

**DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**

Student Hearing Office
810 First Street, N.E., Second Floor
Washington, DC 20002

STUDENT, through the legal guardian¹)	
)	Case Number:
Petitioner,)	
)	Hearing Date: April 1, 2011
v.)	Hearing Room: 2004
)	
THE DISTRICT OF COLUMBIA)	
PUBLIC SCHOOLS,)	Hearing Officer: Frances Raskin
)	
Respondent.)	

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STUDENT HEARING OFFICE

HEARING OFFICER DETERMINATION

I. JURISDICTION

This proceeding was invoked in accordance with the Individuals With Disabilities Education Improvement Act of 2004 ("IDEA"), codified at 20 U.S.C. §§ 1400 *et seq.*, D.C. Code §§ 38-2561.01 *et seq.*; the federal regulations at 34 C.F.R. §§ 300.1 *et seq.*; and the District of Columbia regulations at D.C. Mun. Reg. tit. 5-E §§ 3000 *et seq.*

II. BACKGROUND

Petitioner is the parent of a -year-old student ("Student") with a disability who attends a public elementary school in the District of Columbia. On February 17, 2011, Petitioner filed a Due Process Complaint ("Complaint") against the District of Columbia Public Schools ("DCPS") pursuant to IDEA.

This Hearing Officer was appointed to preside over this case on February 20, 2011. The parties participated in a resolution meeting on March 4, 2011. The parties were unable to resolve the Complaint and agreed to proceed to a due process hearing. Thus, the resolution period ended on March 4, 2011. The parties agreed that the forty-five day, due process hearing timeline began on March 5, 2011.

On March 16, 2011,² this Hearing Officer held a prehearing conference in which Chike Ijeabuonwu, counsel for Petitioner, and Tanya Chor, counsel for Respondent DCPS, participated.

¹ Personal identification information is provided in Attachment A.

This Hearing Officer held a second prehearing conference on March 24, 2011.³ During the second prehearing conference, the parties agreed to proceed to a due process hearing on April 1, 2011. This Hearing Officer issued a prehearing order on March 24, 2011.

After lengthy discussion prior to the start of the due process hearing on April 1, 2011, the parties entered into an agreement that resolved the Complaint. The parties requested that this Hearing Officer incorporate their agreement into this Hearing Officer Determination.

III. ISSUES PRESENTED

This Hearing Officer certified the following issue for adjudication at the due process hearing:

Whether DCPS denied the Student a free, appropriate, public education (“FAPE”) by failing to evaluate him in all areas of suspected disability, i.e., speech and language impairment and a possible cognitive impairment, even though Petitioner requested evaluations on August 13, 2010, find him eligible for specialized instruction and/or related services, and develop an individualized educational program (“IEP”).

IV. DISCUSSION

The Petitioner and the Local Education Agency, in this case DCPS, may reach an agreement, thus eliminating the need for a due process hearing.⁴ The Hearing Officer has authority to dismiss a hearing when informed by the parties that the case has been settled and

² Counsel for Petitioner did not inform this Hearing Officer of the scheduling of the resolution session as required by this Hearing Officer’s initial email to the parties. On March 7, 2011, and only after this Hearing Officer inquired about the status of the resolution session meeting, did counsel for Petitioner inform her that the resolution session meeting had been held on March 4, 2011. On March 8, 2011, this Hearing Officer emailed counsel for Petitioner and counsel for Respondent in an attempt to schedule the prehearing conference for March 10 or 11, 2011. On March 11, 2010, this Hearing Officer again emailed counsel to remind them of her efforts to schedule the prehearing conference and inquire why they had not responded to the email of March 8, 2011. This Hearing Officer informed counsel that she planned to proceed with the prehearing conference at 4:00 p.m. that day unless they responded to provide another time at which they were both available that day. See Appropriate Standard Practices § 7 (A)(1) (requiring hearing officers to schedule prehearing conferences within one week of the termination of the resolution session). Counsel for DCPS responded that both counsel would not be available for the prehearing conference until March 16, 2011.

