

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

Student Hearing Office
1150 5th Street, S.E.
Washington, DC 20003

on behalf of

Petitioner,

Date Issued: May 15, 2010

Hearing Officer: Kimm Massey, Esq.

v

Case No:

DISTRICT OF COLUMBIA PUBLIC SCHOOLS,

Hearing Dates: May 4 and 5, 2010

Respondent.

Rooms: 4A and 5A (respectively)

STUDENT HEARING OFFICE
2010 MAY 17 AM 8:37

HEARING OFFICER DETERMINATION

BACKGROUND

Student is a _____ year-old male. Student's most recent individualized educational program ("IEP"), dated September 18, 2009, lists specific learning disability ("SLD") and emotional disability ("ED") as his disability classifications. The IEP further indicates that Student is to spend 100% of his time in an out of regular education setting, and he is to receive 2 hours of counseling, 23.5 hours of specialized instruction, and 2 hours of parent counseling and training per week.

On April 2, 2010, Petitioner filed a Complaint against DCPS, alleging that DCPS denied Student a free appropriate public education ("FAPE") by (1) failing to appropriately exit Student out of his current placement, (2) failing to timely evaluate and further evaluate in all areas of suspected disability, (3) failing to provide Student with an appropriate IEP for the 2009/10 school year, and (4) failing to afford Parent an appropriate placement meeting.

On or about April 5, 2010, Petitioner filed a Motion for Expedited Hearing, alleging that an expedited hearing was required because Student had been expelled from his nonpublic full-time special education placement and was without an appropriate placement. On April 12, 2010, the hearing officer issued an Order Granting Petitioner's Motion for Expedited Hearing.

DCPS filed its Response to the Complaint on April 19, 2010, asserting therein that Student was expelled from his nonpublic placement for assaulting other students and destroying school property. DCPS further asserted that it had issued a Notice of Placement to an interim alternative placement for Student, that Student's evaluations were current and appropriate, and that Student's IEP goals were reasonably calculated to provide him with educational benefit.

On April 20, 2010, the hearing officer convened a prehearing conference and led the parties through a discussion of the issues, defenses, relief sought, and related matters. During the conference, it was determined that a 2-day hearing would be required to allow the parties ample time to present all evidence. As a result, Petitioner agreed to waive in writing its right to an expedited hearing. In addition, the hearing officer agreed to allow the parties until close of business on April 23, 2010 to file, *inter alia*, briefs/memoranda of law concerning an LEA's responsibility or authority to act when a private school determines to expel a disabled student.

On or about April 23, 2010, Petitioner filed a Motion to Waive Expedited Hearing. On April 24, 2010, the hearing officer issued an Order granting said motion and scheduling due process hearings on May 3 and May 5, 2010.

Petitioner timely filed its "Memorandum Brief" prior to close of business on April 23, 2010. DCPS filed its brief at or near the end of the business day on April 26, 2010.

By their respective cover letters dated April 28, 2010, Petitioner disclosed twenty-six documents (Petitioner's Exhibits 1 through 26), and DCPS disclosed eight documents (DCPS-1 through DCPS-8).

The due process hearings for this case were held on May 3rd and May 5th, as scheduled.¹ All disclosed documents were admitted into the record without objection. At the conclusion of Petitioner's case, DCPS made a motion for a directed finding on all claims. The hearing officer granted the motion with respect to Petitioner's third claim that DCPS provided Student with an inappropriate IEP for SY 2009/10 by changing Student's disability classification without evaluations to support the change, but provided that Petitioner could provide the hearing officer with a persuasive cite or reference in the record proving that an evaluation was required to support the change in classification. Petitioner failed to provide such a cite or reference, so the grant of a directed finding in DCPS's favor on that issue stands. The hearing officer denied the motion for directed finding on all other claims asserted. After all testimony had been received, the record was left open until close of business on May 6, 2010 for submission of written closing statements. Petitioner timely submitted its written closing on May 6th. DCPS timely advised the hearing officer that its determination that a written closing was not necessary.

The due process hearings were convened and this Hearing Officer Determination ("HOD") is written pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA), 20 U.S.C. §§ 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.").

¹ Counsel for each party, testifying witnesses, and other case-specific information are listed in the Appendix that accompanies this decision.

