

District of Columbia
Office of the State Superintendent of Education
Office of Dispute Resolution
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Parent, on behalf of Student,¹)	
Petitioner,)	
)	
v.)	Hearing Officer: Michael Lazan
)	Case No.: 2018-0042
District of Columbia Public Schools,)	
Respondent.)	

HEARING OFFICER DETERMINATION

I. Introduction

This is a case involving an X-year-old student who is currently eligible for services as a student with Autism Spectrum Disorder (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 February 8, 2019. The Complaint was filed by the parent of the Student. On February 15, 2019, Respondent filed a response. The resolution period expired on March 10, 2018.

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 Education Improvement Act (“IDEIA”), 20 U.S.C. Sect. 1400 et seq., its implementing regulations, 34 C.F.R. Sect. 300 et seq., Title

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

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

III. Procedural History

On April 2, 2019, this Hearing Officer held a prehearing conference. Attorney A, Esq., counsel for Petitioner, appeared. Attorney B, Esq., counsel for DCPS, appeared. A prehearing conference order was issued on April 9, 2019, summarizing the rules to be applied in this hearing and identifying the issues in the case.

Testimony was expected to be completed on the scheduled hearing date, April 24, 2019. However, due to the unexpected length of witness testimony on that date, a second hearing date was needed. After a continuance order was signed by this Hearing Officer on April 24, 2019, the parties completed testimony on May 2, 2019.

This was a closed proceeding. Petitioner was represented by Attorney A, Esq. Respondent was represented by Attorney B, Esq. Petitioner moved into evidence Exhibits 1-54 and 56. There were no objections. Exhibits 1-54 and 56 were admitted. Respondent moved into evidence Exhibits 1-19. There were no objections. Exhibits 1-19 were admitted.

Petitioner presented as witnesses: herself; Witness A, an educational advocate; Witness G, a psychologist; and Witness H, an occupational therapist. Respondent presented as witnesses: Witness B, a Local Educational Agency (“LEA”) representative; Witness C, a teacher; Witness D, a speech and language pathologist; Witness E, an occupational therapist; and Witness F, a specialist on the Communication and Education Support (“CES”) program. The parties presented oral closing arguments on May 2, 2019.

IV. Issues

As identified in the Prehearing Conference Summary and Order and in the Due Process Complaint, the Free and Appropriate Public Education (“FAPE”) issues to be determined in this case are as follows:

1. Did DCPS fail to offer the Student a FAPE in the Individualized Education Program (“IEP”) dated July, 2018? If so, did DCPS act in contravention of 34 CFR 300.320, Andrew F. v. Douglas County School District, 137 U.S. 988 (2017), and Hendrick Hudson Bd. of Educ. v. Rowley, 458 U.S. 176 (1982)? If so, did DCPS deny the Student a FAPE?

Per stipulation, prior to the start of the hearing, the IEP referenced in Issue #1 was changed from the January, 2018, IEP to the July, 2018, IEP.

Petitioner contended that the IEP lacked sufficient behavioral interventions, including sufficient behavioral support services, and Applied Behavior Analysis (“ABA”) therapy. Petitioner also contended that the IEP did not provide for sufficient speech and language therapy, sign language interventions, or assistive technology.

2. From December, 2017, to present, did DCPS fail to assess the Student in all areas of suspected disability? If so, did DCPS violate 28 U.S.C. Sect. 1414(b)(3), 34 C.F.R. Sect. 300.304(c), and related provisions? If so, did DCPS deny the Student a FAPE?

Petitioner contended that the Student required an assistive technology assessment.

3. Did DCPS fail to provide Petitioner with educational records? If so, did DCPS violate 34 CFR Sect. 300.501 and related provisions? If so, did DCPS deny the Student a FAPE?

Issue #3 was withdrawn prior to the hearing.

As a remedy, Petitioner seeks a new IEP with more/sufficient speech and language therapy, appropriate behavioral interventions, including more behavioral support services, ABA therapy, new goals and objectives, an appropriate school setting, assistive technology, sufficient sign language interventions, and implementation of

recommendations in a December, 2017, evaluation. Petitioner also seeks compensatory education, educational records, and related relief.

