

**District of Columbia  
Office of the State Superintendent of  
Education**

**Office of Dispute Resolution  
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OSSE  
Office of Dispute Resolution  
November 01, 2021

**Confidential**

<b>Parents on behalf of Student,<sup>1</sup></b>	)	<b>Case No. 2021-0121</b>
	)	
<b>Petitioner.</b>	)	<b>Hearing Date: October 27, 2021</b>
	)	
<b>v.</b>	)	<b>Conducted by Video Conference</b>
	)	
	)	<b>Date Issued: November 1, 2021</b>
<b>District of Columbia Public Schools,</b>	)	
	)	<b>Terry Michael Banks</b>
<b>Respondent.</b>	)	<b>Hearing Officer</b>

**HEARING OFFICER DETERMINATION**

**INTRODUCTION**

Petitioner is the parent of an X year-old student (“Student”) attending School A.<sup>1</sup> On August 20, 2021, Petitioner filed a Due Process Complaint Notice (“*Complaint*”) alleging, *inter alia*, that the District of Columbia Public Schools (“DCPS”) denied Student a free appropriate public education (“FAPE”) by failing timely to evaluate Student timely and failing to provide an appropriate Individualized Education Program (“IEP”) and placement. On August 28, 2021, DCPS filed *District of Columbia Public School’s Response to Parent’s Administrative Due Process Complaint* (“*Response*”) denying that it had denied Student a FAPE in any way.

**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. Section 1400 *et seq.*, its implementing regulations, 34 C.F.R. Sect. 300 *et seq.*, Title

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<sup>1</sup> Personally identifiable information is attached in the Appendix 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.

### PROCEDURAL HISTORY

Petitioner is the mother of an X year-old student who is currently enrolled at School A. On August 20, 2021, Petitioner filed the *Complaint* alleging that DCPS denied the student a FAPE by failing timely to evaluate Student following Petitioner's May 19, 2021 request,<sup>2</sup> and failing timely to provide an updated IEP, placement, and location of services.<sup>3</sup>

On August 28, 2021, DCPS filed its *Response* in which it refuted allegations in the *Complaint*, denying that it had denied Student a FAPE as follows: (1) On May 19, 2021, Petitioner referred Student for evaluation to determine if [REDACTED] continued to qualify for special education services. On May 20, 2021, DCPS acknowledged receipt of the referral, and requested that Petitioner complete residency verification, and provided information to complete the residency verification process online. Over several months, the parties exchanged correspondence regarding Petitioner's assertion that she and her attorney had submitted the residency documentation to the District of Columbia Office of the State Superintendent of Education ("OSSE") rather than DCPS. On August 16, 2021, DCPS informed Petitioner that it was unable to confirm that Petitioner had filed residency documentation with OSSE. That day, through counsel, Petitioner provided documents to verify her residency. On August 17, 2021, DCPS notified Petitioner that the documents submitted were not acceptable documentation as required by law. On August 18, 2021, DCPS denied a request made that day through counsel that DCPS accept the documents that they had rejected. Later that day, Petitioner resubmitted the documentation with the required information included. On August 19, 2021, DCPS proposed two meeting dates to begin the eligibility process. On August 23, 2021, DCPS contacted Petitioner to follow up on the previous communication to confirm a meeting date, but has never received a response from Petitioner. (2) On August 27, 2021, DCPS sent Petitioner a letter acknowledging Student's unilateral placement at [REDACTED] and denying funding for the 2021-2022 school year. (3) DCPS will evaluate Student to determine [REDACTED] continued eligibility for special education services, identify an appropriate placement and location of services as necessary. (4) DCPS did not timely fail to evaluate Student at Petitioner's request, and did not timely fail to provide Student an appropriate placement and location of service for the 2021-22 school year, because Petitioner did not establish residency until August 18, 2021.<sup>4</sup>

The parties participated in a resolution meeting on September 8, 2021 that did not result in a settlement. A prehearing conference was conducted by video conference on September 23, 2021, and the Prehearing Order was issued that day. An Amended Prehearing Order was issued on 29,

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<sup>2</sup> At the prehearing conference, in response to my question, Petitioner's counsel asserted that reevaluation was long overdue, as DCPS had not re-evaluated Student since 2016, and should have completed evaluations within 60 days of the May 19<sup>th</sup> referral.