ISSUES

The issues to be determined are as follows:

1. Did DCPS deny Student a FAPE by failing to appropriately exit Student from his nonpublic placement?
2. Did DCPS deny Student a FAPE by failing to timely and further evaluate Student in all areas of suspected disability?
3. Did DCPS deny Student a FAPE by failing to afford Parent an appropriate placement meeting?

FINDINGS OF FACT

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

1. In a February 19, 2009 HOD, this hearing officer ordered DCPS to either place Student at the private school that Parent had selected for him, or promptly locate and place Student in another appropriate full-time therapeutic school that could meet his needs.²
2. Pursuant to the February 19, 2009 HOD, DCPS placed Student at the nonpublic placement of Parent's choice during the 2008/09 school year.
3. By November 2009, Student's attendance at the nonpublic placement had become very sporadic. He would only come to school 1 to 2 days per week and would sometimes miss weeks at a time. Parent and Student advised the school staff that Student was not attending school because of migraine headaches. The special education coordinator ("SEC") asked Parent for medical documentation concerning the migraines and how they would affect Student's school attendance.³
4. Student's current IEP is dated September 18, 2009. That IEP lists specific learning disability ("SLD") and emotional disability ("ED") as Student's disability classifications. That IEP also indicates that Student is to spend 100% of his time in an out of regular education setting, and that he is to receive 2 hours of counseling, 23.5 hours of specialized instruction, and 2 hours of parent counseling and training per week.⁴

² Petitioners' Exhibit 5.

³ Testimony of nonpublic school clinical therapist; testimony of nonpublic school SEC; *see also*, Petitioner's Exhibit 13.

⁴ Petitioner's Exhibit 12; DCPS-3.

5. At Student's September 18, 2009 IEP meeting, a Student Evaluation Plan ("SEP") was created, which provided that Student was to receive a comprehensive psychological evaluation, and Parent signed a Consent form authorizing the evaluation.⁵
6. Although the nonpublic school intended to conduct the comprehensive psychological evaluation that was authorized for Student on September 18, 2009, the evaluation was never conducted because of Student's excessive absences.⁶
7. In his most recent neuropsychological evaluations, Student was diagnosed with, *inter alia*, Developmental Disorder of Adolescence, NOS; Mood Disorder, NOS; Disruptive Behavior Disorder NOS; Cognitive Disorder NOS; and Learning Disorder NOS.⁷
8. In his most recent psychoeducational evaluation, Student was diagnosed with, *inter alia*, Bipolar I Disorder, Posttraumatic Stress Disorder, Cognitive Disorder NOS, and Learning Disorder NOS.⁸
9. On February 19, 2010, Student was involved in fighting incidents with several other students at the nonpublic school. These incidents included the following actions by Student: he kicked in a clinical therapist's office door, pushing a teacher away in the process; he rushed into the office and began repeatedly punching and kicking a male student; he threw over the therapist's desk and began throwing computers, pencils, books and game pieces at the male student; he punched and/or choked a female student and threw her against the wall; and he pulled another female student's hair and began hitting her in the face. Student was also involved in incidents at the nonpublic school on December 11, 2009, November 9, 2009, October 15, 2009, October 5, 2009 and June 12, 2009. During these incidents, Student engaged in behaviors that included shoving a teacher, repeatedly hitting another student with a stick and punching the student in the mouth, repeatedly insulting a female student and throwing water on her, pointing his fingers in a teacher's face, threatening and cursing at a teacher, threatening violence towards school staff members, hitting a student in the face and knocking him to the floor, with the result that the student was afraid to leave the building for fear of encountering Student and school staff had to promise to escort the student to the subway station and make sure he got on his train safely.⁹
10. The nonpublic school initially suspended Student for five days as a result of the February 19, 2010 fighting incidents. One of the program directors at the school wrote a February 19, 2010 letter that informed Parent of the five-day suspension, stated that Student had assaulted two students and disregarded repeated commands from staff members, and noted that it was extremely important for all of the students and staff at the nonpublic school to feel safe and secure in their school environment.¹⁰

⁵ Petitioner's Exhibits 13 and 22; DCPS-3.

⁶ Testimony of nonpublic school SEC.

⁷ Petitioner's Exhibit 9; DCPS-1.

