

District of Columbia
Office of the State Superintendent of Education

Office of Dispute Resolution
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OSSE
Office of Dispute Resolution
September 15, 2018

Parent, on behalf of Student,¹)	
Petitioner,)	
)	
v.)	Hearing: August 29, 2018
)	Date: September 15, 2018
)	Hearing Officer: Michael Lazan
)	Case No.: 2018-0117
District of Columbia Public Schools,)	
)	
Respondent.)	

HEARING OFFICER DETERMINATION

I. Introduction

This is a case involving a student who is currently eligible for services as a student with Other Health Impairment (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 April 30, 2018. The Complaint was filed by Petitioner, who is the parent of the Student. On May 10, 2018, Respondent filed a response. The resolution period expired on May 30, 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 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

¹Personally 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 June 14, 2018, this Hearing Officer held a prehearing conference. Attorney A, Esq., counsel for Petitioners, appeared. Attorney B, Esq., counsel for Respondent, appeared. On June 22, 2018, DCPS filed a motion for a continuance. This motion was to allow for a hearing date on August 29, 2018, due to the unavailability of witnesses over the summer. A hearing date scheduled for July 6, 2018, was adjourned for this reason. The motion was also to allow for a decision date of September 15, 2018. A continuance order was signed by this Hearing Officer on July 12, 2018. A prehearing conference order was issued on July 5, 2018, summarizing the rules to be applied in this hearing and identifying the issues in the case.

There was one hearing date: August 29, 2018. This was a closed proceeding. Petitioner was represented by Attorney A, Esq. Respondent was represented by Attorney B, Esq. Petitioner moved into evidence Exhibits 1-38. There were no objections. Exhibits 1-38 were admitted. Respondent moved into evidence Exhibits 1-29. There were no objections. Exhibits 1-29 were admitted.

Petitioner presented as witnesses: Witness A, a psychologist; Witness B, an advocate; Petitioner; and Witness C, the Student's aunt. Respondent presented as witnesses: Witness D, a social worker; Witness E, a special education teacher; Witness F, an assistant principal; and Witness G, a compliance case manager.

IV. Issues

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

1. Did DCPS fail to offer the Student a FAPE in the Individualized Education Program (“IEP”) dated April 18, 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?

Petitioner indicated that the IEP did not provide for a dedicated aide, did not provide for enough specialized instruction hours, did not contain appropriate goals, and did not provide sufficient behavioral support services.

2. Did DCPS fail to create and/or revise the Student’s Functional Behavior Assessment (“FBA”) and/or Behavioral Intervention Plan (“BIP”) after February 28, 2018? If so, did DCPS violate 34 CFR 300.304, 300.324(a)(2)(I) and related provisions? If so, did DCPS deny the Student a FAPE?

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?

V. Findings of Fact

1. The Student is an X-year-old who is eligible for services as a student with Other Health Impairment. The Student has been living in a homeless shelter with family members since 2015, and has exhibited significant behavioral issues in school going back to at least 2011. The Student exhibits a lack of focus and inattentiveness in class, lacks

self-control, does not appear to understand/recognize social cues, has poor social skills, avoids redirection for good behavior, is disruptive, is argumentative, and refuses to accept responsibility for actions. The Student often has to be removed from the classroom setting. The Student often yells and curses, and has very poor study habits. School staff have tried to control these behaviors. The interventions have including the use of praise, providing redirection, providing consequences, ignoring the Student, attempting to build a rapport with the Student, contact with Petitioner, and changing the Student's proximity to instruction. These interventions have been ineffective. (Testimony of Petitioner; P-5-1; P-6-1-2; P-7-1; P-8-4-5; R-14-3)

2. The Student went to School A for school years 2015-2016, 2016-2017, and 2017-2018. The Student had a "Section 504" plan during at least some of this time, but the plan was ineffective in modifying the Student's behaviors. (Testimony of Petitioner)

3. While receiving services under the "Section 504" plan, the Student was the subject of a "Level II" BIP in January, 2017, and an FBA in February, 2017. The BIP, written by Witness D, recommended, among other things, that the Student should be seated in closer proximity to the teacher, with "limited closeness" to peers. It also provided that the Student's time should be "structured" for a majority of classroom time, with "structured" group settings to allow for social skills development. (P-6-3; P-7)