<sup>3</sup> In response to my question, Petitioner's counsel asserted that DCPS should have provided an interim placement immediately upon Petitioner's May 19<sup>th</sup> referral, and no later than thirty (30) days after the referral.

<sup>4</sup> At the prehearing conference, Respondent's counsel asserted that DCPS has agreed to conduct a comprehensive psychological evaluation, a functional behavior assessment, and a vocational evaluation. A DCPS occupational therapist will observe Student in the classroom and opine as to whether Student requires an occupational therapy evaluation. Respondent's counsel also reported that Student is attending [REDACTED].

2021 to reflect changes proposed by Petitioner's counsel. On October 20, 2021, Petitioner filed a *Memorandum of Points and Authorities in Support of Petitioner's Position for Hearing*.

The due process hearing was conducted on October 27, 2021 by video conference. The hearing was open to the public. Petitioner filed Disclosures on October 20, 2021 containing a witness list of five witnesses and documents P1-P58. DCPS filed objections on October 25, 2021. DCPS objected to the expert designation of Witness A on the grounds that he lacked the requisite credentials. A decision on this objection was deferred until the witness was offered and subjected to *voir dire*. DCPS also objected to the following exhibits on the grounds of relevance, authentication, hearsay, and the best evidence rule: P1-P3, P38-P39, and P48-P50. I overruled the objections to P1-P3, and P50, sustained objections to P48 and P49, and deferred ruling on P39. During the hearing, I overruled the objection to P39. Thus, Petitioner's Exhibits P1-P37, P39-P47, and P50-P58 were admitted into evidence.

DCPS also filed Disclosures on October 20, 2021 containing a witness list of four witnesses and documents R-1 through R-12. Petitioner filed objections to DCPS' proposed expert witnesses on October 25, 2021, but offered no reason for the objections. Consistent with the requirement in the *Prehearing Order* that reasons must be stated in the objection, Petitioner's objections were overruled. Petitioner did not object to any of Respondent's proposed exhibits. During Respondent's direct case, the following exhibits were offered and admitted into evidence: R1-R7 and R10 - R11.

Petitioner presented as witnesses in chronological order: Petitioner and Witness A. Over Respondent's objection, Witness A was allowed to offer expert testimony in the area of Special Education. Respondent presented as witnesses in chronological order: Witness B and Witness C. Witness B was allowed to offer expert testimony in the area of Special Education over Petitioner's objection. Counsel for the parties provided oral closing arguments at the conclusion of the testimony. The Hearing Officer authorized counsel to file list of authorities on which they rely by October 29, 2021. Neither party submitted a subsequent filing.

## ISSUES

As identified in the *Complaint* and the *Amended Prehearing Order*, the issues to be determined in this case are as follows:

1. Whether DCPS denied Student a FAPE by failing timely to evaluate Student following Petitioner's May 19, 2021 request.
2. Whether DCPS denied Student a FAPE by failing timely to provide an updated IEP, placement, and location of services.

## FINDINGS OF FACT

1. Student is X-years-old and is currently attending School A.<sup>5</sup>
2. During the 2017-18 school year, Student was enrolled at School B, a residential treatment facility that also provides special education services.<sup>6</sup>
3. On October 15, 2018, DCPS notified Petitioner and School B that Petitioner's residency requirements had not been completed and that "if it was not completed ASAP, the student would be withdrawn, [his/her] tuition funding would cease and that no further travel would be processed or approved."<sup>7</sup>
4. On or about October 13, 2018, DCPS enrolled at School C.<sup>8</sup>
5. On or about February 15, 2019, Student was withdrawn from School C.<sup>9</sup> Petitioner informed DCPS that she intended to enroll Student in a school in Pennsylvania.<sup>10</sup> Instead, Petitioner enrolled Student at School D, a private school in Maryland.<sup>11</sup>
6. School D did not provide special education services, and Student did not have an IEP. Although she considered School D to provide a nurturing environment, during the 2020-21 school year, it offered only remote classes through virtual learning platforms, and Student had difficulties "engaging" with his/her school work during virtual learning. Therefore, Petitioner decided to re-enroll Student in a DCPS school, as DCPS had resumed in-person classes.<sup>12</sup>
7. On May 19, 2021, Attorney A, Petitioner's attorney, e-mailed DCPS and requested "that the student be re-evaluated and provided with an IEP and an appropriate placement by DCPS."<sup>13</sup> The reasons provided for the requested referral were Social/emotional and Attention Problems.<sup>14</sup>
8. One minute after receiving Attorney A's email, DCPS replied with a standard response to referral requests. On the form, DCPS concedes that it serves children who  
  
Have been parentally-placed in a private/religious elementary or secondary school in another state and the family resides in the District of Columbia... If the student's

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<sup>5</sup> Petitioner's Exhibit ("P:") 1, page 2 at Bates page 8. The exhibit number and page are followed by the electronic page number in the disclosure in parentheses, i.e., P1:2 (8). Student executed a Power of Attorney transferring to Petitioner the authority to represent Student in all matters relating to her education. P52:1 (215).