⁸ Petitioner's Exhibit 7.

⁹ Testimony of nonpublic school Executive Director; testimony of nonpublic school clinical therapist; DCPS-4; Petitioner's Exhibit 19.

¹⁰ Testimony of nonpublic school Executive Director; DCPS-5; Petitioner's Exhibit 20.

11. The Executive Director of the nonpublic school extended the suspension until a manifestation meeting could be held to ensure that Student did not return to the school because of a concern for the safety of others. The Executive Director sent a February 22, 2010 letter to Parent indicating that in addition to Student's extremely violent behavior that resulted in assaults on two others, Student also caused extensive property damage. The letter further stated that a thorough investigation was warranted in light of the seriousness of the situation, that Student's suspension would be extended until all findings were concluded through a manifestation determination process, that "under no circumstances" was Student to come in or near the school building prior to the meeting date, and that work packets would be mailed to Student's home and picked up upon completion. The letter enclosed a Letter of Invitation for the manifestation determination meeting. The Letter of Invitation stated, *inter alia*, that the purpose of the meeting would be to discuss levels of documented service, discuss placement, determine manifestation, and discuss quarterly review.¹¹
12. After several unsuccessful attempts to send the February 22, 2010 letter to Parent, a family therapist from the nonpublic school went to Student's home and told Parent about the manifestation meeting to be held. The therapist also provided Parent with the Letter of Invitation to the meeting. Parent stated that she would attend the meeting.¹²
13. Parent received one packet of work for Student on the Friday before the manifestation meeting was held, but did not receive any other packets of work.¹³
14. Upon arriving at the nonpublic school for the March 5, 2010 meeting concerning Student, Parent and Student's grandmother were informed that the meeting was an expulsion meeting. Parent and the grandmother were incensed, as they felt an important decision concerning Student had been made without their input and it was clear that the nonpublic school staff was not interested in hearing their opinion about the expulsion during the meeting. Moreover, the nonpublic school staff would not allow Student to enter the building.¹⁴
15. It is possible that Student's medical/psychological disorders have contributed to his pattern of fighting and vandalizing of property at the nonpublic school, especially since Student has so many different diagnoses.¹⁵
16. On the other hand, Disruptive Behavior Disorder is a leftover diagnosis that was used for Student because he exhibited some of the symptoms but not all of the symptoms for other disorders such as Conduct Disorder, Oppositional/Defiant Disorder, and ADHD. Violent behavior is a symptom of Conduct Disorder but not of ADHD or Oppositional/Defiant Disorder. Hence, violent behavior is not necessarily correlated with Disruptive Behavior

¹¹ Testimony of nonpublic school Executive Director; Petitioner's Exhibits 20 and 21.

¹² Testimony of the nonpublic school Executive Director; testimony of nonpublic school SEC.

¹³ Testimony of Parent.

¹⁴ Testimony of Parent; testimony of grandmother.

¹⁵ Testimony of Petitioner's expert neuropsychologist and clinical psychologist.

Disorder but it is not ruled in or ruled out. The nonpublic school's clinical neuropsychologist reviewed this information at Student's March 5, 2010 manifestation/expulsion meeting. However, the neuropsychologist ultimately determined that it did not matter whether Student's violent behavior against other students was a manifestation of his disability because the behavior is persistent, very violent and poses a danger to the nonpublic school's students and staff members, with the result that the nonpublic school cannot tolerate the behavior and is not an appropriate placement for Student.¹⁶

