

DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
Office of Dispute Resolution
1050 First Street, NE, 3rd Floor
Washington, DC 20002

PETITIONERS,
on behalf of STUDENT,¹

Date Issued: October 17, 2018

Petitioner,

Hearing Officer: Peter B. Vaden

Case No: 2018-0110

v.

Hearing Date: October 3, 2018

DISTRICT OF COLUMBIA
PUBLIC SCHOOLS,

Office of Dispute Resolution, Room 112
Washington, D.C.

Respondent.

HEARING OFFICER DETERMINATION

INTRODUCTION AND PROCEDURAL HISTORY

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by the Parents, under the Individuals with Disabilities Education Act, as amended (the IDEA), 20 U.S.C. § 1400, *et seq.*, and Title 5-E, Chapter 5-E30 of the District of Columbia Municipal Regulations (“D.C. Regs.”). In their due process complaint, the Parents claim that Respondent District of Columbia Public Schools (DCPS) violated the IDEA by not funding an Independent Educational Evaluation (IEE) of Student requested by the Parents in March 2018.

Student, an AGE youth, is a resident of the District of Columbia. The Parents’ Due Process Complaint, filed on April 17, 2018, named DCPS as respondent. The undersigned Hearing Officer was appointed on April 18, 2018.

¹ Personal identification information is provided in Appendix A.

DCPS filed its response to the Parents' complaint on April 26, 2018. DCPS responded, *inter alia*, that prior to the Parents' initiating this action, it had timely notified them of its intention to file a due process complaint to defend its initial eligibility evaluation of Student and to request a finding that the Parents are not entitled to a publicly-funded IEE evaluation. In the prehearing conference, over the objection of the Parents' counsel, I decided that DCPS' response would be deemed a counterclaim and that, if DCPS' response to the Parents' IEE request were shown to be timely, DCPS would be allowed to show that its evaluation of Student was appropriate.

On May 4, 2018, I convened a telephone prehearing conference with counsel to discuss the hearing date, issues to be determined and other matters. My final decision in this case was originally due by July 1, 2018. The case was set for hearing on June 13, 2018. On the day of the hearing, the Parents' attorney requested a continuance for health reasons. The hearing date was continued, first to September 18, 2018 and later to October 3, 2018. On the unopposed motion of DCPS, I extended the final decision due date to October 19, 2018.

On May 29, 2018, the Petitioners, by counsel, filed a motion for summary judgment that DCPS had unreasonably delayed granting the Petitioners' request for funding for an IEE for Student. I denied that motion by order entered June 9, 2018.

On September 25, 2018, Petitioners, by counsel, filed a motion for dismissal of DCPS' "counter claim" on the grounds that the hearing officer lacked subject matter jurisdiction. By order issued September 28, 2018, I denied this motion.

The due process hearing was convened on October 3, 2018 at the Office of Dispute Resolution in Washington, D.C. The hearing, which was closed to the public,

was recorded on an electronic audio recording device. MOTHER appeared in person and the Parents were represented by PETITIONERS' COUNSEL. At the beginning of the hearing, Petitioners' Counsel made, orally, a renewed motion to dismiss DCPS' claims for want of subject matter jurisdiction. I denied the motion. Counsel for both parties made opening statements.

DCPS called as witnesses SCHOOL PSYCHOLOGIST, SPEECH-LANGUAGE PATHOLOGIST, SCHOOL SOCIAL WORKER and COMPLIANCE CASE MANAGER. Mother was the Parents' only witness. The Parents' exhibits, P-1 through P-22, were all admitted into evidence without objection, except for Exhibit P-10 which was admitted over DCPS' objection. DCPS' Exhibits R-1 through R-21 were admitted into evidence without objection. Counsel for the respective parties made closing arguments. There was no request to file post-hearing briefs.

JURISDICTION

The Hearing Officer has jurisdiction under 20 U.S.C. § 1415(f) and D.C. Regs. tit. 5-E, § 3029.

ISSUES AND RELIEF SOUGHT

The following issue for determination was certified in the May 4, 2018 Prehearing Order:

Whether D.C. Public Schools (DCPS) denied a free appropriate public education to the Student by failing and refusing to agree to fund an independent educational evaluation (IEE) as requested by the Parents.