V. Findings of Fact

1. The Student is a X-year-old who is eligible for services as a student with Autism Spectrum Disorder. The Student is delayed in most measurable domains. The Student is non-verbal, has difficulty attending to tasks, has behavioral issues, is delayed in adaptive functioning, and is well below level in academic functioning. Testimony of Witness A; Testimony of Witness C.

2. The Student's developmental skills were assessed on September 6, 2017, by a speech and language therapist and a physical therapist. On the Cognitive, Communication, and Motor sections of the Bayley Scales of Infant Development, 3rd Edition ("Bayley-III"), and the Adaptive and Personal-Social sections of the Battelle Developmental Inventory, 2nd Edition ("BDI-2"), the Student's scores were in the significantly delayed range. P-8-2, 6.

3. An Individualized Family Service Plan ("IFSP") was created for the Student on October 18, 2017. This IFSP, which was signed by Petitioner, recommended sixty minutes of speech and language therapy weekly, and 120 minutes of Applied Behavior Analysis weekly. P-21.

4. In or about December, 2017, the Student was tested by Agency A on the Autism Diagnostic Observation Schedule, 2nd Edition ("ADOS-2"), the Behavior Assessment System for Children, 3rd Edition ("BASC-2"), and the Adaptive Behavior Assessment System, 3rd Edition ("ABAS-3"). The results of these tests indicated that the Student met the Diagnostic and Statistical Manual, 5th Edition (DSM-5) criteria for an

Autism Spectrum Disorder, that the Student was non-verbal, and that the Student's Autism Spectrum Disorder was moderate to severe. The Student's adaptive functioning was found to be at the extremely low level. P-15.

5. This evaluation recommended that the Student should receive an ABA-based program, which should include such techniques as Direct Trial Teaching, extensive reinforced practice, errorless prompting techniques, and incidental teaching techniques to assure generalization. The evaluator indicated that the "targeted areas" for the Student should include language skills/general knowledge, communication/social-pragmatic skills, academic skills, social and play skills, and daily living skills. The evaluation report suggested that the program could be implemented in the home. The evaluation also recommended that the Student should attend a full-time, highly structured school-based program that included as much one-on-one instruction time as possible, with a low student-to-teacher ratio. Programs that use ABA techniques were strongly recommended, particularly programs that include a carefully designed curriculum using discrete trial teaching, reinforced practice, errorless prompting techniques, and incidental teaching techniques to assure generalization. P-15-6.

6. An IEP meeting was conducted for the Student on January 12, 2018. The Student's IFSP was reviewed at this meeting. The "Communication" section of the resultant January, 2018, IEP indicated that the Student needed visual supports (e.g., sign-supported speech and visual schedules) and gentle physical guidance (e.g., hand-over-hand assistance). To improve his/her ability to share his/her needs and ideas, the Student needed repeated spoken models of single words and short phrases, and visual supports (e.g., pairing objects with words). The Student also needed access to "light-tech"

Augmentative and Alternative Communication (“AAC”) systems (e.g., sign-support speech models, picture boards, and picture exchange) and training in how to use these systems. The Communication section of the IEP also recommended the use of gentle physical prompting (e.g., laying a hand on the back) to gain the Student’s attention, routines, simple contextual directions, getting on the Student’s eye level, getting close to the Student, speaking in short, simple sentences, using a reduced rate when presenting auditory/visual information to the Student, providing visual support with spoken words, pausing between phrases, and sensory strategies and equipment as recommended by the school-based occupational therapist. In addition, in a separate section entitled “Assistive Technology,” the IEP indicated that the Student would benefit from access to assistive technology services, including augmentative and alternative communication. P-4.

7. The January, 2018, IEP contained goals in adaptive/daily living skills, communication, speech/language, and motor skills/physical development, and recommended twenty-six hours per week of specialized instruction outside general education, with related services consisting of speech and language therapy for two hours per month, and occupational therapy for four hours per month. P-4.

8. On or about March 1, 2018, Petitioner elected to continue with “Part C” services for the Student (from the IFSP) for the remainder of the 2017-2018 school year. Testimony of Witness B; Testimony of Petitioner.