4. The Student was subjected to psychological testing in or about February, 2017. According to the Woodcock-Johnson Tests of Achievement-III, the Student was functioning in the below average range in broad math, with a standard score of 84, and in

the borderline range in broad reading and writing, with standard scores of 76 and 75, respectively. (P-8-8-11)

5. The Student was determined to be eligible for services in or about April, 2017. The Student's initial IEP, dated April, 2017, included goals in math, reading, writing, and emotional, social and behavioral development. The IEP recommended that the Student receive five hours per week of specialized instruction in reading inside general education, five hours per week of specialized instruction in writing inside general education, and five hours per week of specialized instruction outside general education in math. In addition, the Student was recommended for 120 minutes per month of behavior support services and a location with minimal distractions. Referencing the recent Woodcock-Johnson Tests of Achievement, the IEP indicated that the Student was functioning below level in math on a number of subtests. The IEP also indicated that the Student's math i-Ready scores went down during the year and that the Student was making slow progress in writing. (P-14)

6. The Student's final report card for the 2016-2017 school year stated that the Student received an F in both math and science, a D+ in U.S. History and Geography, and a C in English. The Student was tardy eighty days during the 2016-2017 school year. Even so, the report card indicated that the Student was functioning well *above* grade level in reading on the SRI test. (P-21)

7. The Student continued at School A for the 2017-2018 school year.
(Testimony of Petitioner)

8. The Student continued to demonstrate a lack of self-control and was aggressive, "cursing out" teachers and peers, and refusing to go to the de-escalation

room. The Student got into fights, was disrespectful, and had a hard time working. The Student was often absent from class and Petitioner sometimes went into the school to “shadow” the Student. The Student was suspended more than once during this time. (P-27; Testimony of Witness C; Testimony of Witness B; Testimony of Petitioner)

9. The Student received behavioral support services during the 2017-2018 school year from Witness D. This counselor met with the Student individually, in a group, and as needed. Witness D applied the existing BIP, but it was ineffective. The counseling was also ineffective; the Student did not make meaningful progress on behavioral goals during the 2017-2018 school year. (Testimony of Witness D)

10. On January 31, 2018, Petitioner requested a wide variety of records from School A for the time period of October, 2017, through January 31, 2018. (P-35-3)

11. By correspondence dated March 9, 2018, Petitioner requested an FBA and a comprehensive psychological evaluation for the Student. Petitioner provided DCPS with a consent for these evaluations, signed in September, 2016. (P-35-10)

12. An IEP meeting was held on April 18, 2018. At this meeting, the team discussed the Student’s BIP, attendance record, and calls that the school staff had made to Petitioner when the Student had misbehaved. Petitioner again requested an FBA and a new psychological evaluation, as well as additional instructional hours outside general education in a therapeutic setting, additional behavior support services, and an individual aide for the Student. Petitioner expressed that the Student had made no progress in behavior and questioned the Student’s grades because the Student did not attend classes regularly. DCPS felt that the Student might improve going forward and that the Student did not need additional specialized instruction hours. DCPS also indicated that the

Student would reject the assignment of an individual aide, and would not benefit from additional behavioral support services, because the Student had not responded to those services previously. (Testimony of Witness F; Testimony of Witness B; Testimony of Witness D; Testimony of Witness E)

13. The Student's IEP of April, 2018, reported that the Student was functioning in the borderline range in broad reading, referencing the test scores from January-February, 2017. The IEP also indicated that the Student needed 1:1 assistance in reading to complete projects. The IEP did not indicate that the Student had made progress in reading during the 2017-2018 school year. The IEP also reported that the Student was making slow progress in writing, again referencing the testing from January-February, 2017, which indicated that the Student was in the borderline range in writing. (R-14-4-5)

14. Another BIP was created for the Student in May, 2018. This BIP, written by Witness D, did not clearly provide for new interventions. Instead, the BIP recommended that another BIP be compiled. The BIP indicated that the Student should be provided with strategies to develop socialization skills, but did not indicate what those strategies might be. The BIP indicated that the Student should be exposed to alternative ways to address negative behaviors, but did not explain what those "alternative ways" might be. (P-11-6-7)