For relief, the Parents initially requested that the hearing officer,

- a. Order DCPS to immediately fund an Independent Educational Evaluation which shall include assessments in all areas of suspected disability. Assessments conducted as part of the Independent Educational Evaluation shall be funded at current market rates;

b. Order DCPS to, within 10 days of the receipt of the reports from the Independent Educational Evaluation, convene an MDT meeting to review the reports from the IEE and determine Student's eligibility for special education services. If the Student is determined eligible for special education services, an IEP meeting shall be convened within 10 days and an IEP developed for the Student;

c. Order that should the Student be determined eligible for special education services, DCPS shall immediately fund an expert to review the Student's records and take the necessary steps to develop a compensatory education plan that will include, but not be limited to services such as tutoring or the Lindamood Bell program. The expert shall be mutually agreed upon by the parties.

I accepted the following issue as a counterclaim by DCPS:

Whether DCPS' initial evaluation of Student, preceding the March 7, 2018 eligibility team's determination, was appropriate.

FINDINGS OF FACT

Stipulations of the Parties

At the beginning of the due process hearing on October 3, 2018, the parties, by their respective counsel stipulated on the record to the following facts:

A. DCPS completed its initial eligibility evaluation of Student on March 7, 2018.

B. The Parents disagreed with DCPS' initial evaluation of Student and requested Independent Educational Evaluations (IEEs) on March 12, 2018.

C. On September 11, 2018, DCPS agreed for the first time to fund an IEE Occupational Therapy (OT) assessment of Student.

Hearing Officer's Findings of Fact

After considering all of the evidence, as well as the argument of counsel, this Hearing Officer's Findings of Fact are as follows:

1. Student, an AGE youth, resides in the District of Columbia. Since the fall

of 2017 Student has attended CITY SCHOOL. Student has behavior issues at school, including walking out of class, displaying anger, hitting and kicking people. Student also has challenges with reading comprehension, math and handwriting. Testimony of Mother.

2. On October 4, 2017, Petitioners' Counsel wrote the principal of City School and School Psychologist to request that Student be comprehensively evaluated in all areas of suspected disability, including conducting a Comprehensive Psychological Evaluation, and evaluations in the areas of Occupational Therapy (OT), Speech and Language, Assistive Technology and a functional behavioral assessment (FBA). Exhibit P-1.

3. At a multidisciplinary team (MDT) meeting at City School on November 9, 2017, in which both Parents and Petitioners' Counsel participated, the MDT team agreed that DCPS would evaluate Student with a Comprehensive Psychological Evaluation, Assistive Technology (AT), OT, Speech and Language assessments and a Functional Behavioral Assessment (FBA). Exhibit R-6.

4. After obtaining parental consent, DCPS conducted initial assessments of Student, including a Comprehensive Psychological Evaluation (completed December 24, 2017), an OT assessment (completed December 28, 2017), an FBA II (completed February 16, 2018 and a Comprehensive Speech and Language Evaluation (completed February 6, 2018). Exhibits R-9, R-10, R-11 and R-12.

5. DCPS convened a special education eligibility team meeting for Student on March 7, 2018. Both Parents and Petitioners' Counsel attended the meeting. The team reviewed the DCPS evaluations of Student and the school members of the team

determined that Student was not eligible for special education services. Exhibit R-2. (Whether the determination of the eligibility team, that Student was not eligible for special education services, was correct is not at issue in this proceeding.)

6. On March 12, 2018, Petitioners' Counsel sent a letter, by email, to City School stating that the Parents disagreed with the evaluations of Student conducted by DCPS and requesting that DCPS fund IEE evaluations, including a Comprehensive Psychological Evaluation, a Comprehensive Speech and Language Evaluation, a Comprehensive Occupational Therapy Evaluation and a Comprehensive Functional Behavioral Assessment. Exhibit P-5. Compliance Case Manager responded by email on March 15, 2018 that DCPS was considering the Parents' IEE requests for Student (and a separate request for Student's sister) and would let counsel know "in the coming weeks whether [DCPS] will fund the assessments or file Due Process Complaints to defend them." Exhibit P-6.