9. On July 12, 2018, another IEP meeting was held for the Student. The team, including Petitioner, agreed on language relating to adaptive functioning and speech and language functioning. No objections were lodged in regard to speech and language therapy, behavioral support services, or assistive technology. The Student’s

father stated that he would like the Student to have an aide because s/he is not communicating with others or using the toilet. The DCPS members of the IEP team did not agree with the request for an aide because the Student was recommended for a “CES” classroom with three adults and less than ten children. This CES classroom specializes in working with children who have a foundational communication-based disability and concomitant behavioral issues. The team specifically discussed that the CES classroom provided a range of ABA-related supports. The team determined that a “full-time” IEP of twenty-six hours of instruction in the CES classroom was appropriate. Testimony of Witness B; P-9.

10. The Student’s July, 2018, IEP used almost exactly the same language as the January, 2018, IEP, except that it added a booster seat and “hand to hand” support to transportation services. Again, in a section entitled “Communication,” the IEP indicated that the Student needed visual supports and gentle physical guidance, repetition, access to “light-tech” AAC systems, and training in how to use these systems. It also again recommended physical prompting, routines, simple contextual directions, getting on the Student’s eye level, getting close to the Student, speaking in short, simple sentences, using a reduced rate when presenting auditory/visual information to the Student, providing visual support with spoken words, pausing between phrases, and sensory strategies and equipment as recommended by the school-based occupational therapist. In a separate section entitled “Assistive Technology,” the IEP again indicated that the Student would benefit from access to assistive technology services, including augmentative and alternative communication. This IEP also contained goals in adaptive/daily living skills, communication, speech/language, and motor skills/physical

development. The IEP again recommended twenty-six hours per week of specialized instruction outside general education, with related services consisting of speech and language therapy for two hours per month, and occupational therapy for four hours per month. P-7.

11. For the 2018-2019 school year, the Student has attended School A, a DCPS public school. The Student has received the required twenty-six hours of specialized instruction per week outside general education. The Student received two hours per month of speech and language therapy until about March-April, 2019, when the amount of services increased to four hours per month. The Student has also received occupational therapy for four hours per month during the school year. Testimony of Witness C; Testimony of Witness D; Testimony of Witness E.

12. The Student's CES classroom is "highly structured," with tokens, incentives, and ABA approaches to address behavior, in particular the Strategies for Teaching based on Autism Research ("STAR") program. The class has an "ABA binder" and utilizes ABA-related interventions, such as "VB Map assessments," regular "ABC" data, frequency charts, pivotal response training, and discrete trials. The program also uses the Picture Exchange Communication System ("PECS") and provides the Student with movement breaks. Testimony of Witness C; Testimony of Witness D; Testimony of Witness E; Testimony of Witness F.

13. When the Student first came to the school, s/he would not respond to direction or prompts. Now, s/he will respond to some directions and prompts (such as the word "go") and will complete some tasks on command, such as taking out trash. The Student is also able to request PECS interventions, sit in his/her seat, respond to his/her

name, and follow basic one-step directions like stop, sit, and stand. The Student's behaviors may be triggered when someone leaves him/her, and the Student needs redirection consistently. But the Student is not physically aggressive with other students, and his/her behaviors have decreased during the year. Testimony of Witness C.

14. In or about December, 2018, the Student's teacher, Witness C, reported Petitioner to the Child and Family Services Agency, which protects children from abuse and neglect. Witness C reported Petitioner because, as a teacher, she is a mandated reporter. After this occurred, Witness C's relationship with Petitioner became difficult. Testimony of Witness C.

15. Petitioner sought records from Respondent in or about November, 2018, December, 2018, and March, 2019. P-44; P-40; P-33.

VI. Conclusions of Law

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

The burden of proof in District of Columbia special education cases was changed by the local legislature through the District of Columbia Special Education Student Rights Act of 2014. That burden is expressed in statute as the following:

Where there is a dispute about the appropriateness of the child's individual educational program or placement, or of the program or placement proposed by the public agency, the public agency shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement; provided, that the party requesting the due process hearing shall retain the burden of production and shall establish a prima facie case before the burden of persuasion falls on the public agency. The burden of persuasion shall be met by a preponderance of the evidence.