17. The clinical neuropsychologist's evaluation review was not included in the Meeting Notes. However, the Meeting Notes indicate that based on the neuropsychologist's statement that Student's "pattern of persistive assaultive behaviors is not a prediction of his emotional and behavioral disability classification," the behaviors presented by Student were not a manifestation of his disability. The nonpublic school's consulting clinical psychologist attempted to give her opinion that Student's persistent assaultive behaviors were not predicted by his ED classification, but Parent and grandparent spoke over the psychologist, were very aggressive and verbally abusive toward her, and would not allow her to speak. Parent was taking pictures of staff members with her cell phone and making veiled threats toward them. Indeed, practically everyone was speaking in hostile tones. The nonpublic school's staff members seemed to be suggesting that Student learned his hostile behavior from Parent and the grandparent. The nonpublic school was unable to complete other team member reviews that normally would take place at a manifestation meeting because of the tense atmosphere. Hence, the school's clinical therapist did not have an opportunity to speak although she usually speaks at meetings. The meeting ended prematurely when Parent and the grandparent were asked to leave and taken from the room by the police. This took place after Parent ignored warnings given to her by the police, picked up a bowl from the middle of the table and slammed it down, made a move toward a staff member and had to be restrained by the police prior to being escorted from the room.¹⁷
18. DCPS did not make the decision to exit Student from the nonpublic school. Instead, the nonpublic school deemed itself inappropriate after determining that it could not service Student. The LEA representative was notified prior to the meeting of the February 19th fighting incidents and was aware of the possibility that another placement would be requested for Student. At the meeting, the LEA representative indicated that Student had been assigned to attend a specific DCPS transitional academy. Actually, the LEA representative provided the following three placement options: i) the local high school, ii) the transitional academy, and iii) the consideration of other options. However, the third option was never explored because the meeting ended prematurely due to the behavior of Parent and the grandmother. Ultimately, the LEA representative indicated that Student should attend the transitional academy and that his IEP could be implemented there. The LEA representative was knowledgeable about the placement, even though no one from the placement participated in the meeting. He indicated that the placement was a full-time placement for students with ED and LD, and that it was similar to the nonpublic

¹⁶ Testimony of nonpublic school clinical neuropsychologist.

¹⁷ Testimony of nonpublic school's Executive Director, clinical psychologist, clinical therapist, and SEC; testimony of Parent.

school but it was public. The LEA representative issued a Prior Notice of Placement, although Parent may not have actually received it due to the volatile nature of the meeting, and said that Parent should contact a particular staff member at the transitional academy. He provided the staff member's contact information to Parent on a sheet of notebook paper.¹⁸

19. The LEA representative attended the March 5th meeting to ensure there would be a school for Student to attend if he was asked to leave the nonpublic school. This was an emergency situation, and Student needed a school to attend immediately. The transitional academy offers a ratio of 10 students to 2 teachers, which includes 1 general education teacher and 1 special education teacher. It is a separate school for disabled students and offers a full-time program. There are no non-disabled students at the academy. The school services high school students, who are working toward a diploma. It has 6 social workers, 1 psychological transition specialist, and behavior intervention specialists. The school offers the same level of restriction as the nonpublic school. The school can accommodate 100 students, but it is not operating at capacity. Because of the nature of Student's exit from the nonpublic school, Parent was not able to participate in the placement decision. However, Parent would be allowed 30 days to determine if the transitional academy will work for Student and could request another placement after that 30-day period.¹⁹
20. Parent never contacted the staff member at the transitional academy to discuss its appropriateness as a location of services for Student. The hearing officer instructed Petitioner at the April 20, 2010 to begin sending Student to his interim alternative placement, the transitional academy. However, as of the dates of the due process hearings in this case, Student still was not attending school. Student has been out of school since the February 19th fighting incidents took place.
21. At the outset of the first administrative due process hearing for this case, Parent wanted Student to either return to the nonpublic school or attend another specific private school that was considering Student for admission. However, after Student visited the private school between the first and second due process hearings, the private school was no longer an option and Parent did not offer any other placement options.
22. At the conclusion of the final due process hearing in this case, the hearing officer informed Petitioner that the hearing officer's previous instruction to Parent to begin sending Student to his alternative interim placement immediately was still in effect.

CONCLUSIONS OF LAW

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

¹⁸ Testimony of the nonpublic school's Executive Director, clinical psychologist, clinical therapist, and SEC.

¹⁹ Testimony of LEA representative.

1. Alleged Failure to Appropriately Exit Student from the Nonpublic Placement

Petitioner has alleged that DCPS failed to appropriately exit Student from the nonpublic placement because instead of conducting the scheduled manifestation meeting, DCPS conducted an expulsion meeting; the MDT team failed to review all relevant information in Student's file, including the IEP, the evaluations, and teacher reports; updated evaluations and behavioral assessments were not provided and considered at the meeting; the team's ultimate conclusion that Student's behavior was not a manifestation of his disabilities was incorrect; and Parent was not given an opportunity to discuss alternative placements.