<sup>6</sup> P45:1 (167).

<sup>7</sup> Respondent's Exhibit ("R:") 10, page 7 at Bates page 35. The exhibit number and page are followed by the electronic page number in the disclosure in parentheses, i.e., R10:7 (35).

<sup>8</sup> P47:1 (190); Testimony of Witness B; P38:1 (129).

<sup>9</sup> *Id.*

<sup>10</sup> Testimony of Witness B.

<sup>11</sup> Testimony of Petitioner.

<sup>12</sup> Testimony of Petitioner.

<sup>13</sup> P4:1 (36).

<sup>14</sup> *Id.* At 2 (37)

private school is located outside of DC, we request the student’s guardian complete DC Residency Verification. For the 2020-2021 school year, we are able to complete the residency verification process virtually. Please [click here](#) to complete DC residency verification form...”<sup>15</sup>

DCPS sent Attorney A the same instructions by e-mail again on May 20, 2021.<sup>16</sup>

9. On June 2, 2021, Attorney A’s legal assistant requested a status update of the referral request.<sup>17</sup> DCPS replied on June 15, 2021, indicating that it had received the referral request and repeating the instructions given earlier.<sup>18</sup> Four hours later, Attorney A replied, stating that “the residency verification process has been completed through OSSE. I am attaching the forms received.”<sup>19</sup> Attorney A sent another e-mail August 4, 2021 requesting the status of the referral request.<sup>20</sup> On August 9, 2021, DCPS replied that it had received Petitioner’s verification documents on June 15, 2021, “however, the supporting documents were not included. Please review the attached, Acceptable Residency documents and forward the designated correspondence to our office at your earliest convenience.”<sup>21</sup> On August 10, 2021, Attorney A notified DCPS that Petitioner provided the residency documents “directly to OSSE.”<sup>22</sup> On August 16, 2021, DCPS replied that “we are unable to verify Residency was submitted to OSSE,” and provided the same Acceptable Residency Documents that it sent before.<sup>23</sup> About 90 minutes later, Attorney A submitted additional residency verification forms.<sup>24</sup> On August 17, 2021, DCPS replied to Attorney, providing the four categories of documents from which Petitioner needed to provide two to establish residency, and added that “Based on the documentation submitted, the Utility Bill did not include a separate paid receipt showing the payment of the bill from a period within 2 months immediately preceding, listing the name of the person enrolling the student or the name of the adult student and his/her current DC home address.”<sup>25</sup> On August 17, 2021, Attorney A replied, attaching “The receipt verifying payment was attached. It is the same information that was accepted by DCPS as proof of residency for [Petitioner’s] other children.”<sup>26</sup> On August 18, 2021, DCPS replied to Attorney, providing the four categories of documents from which Petitioner needed to provide two to establish residency, and highlighted the requirement that the documents submitted must include Petitioner’s address.<sup>27</sup> An hour later, Attorney A sent the gas bill again “with parent’s address. Again, this is the same information that was previously sent to OSSE and was used to verify residency for the [Petitioner’s] other children who attend DCPS.”<sup>28</sup>

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<sup>15</sup> P5:1 (39).

<sup>16</sup> P6:1 (41).

<sup>17</sup> P7:1 (44).

<sup>18</sup> P8:1 (47).

<sup>19</sup> P9:1 (49).

<sup>20</sup> P10:1 (51).

<sup>21</sup> P12:1 (55).

<sup>22</sup> P13:1 (57).

<sup>23</sup> P14:1 (59).

<sup>24</sup> *Id.*

<sup>25</sup> P15:1 (61).

<sup>26</sup> P16:2 (64).

<sup>27</sup> *Id.* at 1-2 (63-64).

<sup>28</sup> *Id.* at 1.