7. On March 20, 2018, Compliance Case Manager met with Petitioners' Counsel regarding the Parents' IEE requests for Student and Student's sister. Testimony of Case Manager, Exhibit P-7. DCPS schools were closed from March 26 through March 30, 2018 for spring break. Hearing Officer Notice. On April 13, 2018, Compliance Case Manager wrote Petitioner's Counsel, by email, that DCPS was prepared to amend Student's Speech and Language evaluation to test for articulation. Compliance Case Manager stated in the April 13, 2018 email that DCPS would not issue IEE authorizations for the other evaluations requested by Petitioners' Counsel and that DCPS intended to file for due process on the matter. Exhibit P-7. On April 17, 2018, before DCPS had filed for due process, Petitioners' Counsel filed a due process

complaint on behalf of the Parents, claiming that DCPS had denied Student a FAPE by refusing to fund the IEE evaluations of Student requested by the Parents.

8. On September 11, 2018, DCPS agreed to fund an IEE OT reevaluation of Student, because the occupational therapist, who conducted the initial OT Assessment of Student in December 2017, no longer worked for DCPS. Exhibit R-21.

CONCLUSIONS OF LAW

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

Burden of Proof

As provided in the D.C. Special Education Students Rights Act of 2014, except where there is a dispute about the appropriateness of the child's IEP or placement, or of the program or placement proposed by DCPS, the party who filed for the due process hearing, the Petitioners in this case, bears the burden of production and the burden of persuasion. In my May 5, 2018 Prehearing Order I decided that DCPS' response to the Parents' complaint would to be deemed a counterclaim by DCPS, subject to shifting to DCPS the burden of going forward and the burden of persuasion with respect to DCPS' claim that its eligibility evaluation of Student was appropriate. The burden of persuasion shall be met by a preponderance of the evidence. *See* D.C. Code § 38-2571.03(6).

Analysis

Did DCPS deny Student a free appropriate public education by failing and refusing to agree to fund an independent educational evaluation (IEE) as requested by the Parents?

Upon the request of the Parents, DCPS conducted an initial eligibility evaluation of Student, including a Comprehensive Psychological Evaluation, an OT assessment, an FBA II and a Comprehensive Speech and Language Evaluation. On March 7, 2018, after these assessments were completed, DCPS convened an eligibility team meeting, at which the team reviewed the evaluations and determined that Student was not eligible for special education services. On March 12, 2018, Petitioners' Counsel wrote City School giving notice that the Parents disagreed with DCPS' evaluations and requested that DCPS fund Independent Educational Evaluation (IEE) evaluations of Student, including a Comprehensive Psychological Evaluation, a Comprehensive Speech and Language Evaluation, a Comprehensive Occupational Therapy Evaluation and a Comprehensive Functional Behavioral Assessment. On April 13, 2018, DCPS' representative, Compliance Case Manager, informed Petitioners' Counsel that DCPS would not issue IEE authorizations for the evaluations requested by the Parents and that DCPS intended to file for due process on the matter. On April 17, 2018, before DCPS had requested a due process hearing, Petitioners' Counsel filed a due process complaint, on behalf of the Parents, claiming that DCPS had denied Student a FAPE by refusing to fund the IEE evaluations of Student requested by the Parents. The Parents contend that DCPS' April 13, 2018 notice that it would not fund IEE evaluations for Student was untimely and that DCPS' eligibility evaluation of Student was not adequate. DCPS responds that its evaluation of Student was appropriate and that it responded to the Parents' IEE request without unnecessary delay.

The IDEA regulations provide parents with a limited right to obtain an independent educational evaluation at public expense. An independent evaluation is

one “conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.” 34 C.F.R. § 300.502(a)(3)(i). The limited right arises only after the agency has procured an evaluation with which the parent “disagrees.” 34 C.F.R. § 300.502(b). The regulations limit the parent to one independent evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. *Id.* Once the parents express their disagreement, they may request an independent reevaluation at public expense, which the agency must, “without unnecessary delay,” either provide – or file a due process complaint to establish that its evaluation is “appropriate.” *See* 34 CFR § 300.502(b)(2). If the agency’s evaluation is found to be appropriate, the parents may still obtain an independent evaluation at their own expense. 34 C.F.R. § 300.502(b)(3). *See South Kingstown School Committee v. Joanna S.*, 2014 WL 197859 (D.R.I. 2014).