IDEIA provides that within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of conduct, the LEA, the parent, and relevant members of the child's IEP team must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, or if the conduct in question was the direct result of the LEA's failure to implement the IEP. 34 C.F.R. § 300.530(e).

Whether or not the child's behavior is determined to be a manifestation of the child's disability, the child must receive, as appropriate, a functional behavioral assessment and either behavioral intervention services and modifications to address the behavior (where the determination was that the behavior was not a manifestation) or implementation of a behavioral intervention plan, or if one already exists, a review of and any necessary modifications to the plan to address the behavior (where the determination was that the behavior was a manifestation). 34 C.F.R. § 300.530(d) and (f).

However, when a disabled child's current placement is no longer available and a new appropriate placement has not yet been finally determined, DCPS must provide a similar placement on an interim basis. *Knight by Knight v. District of Columbia*, 877 F.2d 1025, 1029 (D.C. Cir. 1989); see also, *McKenzie v. Smith*, 771 F.2d 1527 (D.C. Cir. 1985).

The evidence in this case demonstrates that Student was suspended for 5 days on February 19, 2010 by his then current placement, the nonpublic school, for fighting/assaulting several of his fellow students. On or about February 22, 2010, the nonpublic school decided to extend Student's suspension until a manifestation meeting could be held. The nonpublic school was motivated, at least in part, by its concern for the safety of others at the school. The nonpublic school made several unsuccessful attempts to notify Parent of its decision by mail. Thereafter, a family therapist from the nonpublic school hand-delivered a letter and a Letter of Invitation to the manifestation meeting to Parent. The Letter of Invitation indicated that the purpose of the meeting would be, *inter alia*, to discuss placement and determine manifestation.

At some point between February 22nd and the scheduled manifestation meeting on March 5th, the nonpublic school determined to exit Student because it was not an appropriate placement for him. The nonpublic school notified DCPS in advance of the March 5th meeting of the possibility that a new placement would be requested for Student.

When the March 5th meeting began, the nonpublic school indicated that the meeting was an expulsion meeting. Parent and Student's grandmother were unpleasantly surprised, as they were expecting to participate in a manifestation meeting. The nonpublic school attempted to conduct a manifestation meeting as well, but Parent and the grandparent became so belligerent and verbally aggressive that the clinical neuropsychologist was the only team member who had an opportunity to speak. The team clinical psychologist and the team clinical therapist were planning to speak at the meeting, but they never had an opportunity to do so. Moreover, one of Student's neuropsychological evaluations was the only evaluation reviewed. Ultimately, the meeting ended prematurely when Parent and the grandmother were escorted from the room by the police. However, before Parent left, the DCPS/LEA representative informed her that Student had been assigned to attend a DCPS transitional academy and gave her the contact information for one of the staff members at the academy. The DCPS transitional academy is a full-time separate school for disabled students that offers the same level of restriction as the nonpublic school.

This evidence proves that the nonpublic school failed to conduct a proper manifestation meeting for Student because a neuropsychological evaluation was the only information from Student's file that was reviewed at the meeting. On the other hand, this evidence also shows that the unruly behavior of Parent and grandparent was one of the main reasons, if not the only reason, a proper manifestation meeting was not held.

While it is possible, and perhaps even probable, that the team's substantive determination that Student's behavior was not a manifestation of his disability was incorrect, the evidence in this case proves that the nonpublic school had determined to exit Student from the school anyway, because it had determined that Student's "pattern of persistent assaultive behaviors" posed a danger to the nonpublic school's students and staff members and that it could no longer tolerate the behavior. Moreover, despite Petitioner's insistence that DCPS made the decision to expel Student, the evidence in this case is clear that the nonpublic school unilaterally made the decision to exit Student after deeming itself an inappropriate placement for Student. As a result, Student's placement had become unavailable, and DCPS was obligated to provide a similar placement for Student on an interim basis. The evidence in this case proves that DCPS fulfilled this obligation by assigning Student to attend the transitional academy on an interim basis until it could be determined whether that placement would be suitable or whether Student would require another placement.

