

**STATE EDUCATIONAL AGENCY FOR THE DISTRICT OF COLUMBIA
STATE ENFORCEMENT AND INVESTIGATION DIVISION (SEID)
SPECIAL EDUCATION PROGRAMS**

on behalf of,
(DOB

Petitioner,

Case No.

Bruce Ryan, Hearing Officer

v.

Hearing: February 11, 2009

Decided: February 17, 2009

**DISTRICT OF COLUMBIA
PUBLIC SCHOOLS,**

Respondent.

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STUDENT HEARING OFFICE
2009 MAR -9 PM 4:37

HEARING OFFICER DECISION

I. PROCEDURAL BACKGROUND

This due process complaint was filed January 12, 2009, on behalf of an -year old student residing in the District of Columbia and currently being home-schooled (the "Student"). Petitioner was represented by Donovan Anderson, Esq., and Respondent District of Columbia Public Schools ("DCPS") was represented by Laura George, Esq., Assistant Attorney General for the District of Columbia. The complaint was brought pursuant to the Individuals with Disabilities Education Act ("IDEA"), as amended, 20 U.S.C. §§1400 *et seq.*, and its implementing regulations, as well as relevant provisions of the District of Columbia Code and the Code of D.C. Municipal Regulations.

The complaint alleges that DCPS failed to complete the initial evaluation process for the Student within 120 days after consent was provided on or about May 2, 2008, while the Student was attending School. The 120-day period allegedly expired near the beginning of the current 2008-2009 School Year in late August 2008. As relief, Petitioner requested that DCPS (1) evaluate the Student in all areas of suspected disabilities, (2) within 20 days of completion of the evaluations, convene a MDT meeting to review evaluations, develop an appropriate IEP, and determine placement; and (3) provide compensatory education services for the period the Student has been without appropriate services.

DCPS filed a response on January 25, 2009; a prehearing conference was held January 28, 2009; and DCPS then filed an amended response and motion to dismiss on January 29, 2009. DCPS argued that because home schooling is not considered a qualifying private school under D.C. law, DCPS is not required to provide the Student a FAPE under the IDEA. Petitioner filed an opposition to the motion, and it appeared to the Hearing Officer that the parties disagreed as to some of the facts relating to the motion. Accordingly, the Hearing Officer elected to defer ruling until the hearing convened and the parties could provide evidence relating to the disputed

facts pursuant to *Special Education Student Hearing Office Due Process Hearing Standard Operating Procedures* ("SOP") §401 C. 7. Five-day disclosures were thereafter filed by both parties.

The Due Process Hearing convened as scheduled on February 11, 2009. At the hearing eight documentary exhibits submitted by Petitioner (identified as "P-1" through "P-8") and 11 documentary exhibits submitted by DCPS (identified as "DCPS-1" through "DCPS-3") were admitted into the record. However, prior to the receipt of testimony at the hearing, the parties engaged in further discussions off the record and reached an agreement eliminating the need to complete the due process hearing. The parties then requested the Hearing Officer to incorporate the terms of their agreement into an order with consent of both parties pursuant to SOP §1002.1.

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STUDENT HEARING OFFICE
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II. AGREED ORDER

The parties have agreed to hold an MDT/IEP team meeting on February 25, 2009, to review the August 2008 evaluations of the Student and for the other purposes described below. The Hearing Officer has authority to enter the agreed Order pursuant to Section 1002.1 of the SOP and the IDEA, 20 U.S.C. §1415(i)(2)(C)(iii). This Decision and agreed Order also constitute the Hearing Officer's Determination pursuant to 20 U.S.C. §1412 (f), 34 C.F.R. §300.513, and Section 1003 of the SOP. No other findings are made herein, including any finding or adjudication as to whether or not DCPS has denied a FAPE to the Student.

Accordingly, based upon the stipulation, agreement and proposed order of the parties, and the entire record herein, it is hereby Ordered:

1. DCPS shall convene an MDT/IEP team meeting on **February 25, 2009, at 10:15 am.**
2. The MDT/IEP team meeting shall be convened for the following purposes:
 - (a) to review the August 2008 psycho-educational evaluation of the Student, along with any other evaluation reports provided to DCPS by Petitioner;
 - (b) to discuss and determine whether any additional evaluations of the Student should be conducted, including but not limited to a functional behavior assessment (FBA);
 - (c) to update the Student's May 2008 Student Evaluation Plan (SEP) as appropriate; and
 - (d) to address any other outstanding issues.
3. All communications regarding the scheduling of the MDT meeting shall include copies in writing to Petitioner's counsel, Donovan Anderson, Esq., via facsimile (202-610-1881), or via email (danderson@donovananderson.com).
4. Any delay in meeting the deadline in this Order due to delays caused by Petitioner or Petitioner's representatives shall extend the deadline by the same number of days.
5. This Order is without prejudice to the right of Petitioner to file any further due process complaint on any issue, including allegations of FAPE denial and/or compensatory education upon a determination of eligibility.
6. This case is hereby **CLOSED**.

Dated: February 17, 2009

/s/ Bruce D. Ryan
Impartial Hearing Officer

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Any party aggrieved by the findings and decision made herein has the right to 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 Decision of the Hearing Officer in accordance with 20 U.S.C. §1415(i)(2).