10. On August 19, 2021, DCPS notified Petitioner and Attorney A that Petitioner had successfully established residency in the District. The e-mail offered meeting dates on September 20 and 21, 2021 to discuss “next steps in the eligibility process.”<sup>29</sup> After filing the Complaint on August 20, 2021, Attorney A accepted the proposed meeting date of September 20, 2021.<sup>30</sup>

11. The OSSE Residency Verification Form provides three methods to verify residency. Petitioner elected to use the second method, which required her to provide two of the following: (1) a DC operator’s permit or non-driver ID, (2) a valid DC motor vehicle registration, (3) a lease or rental agreement, and (4) a utility bill “with a separate paid receipt of payment printout, money order or copy of cashed check. The utility bill must be for a period within the past two months immediately preceding the school’s review of this form. The separate proof of payment must be for the specific bill submitted. The most common submission is two consecutive bills where the second bill shows payment on the first bill...”<sup>31</sup> Petitioner submitted her non-driver identification card<sup>32</sup> and Washington Gas utility bills.<sup>33</sup> The March 15, 2021 bill, for the period February 12 – March 11, 2021, reflects no payment by Petitioner for the previous period.<sup>34</sup> The first receipt submitted by Petitioner was dated June 15, 2020, but does not indicate the specific monthly bill for which payment was tendered.<sup>35</sup> Petitioner submitted her July 16, 2021 bill for the period June 12 – July 14, 2021, but it reflects no payment on the previous bill.<sup>36</sup> The second receipt submitted by Petitioner was dated June 15, 2020, but does not indicate the specific monthly bill for which payment was tendered.<sup>37</sup>

## CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the arguments of counsel, and this Hearing Officer’s legal research, the Conclusions of Law 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

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<sup>29</sup> P17:1-2 (68-69).

<sup>30</sup> *Id.* at 1 (68).

<sup>31</sup> P31:2 (111).

<sup>32</sup> P33:1 (115).

<sup>33</sup> P34:1 (117).

<sup>34</sup> *Id.*

<sup>35</sup> P35:1 (120).

<sup>36</sup> P36:1-2 (122-23).

<sup>37</sup> P37:1 (125).

evidence.<sup>38</sup>

One of the issues in this case is the alleged failure to provide an appropriate IEP and placement. Under District of Columbia law, DCPS bears the burden as to this issue; Petitioner bears the burden on the issue of the timeliness of DCPS' response to the referral for an evaluation, IEP, and placement.<sup>39</sup>

**Whether DCPS denied Student a FAPE by failing timely to evaluate Student following Petitioner's May 19, 2021 request.**

IDEA and the regulations promulgated pursuant to IDEA require that children with disabilities must be evaluated in all areas related to the suspected disability.<sup>40</sup> In the case of the initial evaluation to determine eligibility, the evaluation must be conducted within 60 days of receiving parental consent for the evaluation.<sup>41</sup> The same timeline is required by local regulations.<sup>42</sup> Reevaluations must be conducted at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.<sup>43</sup> Neither IDEA regulations nor local regulations impose the 60-day deadline for reevaluations.

In the first section of her Memorandum of Points and Authorities, Petitioner's counsel argued that DCPS failed to evaluate, determine eligibility, develop an IEP, or provide a placement for Student for either the 2020-21 or 2021-22 school year. As for the 2020-21 school year, DCPS provided none of these services because Petitioner had withdrawn Student from DCPS in 2019 and placed him/her in a private school outside the jurisdiction. While counsel argued that Petitioner did not agree that School C was an appropriate placement by DCPS when Student was discharged from School B in 2018, the record does not indicate that Petitioner filed a due process complaint to challenge that placement. Rather, she unilaterally placed Student at School D. Thus, Petitioner made no request for evaluations, an IEP, or placement for Student for the 2020-21 school year. Moreover, the 2020-21 school year is not at issue in this proceeding.

As for the 2021-22 school year, Petitioner's counsel argues in the second section of her memorandum that DCPS has a legal obligation to provide private school students with timely evaluations and FAPE upon request. While this may be legally accurate, it is not disputed by DCPS. Nowhere in its *Response* did DCPS deny its obligation to evaluate Student because she was enrolled in a private school outside the jurisdiction. In fact, in the response sent to Petitioner's counsel one minute after the referral request, DCPS stated that it had an obligation to serve students who have been parentally-placed in a private/religious elementary or secondary school in another state if the family resides in the District of Columbia.

The cases principally relied on by Petitioner's counsel address a position DCPS has not

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<sup>38</sup> D.C. Code § 38-2571.03(6)(A)(i).