The first question to be decided here is whether DCPS unnecessarily delayed filing a due process complaint to request a hearing to show that its evaluation of Student was appropriate. *See* 34 C.F.R. § 300.502(b)(2)(i). “Whether a school’s actions under 34 C.F.R. § 300.502 constitute an ‘unnecessary delay’ is an inquiry that must be addressed on a case-by-case basis.” *Horne v. Potomac Preparatory P.C.S.*, 209 F. Supp. 3d 146, 153 (D.D.C. 2016), *citing J.P. ex rel., E.P. v. Ripon Unified School Dist.*, 2009 WL 1034993 at 7–8 (E.D.Cal.2009). The Parents have the burden of persuasion on the timeliness issue.

In this case, the Parents have consistently argued that DCPS is barred from showing that its evaluation of Student was appropriate because the District never filed a due process complaint, and only claimed that its evaluation was appropriate in its

answer to the Parents' due process complaint. This argument lacks merit. As the Sixth Circuit Court of Appeals explained in *P.R. v. Woodmore Local Sch. Dist.*, 256 F. App'x 751 (6th Cir. 2007), the object of 34 CFR § 300.502(b)(2) is to afford Parents an opportunity to challenge and the School District to defend the appropriateness of its evaluation in an impartial hearing. "As long as the object of the regulations is accomplished, there is no reason to exalt form over substance. Their purpose is not served by holding that there must be reimbursement at public expense when it is the parents rather than the public agency that initiates the due process hearing where the appropriateness of the School District's Evaluation is challenged and confirmed." *Id.* at 755. This is certainly true where, as here, the Parents filed their due process complaint only four days after DCPS gave notice to Petitioners' Counsel that it intended to file for due process on the matter. I find it is of no legal significance in this case that the Parents, rather than DCPS, filed the due process complaint.

Turning to the timeliness issue, DCPS informed Petitioners' Counsel on April 13, 2018, 32 days after receiving the Parents' March 12, 2018 request for IEE reevaluations, that the District would not issue funding authorizations for the IEEs requested by the Parents and that DCPS intended to file for due process on the matter. Prior to that, on March 15, 2018, Compliance Case Manager informed Petitioners' Counsel by email that DCPS was considering the Parents' IEE requests for Student, and a separate request for Student's sister. On March 20, 2018, Compliance Case Manager met with Petitioners' Counsel regarding the IEE requests. City schools were closed from March 26 through March 30, 2018 for DCPS' spring break.

The IDEA and its implementing regulations provide no guidance on what

constitutes an “unnecessary delay” in responding to an IEE request. *See Hill v. District of Columbia*, No. 14-CV-1893 (GMH), 2016 WL 4506972 at 19 (D.D.C. Aug. 26, 2016). Petitioner has not cited – nor have I found – any court decision where a period as short as 32 days, as happened in this case, was found to be an unnecessary delay. *Compare, e.g. C.W. v. Capistrano Unified Sch. Dist.*, 2012 WL 3217696, at 6 (C.D. Cal. Aug. 3, 2012) (No California case has held that 41 days or less constitutes an unnecessary delay); *L.S. ex rel. K.S. v. Abington Sch. Dist.*, No. 06-5172, 2007 WL 2851268, at 10 (E.D. Pa. 2007) (six-week delay, “largely comprised of the District’s efforts to resolve the dispute and move the process along,” was not unnecessary).²

In the present case, DCPS promptly communicated with Petitioners’ Counsel to acknowledge receipt of the IEE request and DCPS’ representative met with counsel to discuss the request. On these facts, I conclude that the passage of 32 days – during which DCPS’ 5-day spring break intervened – between the receipt of the Parents’ IEE funding request and DCPS’ notification that it would file a due process complaint did not constitute unnecessary delay.