See D.C. Code Sect. 38-2571.03(6)(A)(i).

Issue #1 involves a challenge to the Student's IEP, program, and/or placement. Respondent therefore bears the burden of persuasion. Issue #2 involves a challenge to assessments and does not involve a direct challenge to the Student's IEP, program, and/or placement. On this issue, Petitioner bears the burden of persuasion. Schaffer v. Weast, 546 U.S. 49 (2005).

1. Did DCPS fail to offer the Student a FAPE in the IEP dated July, 2018? If so, did DCPS act in contravention of 34 CFR 300.320, Andrew F. v. Douglas County School District, 137 U.S. 988 (2017), and Hendrick Hudson Bd. of Educ. v. Rowley, 458 U.S. 176 (1982)? If so, did DCPS deny the Student a FAPE?

For many years, the main authority on a school district's duty to create an IEP was Hendrick Hudson Bd. of Educ. v. Rowley, 458 U.S. 176 (1982), where the United States Supreme Court found that an IEP must be "reasonably calculated" to enable the child to receive educational benefit. In the District of Columbia, this has meant that the IEP should be both comprehensive and specific, and targeted to the Student's "unique needs." McKenzie v. Smith, 771 F.2d 1527, 1533 (D.C. Cir. 1985); 34 CFR Sect. 300.324(a)(1)(iv) (the IEP must address the academic, developmental, and functional needs of the child). As stated in S.S. ex rel. Shank v. Howard Road Academy, 585 F. Supp. 2d 56, 66-67 (D.D.C. 2008), the measure and adequacy of an IEP should be determined as of the time it was offered to the student.

In 2017, the Supreme Court addressed a split amongst circuit courts regarding what the IDEA means when it requires school districts to provide an "appropriate" level of education to children with disabilities. Andrew F. ex rel. Joseph F. v. Douglas County School Dist. RE-I, 137 S. Ct. 988 (2017). In keeping with Rowley, in Andrew F. the Court held that an IEP must be "reasonably calculated to enable a child to make progress

appropriate in light of the child’s circumstances.” Id. at 1001. The Court made clear that the standard is “markedly more demanding than the ‘merely more than *de minimis*’ test” applied by many courts. Id. at 1000.

Petitioner contended that the Student’s IEP lacked sufficient behavioral interventions, including sufficient behavior support services, and did not provide for ABA therapy. Petitioner also contended that the IEP did not provide for sufficient speech and language therapy, sign language interventions, or assistive technology.

The 2018-2019 school year is the Student’s first year of special education services and first year of formal school. Prior to this school year, the Student received services pursuant to his/her IFSP but did not attend a formal school. The Student was recommended for a classroom with a special education teacher and modified instruction for the entire academic day (except for the related services of speech and language therapy for 120 minutes per month, and occupational therapy for 240 minutes per month).

Petitioner contended that the Student needs ABA instruction, and that ABA instruction should be specifically required by the IEP. The documentation in the record, particularly Agency A’s evaluation from December, 2017, does specifically suggest that the Student needs ABA services to at least some degree. In the “Recommendations” section of the evaluation report, the evaluator recommends a “full-time, highly structured school-based program” with as much one-on-one instruction time as possible and a 1-to-3 teacher-student ratio. The report also indicates that the Student requires “intensive and comprehensive programs,” and that programs using ABA are “strongly recommended.”

While the IEP does not specifically require ABA, it does suggest that ABA services are appropriate, as indicated by Witness C’s testimony. Accordingly, as Witness

C and Witness F confirmed at the hearing, the Student's CES program *does* provide ABA-based instruction, in particular the STAR program, which requires such ABA-related interventions as "VB Map assessments," taking regular "ABC" data, and using frequency charts, pivotal response training, and discrete trial training. The program also uses the PECS system, provides the Student with movement breaks, and has a low teacher-to-student ratio of 1 to 3.