<sup>39</sup> *Schaffer v. Weast*, 546 U.S. 49 (2005).

<sup>40</sup> 20 U.S.C. §1414(b)(3)(B); 34 C.F.R. §300.304(c)(4).

<sup>41</sup> 20 U.S.C. §1414(a)(1)(C)(i)(I).

<sup>42</sup> 5-E DCMR §3005.2(a)

<sup>43</sup> 34 C.F.R. §300.303(b)(2).

asserted in this case, that it is not required to complete childfind if the child is not enrolled in a DCPS school. In *District of Columbia v. Vinyard*,<sup>44</sup> DCPS argued that it was not required to develop an IEP for a student who had been unilaterally placed in a private day school until the child enrolled in a DCPS school. The court ruled that all disabled students residing in the District are entitled to an IEP. “The Court agrees that the District is not required to *implement* an IEP for a student whose parents unilaterally maintain a student’s enrollment at a private school when an IEP provides for a public placement. But nothing in [20 U.S.C. § 1412(a)(10)] authorizes the school district to ignore a parent’s request that an IEP be developed for a child simply because the child is presently enrolled in a private school.”<sup>45</sup> In *District of Columbia v. Abramson*,<sup>46</sup> DCPS argued that it was not required to complete the childfind determination because the parent enrolled the student in a private school in Connecticut. The court upheld the hearing officer’s ruling that as the parents were residents of the District, DCPS was obligated to make the eligibility determination.<sup>47</sup> Similarly, in *Hawkins ex rel. D.C. v. District of Columbia*,<sup>48</sup> the fact that the student was not enrolled in a DCPS did not absolve DCPS of its responsibility to complete the determination of eligibility.<sup>49</sup> None of these cases address the relevant facts in this case.

DCPS now concedes its responsibility as enunciated in these cases. Its sole defense, as set forth in detail in the *Response*, is that it had no obligation to honor Petitioner’s request until Petitioner reestablished residency in the District. In her closing argument, Petitioner’s counsel took the position that residency was merely a pretext to avoid honoring Petitioner’s request; Petitioner’s address never changed throughout the period involving Student’s enrollment at School B, School C, and School D, and DCPS was well aware that Petitioner remained a District resident. However, Petitioner withdrew Student from DCPS in 2019, informing DCPS that she would be enrolling Student in a school in Pennsylvania. As Student was not enrolled in a DCPS school for two years, it was not unreasonable for DCPS to require Petitioner to confirm her continued residency in the District. In fact, District of Columbia law requires students’ residency to be confirmed each school year:

All students enrolled in District of Columbia public schools and public charter schools funded by the District of Columbia or a student for whom educational services are paid by the District of Columbia shall provide proof of residency in the District or pay tuition pursuant to § 38-302. A determination of residency status shall be made annually for each such student.<sup>50</sup>

The statute provides several options for proving residency including proof of payment of District personal income tax, a pay stub showing the payee’s District address, documentation of receipt of financial assistance from the city, military housing orders showing residency in the

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<sup>44</sup> 971 F.Supp.2d 103 (D.D.C. 2013).

<sup>45</sup> *Id.* at 111.

<sup>46</sup> 493 F.Supp.2d 80 (D.D.C. 2007).

<sup>47</sup> *Id.* at 85.

<sup>48</sup> 539 F.Supp.2d 108 (D.D.C. 2008).

<sup>49</sup> *Id.* at 116. See also, *District of Columbia v. Oliver*, 62 IDELR 293, 114 LRP 9859 (D.D.C. 2014)(IDEA requires that an LEA offer a FAPE to all eligible students within its district), and *District of Columbia v. Wolfire*, 62 IDELR 198, 114 LRP 2648 (D.D.C. 2014)(a student residing in the District who was unilaterally placed in a private school was entitled to an IEP developed by DCPS).

<sup>50</sup> D.C. Code § 38-306. See also, D.C. Code § 38-308.