I turn now to the substantive inquiry in this case, whether DCPS’ initial eligibility evaluation of Student was appropriate. Generally, when a child has been evaluated for special education eligibility and the appropriateness of the agency’s evaluation is at issue, the hearing officer must consider whether the agency adequately gathered functional, developmental and academic information about the child’s needs to

² Petitioners’ Counsel submitted, as Exhibit P-10, a July 18, 2008 “Blackman-Jones 1” Directive in which the former Chancellor of DCPS directed that “[t]he determination of whether to authorize a requested IEE or initiate a due process claim must be made within 5 days of receipt of the request for an IEE.” Petitioners’ Counsel offered no evidence that the 2008 directive remains in effect or whether DCPS continues to have a fixed time limit for determining whether to authorize an IEE or initiate a due process claim.

determine the content of the IEP in all areas of suspected disability and that the evaluation was sufficiently comprehensive to identify all of the child's needs. 20 U.S.C. §§ 1412(a)(6)(B), 1414(b)(1–3); 34 C.F.R. § 300.304(b)(1–3), (c)(4, 6). When a student is evaluated for a specific disability, IDEA regulations require the following of the education agency: Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent; Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; Use technically sound instruments which are selected and administered so as not to be discriminatory on a racial or cultural basis; and Use the instruments for the purposes for which the assessments or measures are valid and reliable, administered in accordance with any instructions provided by the producer of the assessments. The agency must also ensure that the assessments are administered by trained and knowledgeable personnel. See 34 CFR § 300.304(b), (c).

Importantly, the “appropriateness” of an evaluation depends upon the methodology, not its outcome. “The key to an educational evaluation is the methodology employed. See *L.S. v. Abington Sch. Dist.*, Civ. A. No. 06–5172, 2007 WL 2851268 (E.D.Pa. Sept. 28, 2007) (“The parents here simply cannot argue that the evaluation is inappropriate because they disagree with its findings. The key is in the methodology. The conclusions, or lack thereof, cannot be inadequate unless the methodology is inadequate, because that is the only provision in the law.”) Moreover, IDEA evaluations depend upon the exercise of professional judgment, which is entitled

to a reasonable degree of deference. *County Sch. Bd. of Henrico County v. Z.P.*, 399 F.3d 298, 307 (4th Cir.2005) ('We recognize, of course, that at all levels of an IDEA proceeding, the opinions of the professional educators are entitled to respect.')

Perrin on behalf of J.P. v. Warrior Run Sch. Dist., No. 4:13-CV-2946, 2015 WL 6746306 (M.D. Pa. Sept. 16, 2015), report and recommendation adopted sub nom. *Perrin v. The Warrior Run Sch. Dist.*, No. 13-CV-02946, 2015 WL 6746227 (M.D. Pa. Nov. 4, 2015).

At a multidisciplinary team (MDT) meeting at City School on November 9, 2017, in which both Parents and Petitioners' Counsel participated, the MDT team agreed that DCPS would evaluate Student with a Comprehensive Psychological Evaluation, Assistive Technology (AT), OT, Speech and Language assessments and a Functional Behavioral Assessment (FBA). The psychological, OT, Speech and Language and FBA assessments were completed by February 2018, after which the eligibility team met and determined that Student was not eligible for special education services. On March 12, 2018, Petitioners' Counsel wrote DCPS that the Parents disagreed with the evaluations and requested DCPS' funding for IEE psychological, Speech and Language, OT and FBA reassessments. Rather than grant the Parents' IEE funding requests, DCPS elected to show that its evaluations of Student were appropriate. DCPS must shoulder the burden of persuasion as to the appropriateness of its initial evaluations.

School Psychologist testified to the appropriateness of her December 2017 comprehensive psychological evaluation of Student. The Parents did not dispute that she is an expert with regard to evaluating children with suspected IDEA disabilities. She conducted a classroom observation, interviewed Mother and two teachers and conducted the Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V) and the

Woodcock Johnson Tests of Achievement, Fourth Edition (WJ-IV). She also had Student, Mother and a Teacher complete the Behavior Assessment Scales for Children, Third Edition (BASC-3) and the Behavior Rating Inventory of Executive Functioning (BRIEF) rating scales. School Psychologist also reviewed Student's educational file and a prior psychological evaluation. School Psychologist did not have any concerns about the validity of her psychological evaluation and the Parents did not offer any expert testimony that School Psychologist's methodology was not appropriate. I find that DCPS has met its burden of persuasion that its psychological evaluation of Student was appropriate.