15. An IEP amendment dated June 12, 2018, changed the Student's recommended services to ten hours per week of specialized reading instruction outside general education and ten hours per week of specialized math instruction outside general education. The IEP also increased behavioral support services to 240 minutes per month,

to satisfy the demands of the Student's parent. Extended school year services were also added for the Student, and adjustments were accordingly made to the Student's IEP goals. (P-20; Testimony of Witness B; Testimony of Witness D)

16. The Student's progress on IEP goals was inconsistent during the 2017-2018 school year. The Student mastered reading goals as of the second term, and was considered to be progressing in math throughout the year. However, no progress was reported in most emotional, social and behavioral goals during the four terms of the school year. (Testimony of Witness E; P-30)

17. The Student's final report card for the 2017-2018 school year indicated that the Student received an F in math, C- in science, D in Spanish, B- in U.S. History and Geography, and D+ in English (with the notation: "pleasure to have in class"). The report card indicated that the Student was functioning well above grade level in reading on the SRI indicator. The report card also indicated that the Student was tardy ninety-four days during the year. (P-21)

18. On June 20, 2018, Respondent issued an authorization for the Student to receive 100 hours of tutoring, at \$65.00 per hour, and twenty hours of behavior support services, at \$104.64 per hour. These services, which were initially ordered through an HOD issued by Hearing Officer Blount, were extended by the authorization to May 20, 2019. (R-8-1)

19. In response to Petitioner's request, DCPS provided Petitioner with school records on or about August 14, 2018. These records included the Student's final progress report for the 2017-2018 school year, and disciplinary records. (R-26)

20. For the 2018-2019 school year, the Student attends School B PCS, which Petitioner considers to be a superior setting. Petitioner is content with this placement.

(Testimony of Petitioner)

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 § 38-2571.03(6)(A)(i)

Issues #1 and #2 involve a challenge to the Student's existing or proposed IEP or placement. Accordingly (except for the issue relating to an FBA in Issue #2), Respondent shall bear the burden of persuasion, provided that Petitioner establishes a *prima facie* case. Issue #3 does not directly relate to the Student's existing or proposed IEP or placement. For that issue, the burden of persuasion therefore lies with Petitioner. Schaffer v. Weast, 546 U.S. 49 (2005).

1. Did DCPS fail to offer the Student a FAPE in the IEP dated April 18, 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?

2. Did DCPS fail to create and/or revise the Student’s FBA and/or BIP after February 28, 2018? If so, did DCPS violate 34 CFR 300.304, 300.324(a)(2)(I) and related provisions? If so, did DCPS deny the Student a FAPE?

Since these programmatic issues are inextricably intertwined, this Hearing Officer will address both in the same section (noting that a BIP must be annexed to a Student’s IEP). 5-E DCMR Sect. 5-3007.3.

Petitioner argued that the April, 2018, IEP did not provide for a dedicated aide, did not provide for enough specialized instruction hours, did not contain appropriate goals, and did not provide sufficient behavioral support services. Petitioner also argued that, given the Student’s behavior difficulties, the Student should have received a new BIP after the creation of an FBA.

An IEP must be reasonably calculated to enable a child to receive educational benefit. Hendrick Hudson Bd. Of Educ. v. Rowley, 458 U.S. 176 (1982). The IEP should be both comprehensive and specific and targeted to a student’s “unique needs.” McKenzie v. Smith, 771 F.2d 1527, 1533, D.C. Cir. 1985); N.S. ex rel. Stein v. District of Columbia, 709 F.Supp.2d 57, 60 (D.D.C. 2010). In S.S. ex rel. Shank v. Howard Road Academy, 585 F. Supp.2d 56, 66-67 (D.D.C. 2008), the Court found that the measure and adequacy of an IEP decision must be determined as of the time it was offered to the student. Citing to circuit court decisions, the Court found that an IEP should be judged prospectively to avoid “Monday morning quarterbacking.” See Thompson R2-J Sch. Dist. v. Luke P., 540 F.3d 1143, 1149 (10th Cir. 2008); Adams v. Oregon, 195 F.3d 1141, 1149 (9th Cir. 1999); Carlisle Area Sch. V. Scott P., 62 F.3d 520,

530 (3d Cir. 1995); Roland M. v. Concord Sch. Comm., 910 F.2d 983, 992 (1st Cir. 1990).

