DC Office of the State Superintendent of Education

Office of Compliance & Review

State Enforcement & Investigation Division
STUDENT HEARING OFFICE
Van Ness Elementary School
1150 5th Street, S.E., 1st Floor, Washington, D.C. 20003
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Virginia A. Dietrich, Esq.
Impartial Due Process Hearing Officer

CONFIDENTIAL

In Re the Matter of:	*	
	*	**CASE NO.**
Parent on behalf of Student *	*	
	*	
Petitioner,	*	**Complaint Date: 03/03/09**
	*	**Hearing Date: 04/07/09**
vs.	*	
	*	**Hearing Site:**
	*	**Van Ness Elementary School**
The District of Columbia Public Schools	*	**1150 5th Street, S.E., 1st Floor**
	*	**Washington, D.C. 20003**
Respondent.	*	
	*	

HEARING OFFICER DETERMINATION

Petitioner's Attorney:
Miguel Hull, Esq.
James E. Brown & Associates, PLLC
1220 L Street, N.W., Suite 700
Washington, D.C. 20005

Respondent's Attorney:
Candace Sandifer, Esq.
Assistant Attorney General
Office of the Attorney General as Counsel for D.C. Public Schools
825 North Capitol Street, N.E., 9th Floor
Washington, D.C. 20002

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*Personally identifiable information is attached as an Index to this decision and must be removed prior to public distribution.

JURISDICTION

The Due Process Hearing was convened and this Hearing Officer Determination and Order written pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA), 20 U.S.C. Section 1400 et. seq., the implementing regulations for IDEIA; 34 C.F.R. Part 300; and Title V, Chapter 30, of the District of Columbia Municipal Regulations (D.C.M.R.).

INTRODUCTION

On March 3, 2009, a Due Process Complaint Notice ("Complaint") was filed by the parent ("Parent or Petitioner") on behalf of the 15 year old student ("Student"), alleging that District of Columbia Public Schools ("DCPS") denied Student a Free Appropriate Public Education ("FAPE") in violation of IDEIA.

THE PRE-HEARING CONFERENCE

On March 13, 2009, a pre-hearing teleconference convened and resulted in a Pre-Hearing Conference Order issued on March 16, 2009. Petitioner was represented by Miguel Hull, Esq. ("Petitioner's Attorney") and DCPS was represented by Candace Sandifer, Esq. ("DCPS' Attorney").

The issues identified in the Complaint, as outlined in the Pre-Hearing Conference Order, are delineated with specificity herein to avoid future litigation on the same issues:

Issue #1 – Whether DCPS failed to provide Student with an appropriate IEP, thereby denying Student a FAPE?

(a) Student's 02/13/09 IEP that provides for 6.5 hours/week of out of general education setting and 13 hours/week in a general education setting is inappropriate, and

(b) Student's disability classification should include Mental Retardation.

Issue #2 – Whether DCPS failed to implement Student's IEP, thereby denying Student a FAPE?

(a) did not implement Student's 01/09/08 IEP from September 2008 until 02/13/09.

Issue #3 – Whether DCPS failed to provide Student with an appropriate placement, thereby denying Student a FAPE?

(a) is an inappropriate placement because it cannot implement Student's 01/09/08 IEP, and

(b) Student's need for vocational training cannot be met at

Issue # 4 – Whether DCPS failed to attempt reasonable interventions to address Student's refusal to cooperate with the educational placement, thereby denying Student a FAPE?

(a) DCPS did not conduct a Functional Behavioral Assessment ("FBA") and a Behavioral Intervention Plan ("BIP") to address Student's problem behaviors while Student attended .

Issue #5 – Whether DCPS failed to complete an appropriate transitional/vocational assessment and failed to develop an appropriate postsecondary transitional plan/goals for Student's current IEP, thereby denying Student a FAPE?

(a) DCPS has not conducted a vocational assessment based on the recommendation of a 01/09/09 independent psycho-educational assessment, and

(b) DCPS failed to develop an appropriate Postsecondary Transition Plan that includes the vocational training recommended in a 01/09/09 psycho-educational assessment.

Issue #6 – Whether DCPS failed to comprehensively evaluate Student, thereby denying Student a FAPE?

(a) DCPS failed to conduct a comprehensive audiological assessment as recommended in a 01/09/09 independent psycho-educational assessment, and

(b) DCPS failed to conduct an adaptive behavioral (Vineland) assessment based on low achievement scores contained in a 01/09/09 independent psycho-educational assessment.

Issue #7 – Whether Student is entitled to compensatory education?

(a) Student is entitled to compensatory education for all missed services while Student attended

THE DUE PROCESS HEARING

Petitioner waived its right to a due process hearing. All issues identified in the Complaint are resolved by agreement of the parties. In light of the parties' representations, the following is ordered:

ORDER

(1) DCPS shall fund forty (40) hours of private one-on-one tutoring as compensatory education;

(2) DCPS shall convene a Multidisciplinary Team ("MDT") placement meeting within ten (10) school days with a Prior Notice of Placement to be issued within five (5) business days to a public or a private school other than

(3) DCPS shall fund an independent vocational assessment and shall convene a MDT meeting within twenty (20) business days of receipt of the vocational assessment to review the assessment and revise Student's IEP as appropriate; and

(4) Within the next ten (10) business days, Petitioner shall provide signed consent for DCPS to complete an adaptive behavioral assessment on Student.

IT IS SO ORDERED.

This is the FINAL ADMINISTRATIVE DECISION in this matter. Any party aggrieved by the findings and decision may APPEAL to a state court of competent jurisdiction or a district court of the United States, without regard to the amount in controversy, within 90 days from the date of the decision pursuant to 20 U.S.C. Section 1415(i)(2).

Virginia A. Dietrich /s/ 04/10/09
Virginia A. Dietrich, Esq. Date
Impartial Due Process Hearing Officer

Issued: April 10, 2009