Petitioner should have understood that the prescribed CES program is in fact a program that employs ABA methodology. As credibly stated by Witness B, the CES program was discussed at the IEP meeting in July, 2018, which Petitioner attended. The discussion about the CES program included a discussion on the use of ABA in the CES classroom. Petitioner was therefore on notice that the Student was going to receive some ABA instruction in the CES program for the 2018-2019 school year. There is no clear evidence that either of the Student's parents expressed any objections to the CES program at the IEP meeting, except that the Student's father felt that the Student needed a dedicated aide.

Moreover, DCPS was within its rights as a school district to write an IEP without specifically requiring ABA instruction. School districts generally do not have to place instructional methodologies in an IEP, though there may be exceptions where other methodologies have been tried and did not work. The United States Department of Education has stated that "there is nothing in the [IDEA] that requires an IEP to include specific instructional methodologies." 71 Fed. Reg. 46,665 (2006). Courts and administrative officers generally agree. As the United States Supreme Court stated in Rowley:

Congress' intention was not that the Act displace the primacy of States in the field of education, but that States receive funds to assist them in extending their educational systems to the handicapped. Therefore, once a court determines that the requirements of the Act have been met, questions of methodology are for resolution by the States.

458 U.S. at 208; see also Fairfax Cty. Sch. Bd. v. Knight, No. 1:05CV1472 (LMB), 2006 WL 6209927, at *8 (E.D. Va. Aug. 23, 2006), aff'd, 261 F. App'x 606 (4th Cir. 2008) (“(o)f course, it is not the place of this Court to pass upon the relative merits of educational theories and methodologies”).

In S.M. v. Hawai'i Dep't of Educ., 808 F. Supp. 2d 1269, 1278 (D. Haw. 2011), the student's parents raised an issue similar to the issue in this case. They claimed that their child's IEP was defective because it did not specifically require the ABA methodology that they felt the student needed (though the IEP indicated that strategies consistent with ABA methodology would be used). The court held that the IEP did not specifically need to require the ABA methodology to pass muster under the IDEA, pointing out that “[t]he IDEA accords educators discretion to select from various methods for meeting the individualized needs of a student, provided those practices are reasonably calculated to provide him with educational benefit.” Id. At 1279 (quoting R.P. ex rel. C.P. v. Prescott Unified Sch. Dist., 631 F.3d 1117, 1122 (9th Cir. 2011)).

It is also notable that the CES program has resulted in progress for the Student, who did not respond to cues when s/he first started school in September, 2018. Now, s/he will respond to some prompts and directions, such as the word “go,” and complete some tasks on command, such as taking out trash. The Student is also able to request PECS interventions, sit in his/her seat, respond to his/her name, and follow basic one-step directions such as stop, sit, and stand.

Petitioner also contended that the IEP lacked sufficient behavioral interventions, including sufficient behavioral support services. But at the time the IEP was formulated, Petitioner did not object to the behavioral interventions referenced in the IEP, including the use of prompts, routine, repetition, and sensory strategies. Additionally, according to Witness F's credible testimony, the entire CES program is designed to address behavior, among other things, and the ABA techniques employed in the classroom are specifically designed to address behavioral issues. Also, it is worth pointing out again that the Student had not attended school prior to the formation of this IEP. Accordingly, at the time the IEP was created, there was no clear way DCPS could have assessed the Student's in-class behaviors or more specifically determined appropriate behavioral approaches. Nor would it necessarily have been appropriate for DCPS to recommend counseling for the Student at that stage in his/her academic career. This still young Student has significant communication issues and a great deal of trouble sitting still, suggesting that counseling may be inappropriate for him/her at this time.

Petitioner also contended that the IEP did not provide for sufficient speech and language therapy. However, the entire CES program is also designed to support a student's speech and language skills, which is why it is called the Communication and Educational Support program. In fact, Witness C testified that she has been working specifically on the Student's speech and language issues, and that the Student is now much more responsive to requests than s/he had been previously. Additionally, the Student did receive two hours of speech and language therapy per month, as recommended. This mandate was considered appropriate at the time of IEP creation by Witness D, who was the only the speech and language pathologist to testify during the

hearing. Given that the Student is not verbal, it is of course understandable that Petitioner is concerned about the Student's severe speech and language issues. But, under the circumstances, it cannot fairly be said that DCPS failed to reasonably calculate the Student's speech mandate at the IEP meeting in July, 2018.