³ During the first prehearing conference, counsel for Petitioner represented that Petitioner would withdraw the Complaint if DCPS committed in writing to perform a psychological evaluation of the Student and review the evaluation within forty-five days. Only during the second prehearing conference did counsel for Petitioner inform this Hearing Officer that Petitioner intended to proceed to hearing.

⁴ Standard Operating Procedures § 1002.1.

may, if requested, incorporate the terms of an agreement into an Order with consent of both parties.⁵

At the outset of the due process hearing, the parties informed this Hearing Officer that they planned to stipulate to the terms of an agreement that would resolve the Complaint. The parties requested that this Hearing Officer incorporate the terms of their agreement into this Hearing Officer Determination.

The parties stipulated that the terms of their agreement are as follows:

1. DCPS will conduct a psychological evaluation of the Student, including a social history and clinical assessment, by May 7, 2011;
2. In conducting the psychological evaluation of the Student, DCPS shall receive one day of delay for every day the Student is not available for evaluation purposes;
3. DCPS will provide a copy of the psychological evaluation report to counsel for Petitioner within three business days of completing the evaluation report;
4. Within ten school days of completing the psychological evaluation report, DCPS will convene an IEP meeting to review the psychological evaluation required by this agreement and the Student's speech-language evaluation and develop an IEP for the Student;
5. DCPS shall receive one day of delay in convening the meeting to review the Student's psychological and speech and language evaluations for every day of delay caused by Petitioner, her counsel, and her advocate;
6. The parties agree that the Student is eligible for specialized instruction and related services as a student with a speech-language impairment pursuant to IDEA;
7. DCPS shall continue to provide the Student one hour per week of individual speech and language related services until it convenes the IEP meeting to review the psychological and speech and language evaluations discussed herein.

The parties agreed that this Hearing Officer would dismiss the Complaint with prejudice.

⁵ *Id.*

ORDER

Upon consideration of Petitioner's requests for a due process hearing, and the agreement of the parties, it is this 17th day of April 2011 hereby:

ORDERED that DCPS shall conduct a psychological evaluation of the Student, including a social history and clinical assessment, by May 7, 2011;

IT IS FURTHER ORDERED that DCPS shall receive one day of delay in conducting the evaluation for every day the Student is not available for evaluation purposes;

IT IS FURTHER ORDERED that, within three business days of completing the report of the Student's psychological evaluation, DCPS shall provide a copy of the evaluation report to counsel for Petitioner;

IT IS FURTHER ORDERED that, within ten school days of completing the psychological evaluation report, DCPS shall convene an IEP meeting to review this evaluation as well as the Student's speech-language evaluation, and develop an IEP for the Student;

IT IS FURTHER ORDERED that DCPS shall receive one day of delay in convening the meeting to review the Student's psychological and speech and language evaluations for every day of delay caused by Petitioner, her counsel, and her advocate;

IT IS FURTHER ORDERED that Student is eligible for specialized instruction and related services as a student with a speech-language impairment pursuant to IDEA;

IT IS FURTHER ORDERED that, beginning on April 25, 2011, DCPS shall provide the Student one hour per week of individual speech and language related services until it convenes a meeting of the Student's IEP team to review his psychological and speech and language evaluations and develop an IEP for the Student; and

IT IS FURTHER ORDERED that the Complaint is **DISMISSED WITH PREJUDICE**.

By: /s/ Frances Raskin
Frances Raskin
Hearing Officer

NOTICE OF APPEAL RIGHTS

The decision issued by the Hearing Officer is final, except that any party aggrieved by the findings and decision of the Hearing Officer shall have 90 days from the date of the decision of the hearing officer to file a civil action with respect to the issues presented at the due process hearing in a district court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. § 415(i)(2).

Distributed to:

Chike Ijeabunwu, Attorney at Law
Tanya Chor, Attorney at Law
Hearing Office
DCPS