In 2017, the Supreme Court addressed a split amongst the circuit courts regarding what the IDEA means when it requires school districts to provide an “appropriate” level of education to children with disabilities. Endrew F. ex rel. Joseph F. v. Douglas County School Dist. RE-I, 137 S. Ct. 988 (2017). In Endrew 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.

The school district is required to “consider the use of positive behavioral supports and other strategies” if a student’s behavior impedes the student’s learning. 20 U.S.C. Sect. 1414(d)(3)(B)(i); 34 C.F.R. Sect. 300.324(a)(2)(i). District of Columbia courts have held it is “essential” for the Local Educational Agency (“LEA”) to address the behavioral issues of a student. Long v. Dist. of Columbia, 780 F. Supp.2d 49 (D.D.C. 2008)(in ruling the district failed to provide an FBA/BIP for a Student, the court stated that “the quality of a student’s education is inextricably linked to the student’s behavior”); Shelton v. Maya Angelou Charter School, 578 F.Supp.2d 83 (D.D.C. 2008)(an FBA/BIP was required where a learning-disabled student was suspended).

This Student’s academic record is notable because of inconsistencies in academic reports. In the 2017-2018 school year, “SRI” testing indicated that the Student was well above average in reading and had mastered reading goals early in the year. From this

pair of facts, one might deduce that the Student made excellent progress in reading during the course of the 2017-2018 school year.

However, none of the school district witnesses testified clearly along these lines. To the contrary, the record indicates that the Student did poorly in reading classes during the past two school years. In the 2017-2018 school year, the Student received a D+ as a final grade in reading and a C in English. The April, 2018, IEP reported that, in reading, the Student was “inattentive,” “missed instructions,” “did not complete tasks,” “exhibited poor concentration,” was “easily distracted,” was “restless,” “impulsive,” had “difficulty staying quiet,” and missed instructional time as a result of removal from class.

Similarly, the Student’s record is inconsistent with respect to math. Progress reports on goals indicated that the Student progressed in math during the 2017-2018 school year. However, the Student’s final grade in math that year was an F, and the i-Ready testing reported in the April, 2018, IEP indicated that the Student was “below basic” in math.

These academic difficulties can at least partly be explained by the Student’s difficult behaviors. The April, 2018, IEP indicated that the Student was disruptive and inattentive, would “call out” during lessons, would fail to do work, and would get removed from the classroom. Witness F characterized the Student’s behavioral issues as minor, but Witness D was more candid, indicating that the Student’s behavioral issues impacted the Student’s education and that the Student’s behavior had not improved during the past three school years at School A.

Yet this issue was not meaningfully addressed in the April, 2018, IEP. The only interventions offered by DCPS around that time were in the May, 2018, BIP, which was

written a few weeks after the April, 2018, IEP. However, instead of recommending new, specific interventions that might change the Student’s behavioral profile, this BIP recommended that another BIP be written. The BIP indicated that the Student should be provided with strategies to develop socialization skills, but did not indicate what those strategies might be. The BIP also indicated that the Student should be exposed to alternative ways to address negative behaviors, but did not explain what those “alternative ways” might be.²

Additionally, nothing in the IEP or the BIP addressed the Student’s attendance and tardiness issues. Witness D indicated that the Student’s attendance and tardiness issues were to be handled by School A’s “attendance officer,” but there was no description of what the attendance officer does or did, and the attendance officer was not called as a witness to describe any new interventions that might have addressed the Student’s issues. DCPS argued that there is no duty to address a student’s behavior through a BIP, pointing to cases outside of the jurisdiction. See, e.g., Park Hill Sch. Dist. v. Dass, 655 F.3d 762, 766 (8th Cir. 2011). However, even if a BIP is not directly required in all jurisdictions, an LEA must still address a student’s behavioral issues, whether through a formal BIP or interventions specified in the IEP. DCPS did not address the Student’s behavioral issues either way, and the Student’s difficult behaviors continued from April 18, 2018, through the end of the school year. DCPS’s inability to

²Given the difficulty in formulating BIPs for this Student, Petitioner’s theory that an FBA should be conducted first makes sense, though an FBA may not be required before the creation of a BIP in all cases. E.L. Haynes Pub. Charter Sch. v. Frost, 66 IDELR 287 (D.D.C 2015) (LEA is not obligated to conduct a functional behavior assessment in order to assess a child in all areas of suspected disability).

reasonably calculate a plan to address the Student's behavioral and attendance issues therefore denied the Student a FAPE.³

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?

