education in the form of 160 hours of tutoring and 36 hours of Applied Behavior Analysis therapy.

When school districts deny Students a FAPE, courts have wide discretion to insure that students receive a FAPE going forward. As the Supreme Court stated:

> The statute directs the court to "grant such relief as [it] determines is appropriate." The ordinary meaning of these words confer broad discretion on the court. The type of relief is not further specified, except that it must be "appropriate." Absent other reference, the only possible interpretation is that the relief is to be "appropriate" in light of the purpose of the Act. As already noted, this is principally to provide handicapped children with "a free appropriate public education which emphasizes special education and related services designed to meet their unique needs.

School Committee of the Town of Burlington v. Dep't of Education, Massachusetts, 471 U.S. 359, 371 (1985).

The initial question here is whether it can be said that DCPS denied the Student a FAPE when it violated "child find." DCPS argued that a Student must be eligible for services for the Student to have been denied a FAPE, pointing to Fifth Circuit precedent. D.G. v. Flour Bluff Ind. Sch. Dist., 481 Fed. Appx. 887 (5th Cir. 2012) DCPS is correct that, on this record, that there is not enough testimony and evidence for me, as the hearing officer, to determine the Student to be eligible. Indeed, Witness A admitted as such on cross-examination when he was so asked by Respondent's counsel.

DCPS's argument makes a certain amount of sense, especially when you consider that 34 C.F.R. Sect. 300.501 and Sect. 300.502, defining Free Appropriate Public Education, discuss it in the context of individuals with disabilities between the age of 3 and 21 who require special education or related services. Nevertheless, the District of Columbia Circuit Court of Appeals has recently spoken on this issue, and in a different manner altogether. In Boose v. District of Columbia, 786 F.3d 1054 (D.C. Cir. 2015), Judge David Tatel, writing for a unanimous three-person panel, stated that "(i)f a school district fails to satisfy its "child-find" duty or to offer the student an appropriate IEP, and if that failure affects the child's education, then the district has necessarily denied the

student a free appropriate public education. (citation omitted). He stated further that, "when a school district denies a child a FAPE, the courts have "broad discretion" to fashion an appropriate remedy." Id., 786 F.3d at 1056. Other District of Columbia courts have gone even further, holding that any child find violation must automatically be equated with FAPE denial. G.G. v. District of Columbia, 924 F. Supp.2d 273, 279 (D.D.C. 2013)(the failure to locate and identify a potentially disabled child constitutes a denial of FAPE); N.G. v. District of Columbia, 556 F. Supp.2d 11, 16 (D.D.C. 2008)(same); cf. Integrated Design and Electronics Academy Public Charter School v. McKinley, 570 F. Supp.2d 28 (2008)(finding FAPE violation where District late in conducting evaluation).

Judge Tatel did not, it must be underscored, require that the Student be found eligible for services for a FAPE violation to be found. His language merely required that the child find failure *affect* a child's education, a lower standard. And, on this record, the child find violation *affected* the Student's education during the 2014-2015 school year. This can be evidenced by contrasting the Student's performance during the 2014-2015 school year with his performance during the 2015-2016 school year. In the 2014-2015 school year, when he was in a regular education classroom, he did poorly, earning "below basic" grades in all subjects. He was at risk of being retained during this time.

The current school year was driven by a meeting in September, 2015, wherein DCPS agreed to provide the Student with more intensive "RTI" services consisting of a small class throughout the day. Also at that meeting, it was made clear that the "RTI" intervention services were part of the evaluation process. (R-5-2) There is no dispute that the Student has done better since he was placed in an RTI classroom. As already

pointed out, he has benefitted from the smaller class size in that classroom. Given this, and in view of the clear language from the D.C. Circuit on this point, I find that the failure to locate and identify the Student during the 2014-2015 school year denied the Student a Free Appropriate Public Education.

To remedy the FAPE denial, one of the equitable remedies available is compensatory education**.** Under the theory of compensatory education, courts and hearing officers may award "educational services to be provided prospectively to compensate for a past deficient program." Reid v. District of Columbia, 401 F.3d 516, 521-23 (D.C. Cir. 2005). In every case, however, the inquiry must be fact-specific and, to accomplish IDEA's purposes, the ultimate award must be reasonably calculated to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place. Id., 401 F. 3d at 524; see also Friendship Edison Public Charter School v. Nesbitt, 532 F. Supp. 2d 121, 125 (D.D.C. 2008) (compensatory award must be based on a "'qualitative, fact-intensive' inquiry used to craft an award 'tailored to the unique needs of the disabled student").

A Petitioner need not "have a perfect case" to be entitled to a compensatory education award. Stanton v. District of Columbia, 680 F. Supp. 201 (D.D.C. 2011). Under the IDEA, if a Student is denied a FAPE, a hearing officer may not "simply refuse" to grant one. Henry v. District of Columbia, 55 IDELR 187 (D.D.C. 2010). Some students may require only short, intensive compensatory programs targeted at specific problems or deficiencies. Reid, 401 F.3d at 524.

Petitioner seeks Applied Behavioral Analysis ("ABA") services, relying on the compensatory education plan and the testimony of Witness B. The record, however,

makes clear that Witness B has no meaningful experience in working with ABA. Also, there is nothing in the record to suggest that ABA services would be beneficial to the Student. Moreover, and importantly, there is nothing in the record to suggest that the Student was due ABA services during the 2014-2015 school year. Accordingly, I find that the request for ABA services is without adequate support in the record, inconsistent with Reid, and generally inappropriate.

Petitioner also requested 160 hours of academic tutoring for the Student, again relying on the compensatory education plan of Witness B and her testimony. However, I have found that the FAPE violation here corresponds to the 2014-2015 school year, whereas the compensatory education plan from Witness B references the current school year. Under the circumstances, I will instead fashion my own compensatory education remedy in consideration of the fact that DCPS would have 120 days to evaluate the student before providing services. Given this, the record, and my nearly twenty years of experience as a hearing officer, I find a more appropriate remedy amounts to total seventy-five hours of individualized tutoring, to be provided by an experienced, certified teacher.

IX. Order

As a result of the foregoing:

1. Respondent is hereby ordered to provide the Student with seventy-five hours of 1:1 individualized tutoring, services to be completed by December 31, 2016;

2. All tutoring shall be directly provided by a certified teacher who shall be paid at a reasonable and customary rate;

3. Petitioner's other requests for relief are hereby denied.

Dated: March 15, 2016

Michael Lazan
Impartial Hearing Officer

cc: Office of Dispute Resolution
Attorney A, Esq.
Attorney B, Esq.
OSSE Division of Specialized Education
Contact.resolution@dc.gov
Chief Hearing Officer

X. Notice of Appeal Rights

This is the final administrative decision in this matter. Any party aggrieved by this Hearing Officer Determination 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 Hearing Officer Determination in accordance with 20 USC §1415(i).

Date: March 15, 2016

Michael Lazan
Impartial Hearing Officer