District, a court order showing that the student is a ward of the city, submitting to a home visit by the principal or the principal's designee, or providing two of (1) a current motor vehicle registration evidencing District residency, (2) a valid unexpired lease or rental agreement and paid receipts or canceled checks for the period two months immediately preceding consideration of residency, (3) an unexpired District motor vehicle operator's permit or a non-driver identification card, and (4) utility bills other than telephone bills, and paid receipts or cancelled checks from the period within the two months immediately preceding consideration of residency.<sup>51</sup>

Petitioner's counsel apparently elected to use the last described method to prove Petitioner's residency: a non-driver identification card and utility bills. As is set forth in the Findings of Fact above, DCPS did not respond to the referral request because it had not received documentation of Petitioner's residency. Immediately after Attorney A filed the referral request on May 19, 2021, DCPS provided her with the requirements to prove Petitioner's residence, and sent her the identical information again the next day. When Attorney A's legal assistant requested a status update of the referral request on June 2, 2021, DCPS replied thirteen days later indicating that while it had received the referral request, it did not yet have documentation of residency. There was a similar exchange on August 4 and August 9, 2021. On August 10<sup>th</sup>, Attorney A informed DCPS that Petitioner had sent the documentation directly to OSSE, but on August 16<sup>th</sup>, DCPS replied that it was unable to confirm that such documentation had been sent to OSSE. On August 17<sup>th</sup> and 18<sup>th</sup>, Attorney A submitted further documentation that DCPS rejected because it did not meet the requirements of showing the previous two months of bills, with the Petitioner's address, and revealing payment on those bills. Finally, late in the day on August 18, 2021, DCPS accepted Petitioner's submission and proposed two dates in mid-September to discuss the eligibility process.

To prove that DCPS' rejection of Petitioner's documentation was unfounded, Petitioner's counsel included as exhibits the copies of Petitioner's identification card and utility bills that Petitioner and/or Attorney A presumably provided to DCPS and/or OSSE. My review of the utility bills in P34-P37 reveals that there are no consecutive months of bills showing payment on the previous months' bills. Thus, the record does not include documentation that Petitioner ever established residency consistent with the requirements of D.C. Code § 38-309.

Petitioner filed the *Complaint* the day after DCPS notified her that she had met the residency requirements and offered dates for a first meeting. I conclude that DCPS was justified in requiring Petitioner to establish residency as it was compelled by statute. I further conclude that Petitioner has failed to meet her burden of proving that DCPS failed timely to evaluate Student following Petitioner's May 19, 2021 request. In the same e-mail in which DCPS notified Petitioner that she had met the residency requirements, DCPS offered meeting dates to start the evaluative process.

**Whether DCPS denied Student a FAPE by failing timely to provide an updated IEP, placement, and location of services.**

In the discussion of the previous issue, I concluded that Petitioner failed to meet her burden of proving that DCPS unjustifiably delayed initiating conducting evaluations of Student requested

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<sup>51</sup> D.C. Code § 38-309.

by Petitioner due to Petitioner's delay in submitting acceptable proof of residency as required by District law. For the same reasons, I conclude that Petitioner has failed to make a *prima facie* showing that DCPS failed to provide an updated IEP, placement, and location of services.

### **RELIEF**

For relief, Petitioner requested, *inter alia*, (1) an order requiring DCPS to provide an appropriate placement or to fund a private placement with transportation, (2) an order requiring DCPS to fund interim independent services for Student, (3) an order requiring DCPS to conduct or fund a Comprehensive Psychological Evaluation, a Functional Behavioral Assessment, a Vocational Evaluation, an Occupational Therapy evaluation, and other additional evaluations warranted by these, (4) an order requiring DCPS to reconvene the IEP team to review the results of current evaluations, revise the IEP, and develop a Behavior Intervention Plan ("BIP"), (5) an order requiring DCPS to fund a compensatory education evaluation, (6) an order requiring DCPS to reimburse Petitioner for expenses incurred to secure educational services for Student, (7) compensatory education, and (8) attorney's fees.

### **ORDER**

Upon consideration of the *Complaint*, DCPS' *Response*, the exhibits from the parties' disclosures that were admitted into evidence, the testimony presented during the hearing, and Petitioner's *Memorandum of Points and Authorities*, it is hereby

**ORDERED**, that the Complaint is **DISMISSED** with prejudice.

### **APPEAL RIGHTS**

This decision is final except that either party aggrieved by the decision of the Impartial Hearing Officer shall have ninety (90) days from the date this decision is issued to file a civil action, with respect to the issues presented in the due process hearing, in a district court of the United States or the Superior Court of the District of Columbia as provided in 34 C.F.R. §303.448 (b).

  
Terry Michael Banks  
Hearing Officer

Date: November 1, 2021

Copies to: Attorney A, Esquire  
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██████████, DCPS  
██████████ DCPS