DCPS called Speech-Language Pathologist as its expert in evaluating children for Speech and Language disabilities. For evaluation of Student, Speech-Language Pathologist interviewed Student, Father and a teacher. She conducted informal assessments as well as formal assessments of Student, including the Receptive One-Word Picture Vocabulary Test, 4th Edition; the Expressive One-Word Picture Vocabulary Test, 4th Edition; and the Clinical Evaluation of Language Fundamentals, 5th Edition (CELF-5). She also reviewed a prior Speech and Language assessment of Student. On April 3, 2018, Speech-Language Pathologist supplemented her evaluation with the Goldman-Fristoe Test of Articulation - Third Edition (GFTA-3). Speech-Language Pathologist wrote that the results of her evaluations accurately reflected Student's abilities and skills in the Speech and Language area and she opined that in all areas, Student seemed to be within normal limits, based on American Speech-Language-Hearing Association (ASHA) standards. The Parents did not offer contrary expert evidence. I find that DCPS has met its burden of persuasion that its Speech and

Language evaluation of Student was appropriate.

School Social Worker, who testified as DCPS' expert in conducting FBAs, conducted the February 2018 FBA II of Student. She conducted multiple classroom observations, interviewed Student and obtained responses to Problem Behavior Questionnaires (PBQs) from 6 teachers. From these data, School Social Worker developed an analysis/hypothesis of the possible functions of Student's problem behaviors. School Social Worker opined that there were no concerns about the validity of her FBA of Student. The Parents offered no expert evidence that the FBA II was not appropriate. I find that DCPS has met its burden of persuasion that its FBA II of Student was appropriate.

On September 11, 2018, DCPS agreed to fund an IEE OT reevaluation of Student, because the occupational therapist, who conducted the initial OT assessment of Student in December 2017, no longer worked for DCPS. At the due process hearing, DCPS offered no evidence that its December 2017 OT evaluation of Student was appropriate and therefore DCPS did not meet its burden of persuasion as to the appropriateness of the original OT assessment.

In sum, I find that DCPS established that its evaluators, who all qualified as experts, followed the evaluation requirements of the IDEA Regulations, 34 CFR § 300.304(b) and (c), for conducting comprehensive psychological, comprehensive speech and language and functional behavioral assessments of Student and, specifically, that the methodologies employed by School Psychologist, Speech-Language Pathologist, and Social Worker, respectively, were adequate. Therefore, I find that DCPS has met its burden of persuasion that its initial eligibility evaluation of Student, with the exception

of the OT evaluation component, was appropriate.

DCPS did not establish that its December 2017 OT evaluation of Student was appropriate and DCPS did not agree to fund an IEE OT reevaluation of Student until September 11, 2018. Because it has not been established that Student is a student with a disability entitled to a FAPE or that DCPS' failure to timely fund an IEE OT evaluation deprived Student of a FAPE, there is no remedy which this hearing officer may grant for DCPS' delay in authorizing the IEE OT evaluation. *See, e.g., Fullmore v. District of Columbia*, No. 13-CV-00409 (CRC), 2016 WL 1254208 (D.D.C. Mar. 29, 2016) (Parent has not demonstrated that the delay between her request for and DCPS' authorization of the independent psychiatric evaluation constituted a denial of a FAPE. Accordingly, Parent has failed to demonstrate that Student is entitled to compensatory education. *Id.* at 3.)

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby

ORDERED:

1. The Parents do not have the right to an IEE comprehensive psychological evaluation, comprehensive speech and language evaluation or a functional behavioral assessment of Student at DCPS' expense;
2. The Parents' request that DCPS be ordered to fund an IEE OT evaluation of Student is denied as moot, without prejudice to the Parents' right hereafter to seek relief, if ultimately warranted, for DCPS' delay in authorizing the IEE OT evaluation and
3. All other relief requested by the Petitioners herein is denied.

Date: October 17, 2018

s/ Peter B. Vaden
Peter B. Vaden, Hearing Officer

NOTICE OF RIGHT TO APPEAL

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 U.S.C. § 1415(i).

cc: Counsel of Record
Office of Dispute Resolution
OSSE Division of Specialized Education
DCPS Resolution Team