For the reasons outlined herein, the hearing officer concludes that although Parent proved that DCPS and/or the nonpublic school failed to conduct a proper manifestation meeting for Student, said failure did not constitute a denial of FAPE under the facts of this case. In reaching this conclusion, the hearing officer has relied heavily on the fact that Parent's unruly behavior at the meeting was one of the primary reasons the meeting ended prematurely.

2. Alleged Failure to Timely and Further Evaluate Student

Petitioner has alleged that DPS failed to timely and further evaluate Student because a comprehensive psychological evaluation, to which Parent consented on September 19, 2009, was never conducted, and Student did not receive a functional behavior assessment and a behavior

intervention plan despite his negative social behaviors and lack of attendance. DCPS does not dispute that the comprehensive psychological evaluation was never conducted. Instead, it presented evidence tending to prove that the evaluation was never conducted because of Student's repeated failures to attend school. Moreover, DCPS does not dispute that Student never received a functional behavior assessment or behavior intervention plan during his tenure at the nonpublic school despite his "pattern of persistive assaultive behaviors" and truancy problems. Under these circumstances, the hearing officer concludes that Petitioner has met its burden of demonstrating that DCPS, as the LEA, denied Student a FAPE by failing to timely and further evaluate Student. *See* 34 C.F.R. § 300.303(a) (reevaluation must be conducted if public agency determines one is warranted or the parent requests one); 34 C.F.R. § 300.324(b)(1)-(2) (IEP must be reviewed and revised periodically to address any lack of expected progress, child's anticipated needs, or other matters, and where child's behavior impedes the child's learning or that of others, the use of positive behavioral interventions and supports, and other strategies, must be considered). Hence, the hearing officer will order DCPS to conduct a comprehensive psychological evaluation and a functional behavioral assessment, and develop a behavioral intervention plan, for Student.

3. Alleged Failure to Afford Parent an Appropriate Placement Meeting

Petitioner has alleged that DCPS failed to afford Parent an appropriate placement meeting because Parent was not afforded an opportunity to discuss alternative therapeutic placements for Student at the March 5th meeting, and no placement meeting has been held since the March 5th meeting. However, the evidence in this case demonstrates that DCPS attempted to discuss placement options at the March 5th meeting but was unable to do so due to the disruptive behavior of Parent and the grandmother. *See* Finding of Fact 18. The evidence further demonstrates that DCPS provided Student with the placement at the DCPS transitional academy on an emergency basis because his then current placement at the nonpublic school had become immediately unavailable, with the result that Parent was unable to participate in the placement decision. It was DCPS's intent to allow Parent to participate in a placement meeting 30 days after Student began to attend the transitional academy, but that intent was frustrated as a result of Parent's failure to send Student to the transitional academy. Under these circumstances, the hearing officer concludes that Petitioner has failed to meet its burden of proving that DCPS denied Student a FAPE by failing to afford Parent an appropriate placement meeting. *See Wagner v. Board of Education of Montgomery County*, 335 F.3d 297 (4th Cir. 2003) (court affirmed district court's finding that Student's then current placement was unavailable where educational service provider stopped providing services on its own initiative, made an offer to resume providing services but retracted the offer the next day, then made another offer with new conditions); *Knight by Knight v. District of Columbia*, 877 F.2d 1025 (D.C. Cir. 1989) (court held DCPS was obligated to provide a "similar" placement, on an interim basis, where child's prior private placement was no longer available and a new and "appropriate" placement had not been finally determined; DCPS was allowed to fulfill that obligation by unilaterally placing Student in a similar public school).

ORDER

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

1. Within 22 days after the issuance of this Order, DCPS shall conduct a comprehensive psychological evaluation and a functional behavioral assessment, and develop a behavioral intervention plan, for Student.
2. Upon completion of the comprehensive psychological evaluation, the functional behavioral assessment, and the behavioral intervention plan, but in any event **no less than 30 days after Monday, April 17, 2010**, DCPS shall convene an IEP/MDT meeting for Student to review the evaluation report, the FBA and the BIP, to revise Student's IEP as appropriate, and to discuss placement and, if necessary, determine a new and appropriate placement for Student.
3. All other requests for relief in Petitioner's April 2, 2010 Complaint are **DENIED**.

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 USC §1415(i).

Date: 5/15/2010

/s/ Kimm Massey
Kimm Massey, Esq.
Hearing Officer