20 U.S.C. Sect. 1232g(a)(1)(A) requires each educational agency or institution to grant parents access to the educational records of their children no more than forty-five days after the request. The IDEA regulations provide in pertinent part: "(t)he parent of a child with a disability must be afforded, in accordance with the procedures of Sects. 300.613 through 300.621, an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child." 34 C.F.R. Sect. 300.501(a). The term "education records" means the type of records covered under the definition of "education records" in 34 C.F.R. Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sect. 1232g (FERPA)). 34 C.F.R. Sects. 300.611-300.625. Education records as defined under FERPA are "directly related to a student" and "maintained by an educational agency or institution or by a party acting for the agency or institution." The term does not include "records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the

³Parenthetically, this Hearing Officer agrees with Witness D that the answer to the Student's behavioral issues probably does not lie with the assignment of a 1:1 dedicated aide or additional behavioral support services. Witness D's testimony that the Student rejects behavioral support services and would reject an aide was credible. Additionally, Petitioner provided little credible evidence that the Student's goals were inappropriate. A review of the goals, compared to the goals of the April, 2017, IEP, indicated that DCPS created new goals for the Student that were reasonably related to the Student's needs. Petitioner did not meet her *prima facie* case with respect to this contention.

record.” “Record” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. 34 C.F.R. Sect 99.3.

Through her attorney, Petitioner requested a wide variety of educational records in or about March, 2018. However, DCPS provided Petitioner with records in response in May, 2018, and August, 2018. Petitioner bears the burden on this claim and failed to show how the withholding of records caused any substantive harm to the Student.

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. App’x. 232, 233 (D.C. Cir. 2004). Accordingly, this claim must be dismissed.

Relief

Petitioner requested 190 hours of compensatory education for the Student. 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’”).

Recently, the circuit clarified the scope of FAPE deprivation in the context of FAPE denial. In B.D. v. District of Columbia, 817 F.3d 792, 797 (D.C. Cir. 2016), Judge Tatel goes to some lengths to explain that students should not only be compensated for the FAPE denial's "affirmative harm" but should also be compensated for "lost progress" that the student would have made.

The appropriate time period for the FAPE denial should be deemed to be April 18, 2018, the date of the IEP, through the end of summer school, which was in or about August, 2018. Witness A testified that the date of the IEP is an appropriate start date for the period of FAPE denial.

This time period comprises four months, at most. Petitioner presented a revised compensatory education plan which recommends 190 hours of academic tutoring, but this plan, as written, does not clearly reference the standards in Reid. Moreover, this plan does not take into account that the Student remains entitled to a significant amount of compensatory tutoring as a result of a prior HOD, and that the Student has not taken advantage of this prior award to the fullest. Nevertheless, 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, s/he "is entitled to an award" and "simply refusing to grant one" clashes with Reid. Henry v. D.C., 750 F. Supp. 2d 94, 98 (D.D.C. 2010)(quoting Stanton, 680 F.Supp.2d at 207 (D.D.C.2010)).

Under the circumstances, it is appropriate to reduce Petitioner's request for tutoring so that it corresponds more closely to the four-month time period. The Student is therefore awarded seventy-five hours of compensatory tutoring, to be delivered by a

certified special education teacher and used by the Student prior to the end of the 2018-2019 school year.

Petitioner also requested relief going forward with respect to the Student's educational program, which is to be implemented at School B PCS. However, Petitioner expressed that she is content with the program at School B PCS as it is. Moreover, Witness D testified credibly that the Student would likely reject a dedicated aide and does not benefit from counseling.

Finally, Petitioner's request for a new comprehensive psychological evaluation makes sense in view of the Student's SRI testing during the 2017-2018 school year, which suggested a somewhat mysterious increase in the Student's reading ability during the past two years.

VII. Order

As a result of the foregoing:

1. The Student is hereby awarded seventy-five hours of academic tutoring by a certified special education teacher, to be completed by the end of the 2018-2019 school year;
2. The Student shall be subject to a psychological evaluation within thirty days of the date of this HOD. The report corresponding to this testing shall be issued within sixty days of the date of this HOD;
3. All other requests for relief are hereby denied.

Dated: September 15, 2018

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

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: September 15, 2018

Michael Lazan
Impartial Hearing Officer