Finally, Petitioner contended that the IEP did not provide the Student with sufficient assistive technology, including sign language. However, the Act directs each child's IEP team only to "*consider* whether the child needs assistive technology devices and services." 20 U.S.C. Sect. 1414(d)(3)(B)(v) (emphasis added). "The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability." *Id.* Sect. 1401(1)(A).

The IEP team did "consider" the use of assistive technology when it determined the IEP services for this Student. In fact, the IEP team specifically recommended assistive technology services on the IEP. It suggested "access to assistive technology services," including augmentative and alternative communication devices, and indicated that the Student would benefit from "access to light-tech AAC systems (e.g. sign-support speech models, picture boards, picture exchange etc.) and training in how to use these systems." In fact, the Student has been using a two-button device, a "go talk," and has been introduced to sign language. The Student has also been introduced to the PECS picture system of communication. Witness C indicated that the Student has made progress with these interventions and, indeed, the record contains references to the Student using assistive technology to communicate "I want" and "all done." P-13-2.

Furthermore, Petitioner did not point to any assistive technology that would have been especially helpful to the Student but was not provided.

Based on these facts, this Hearing Officer finds that DCPS reasonably calculated the Student's assistive technology mandate and the entire IEP, which provided a great many services for a Student who was just starting school at the time.

Claim #1 must therefore be dismissed.

2. From December, 2017, to present, did DCPS fail to assess the Student in all areas of suspected disability? If so, did DCPS violate 28 U.S.C. Sect. 1414(b)(3), 34 C.F.R. Sect. 300.304(c), and related provisions? If so, did DCPS deny the Student a FAPE?

A Local Educational Agency ("LEA") is required to ensure that a child is assessed in all areas of suspected disability, and that the chosen assessment tools and strategies are provided to present relevant information that directly assists persons in determining the educational needs of the child. 28 U.S.C. Sect. 1414(b)(3); 34 C.F.R. Sect. 300.304(c).

Petitioner contended that Respondent failed to assess the Student in regard to assistive technology, even though the Student appears to have been informally assessed for assistive technology needs in the evaluations conducted by Strong Start in September, 2017. P-18-12. Witness H testified that the Student needed an assistive technology evaluation at the time of the July, 2018, IEP, indicating that this assessment would determine the hardware and software applications that could be used for the Student. Witness H also testified that the assistive technology could be a picture board, pencil grip, or AAC device.

Even without an assistive technology evaluation, the Student's IEP recommended access to assistive technology services, including AAC devices and picture boards.

Witness H did not explain why an evaluation would have been necessary to utilize those devices, or what other devices or approaches should have been used by the Student (in addition to the devices already recommended in the IEP and/or used by School A).

Moreover, a review of caselaw reveals few if any cases where a school district was held liable for failure to provide a student with an assistive technology evaluation, especially where, as here, the Student received a significant amount of assistive technology support and has been making meaningful progress at school. This point was discussed by Judge James E. Boasberg in a case involving a claim that DCPS failed to provide a student with all of the assistive technology recommended by an expert. Smith v. District of Columbia, 846 F. Supp. 2d 197 (D.D.C. 2012). Judge Boasberg, affirming a hearing officer who had dismissed the case, noted that the student had received meaningful educational benefit from the IEP and program. 846 F. Supp. 2d at 202. Judge Boasberg stated: “While it is certainly understandable that H.S.’s mother wants to provide him every possible educational opportunity, DCPS is not required to fund services that go considerably beyond the ‘basic floor opportunity.’”

Claim #2 must therefore be dismissed.

VII. Order

As a result of the foregoing, this case is dismissed with prejudice.

Dated: May 12, 2019

Michael Lazan
Impartial Hearing Officer

cc: Office of Dispute Resolution
Petitioner’s Representative: Attorney A, Esq.

Respondent's Representative: Attorney B, Esq.
OSSE Division of Specialized Education
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VIII. 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).

Dated: May 12, 2019

Michael Lazan
Impartial Hearing Officer