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Office of the State Superintendent of Education
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OSSE
Office of Dispute Resolution
December 9, 2014

Confidential

<p>Parent on Behalf of Student¹,</p> <p>Petitioner,</p> <p>v.</p> <p>District of Columbia Public Schools (“DCPS”)</p> <p>Respondent.</p> <p>Date Issued: December 8, 2014</p>	<p>HEARING OFFICER’S DETERMINATION</p> <p>Hearing Date: November 3, 2014</p> <p><u>Hearing Officer:</u> <u>Coles B. Ruff, Esq.</u></p>
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¹ Personally identifiable information is attached as Appendices A & B to this decision and must be removed prior to public distribution.

JURISDICTION:

The hearing was conducted and this decision was written pursuant to the *Individuals with Disabilities Act* (“IDEA”), P.L. 101-476, as amended by P.L. 105-17 and the *Individuals with Disabilities Education Improvement Act of 2004*, the District of Columbia Code, Title 38 Subtitle VII, and the District of Columbia Municipal Regulations, Title 5 [Chapter E30](#). The Due Process Hearing was convened on November 3, 2014, at the District of Columbia Office of the State Superintendent of Education (“OSSE”) Office of Dispute Resolution 810 First Street, NE, Washington, D.C. 20003, in Hearing Rooms 2003.

BACKGROUND AND PROCEDURAL HISTORY:

The student is _____ repeating _____ grade for the third time at a full time self-contained special education program (“School A”) located in a DCPS high school. Pursuant to the IDEA the student is currently classified as a student with an emotional disturbance (“ED”).

Petitioner claims that since the student began attending School A during school year (“SY”) 2012-2013 the student has wandered the halls, left the school building, had numerous suspensions, been sent home from school without formal suspension and has made no educational progress.

On January 31, 2013, the student’s IEP team met and developed an individualized educational program (“IEP”) that required that she receive 31 hours per week of specialized instruction outside of the general education setting and 60 minutes per week of behavioral support outside of the general education setting.

On August 2, 2013, Petitioner filed a due process complaint (case number 2013-0434) in which she claimed among other things DCPS failed to provide the student an appropriate placement and an appropriate IEP. The complaint resulted in a Hearing Officer’s Determination (HOD) issued on September 27, 2013.

The Hearing Officer concluded that the evidence presented did not support a finding that School A was an inappropriate placement for the student. He dismissed that claim without prejudice. The Hearing Officer concluded that the student was denied a free appropriate public education (“FAPE”) because her January 31, 2013, IEP did not include appropriate supports and interventions based upon a current functional behavioral assessment (“FBA”). The Hearing Officer granted as relief an independent FBA and ordered DCPS to reconvene the student’s IEP team to review the FBA, revise the student’s IEP as appropriate and to identify an appropriate placement.

On January 24, 2014, DCPS convened an IEP meeting to review the independent FBA and review the student's IEP and placement. Petitioner alleges that during the January 24, 2014, meeting the student's educational advocate raised concerns about the student's behavioral intervention plan ("BIP") being inappropriate and the team had little discussion of the student's IEP, but advised the advocate that they would have an IEP discussion during an upcoming meeting in a few weeks.

DCPS issued a new IEP for the student dated January 22, 2014, that prescribed 31 hours of specialized instruction outside of the general education setting, 2 hours per month of speech/language services and 240 minutes per month of behavioral support services.

The IEP team met again on March 28, 2014, to re-establish the student's eligibility for special education. Petitioner asserts that despite a discussion that included the student's teacher's comments that the student was failing all of her classes, that she was fighting and skipping classes, DCPS claimed School A was appropriate and could implement the student's IEP.

On April 9, 2014, the student's IEP was amended to include transportation services. On September 22, 2014, DCPS convened a meeting to discuss the student behaviors including a fight she has allegedly been in that occurred just outside the school building.

Petitioner filed this due process complaint on September 24, 2014. Petitioner asserted that DCPS denied the student a FAPE by: (1) failing to develop an appropriate IEP on January 24, 2014, and April 9, 2014, and (2) failing to provide the student with an appropriate placement and/or location of services at School A from January 24, 2014, to the present. Petitioner now seeks as relief an order requiring DCPS fund the student's tuition and transportation at a non-public day school, "School B," that DCPS convene an IEP meeting to revise the student's IEP and that DCPS fund compensatory education.

DCPS filed a timely response to the complaint on October 3, 2014. DCPS denied any alleged violation(s) and denied that it failed to provide the student with a FAPE. DCPS asserted that during the January 2014 IEP meeting, DCPS updated the student's IEP and BIP; the IEP also reflects transportation for the student because she had moved outside of School A's boundary; the student's January 2014 and April 2014 IEPs provide for specialized instruction outside of the general education setting and the student is not in need of a "separate day school".

A resolution meeting was held on October 6, 2014. The case was not resolved. The parties did not mutually agree to proceed to hearing. The 45-day period began on October 24, 2014, and ends [and the HOD is due] on, December 8, 2014.

The Hearing Officer convened a pre-hearing conference on October 17, 2014, and issued a pre-conference order on that day outlining, inter alia, the issues to be adjudicated.

ISSUES: ²

The issues adjudicated are:

1. Whether DCPS denied the student a FAPE by failing to develop an appropriate IEP on January 24, 2014, and April 9, 2014, because the IEPs: (a) do not provide for a sufficiently restrictive LRE³ in a separate day school and (b) the goals are not individualized to the student's ability levels, need for remediation, and lack of academic progress.
2. Whether DCPS denied the student a FAPE by failing to provide the student with an appropriate placement and/or location of services from January 24, 2014, to the present as School A is an inappropriate placement/location for this student.

RELEVANT EVIDENCE CONSIDERED:

This Hearing Officer considered the testimony of the witnesses and the documents submitted in the parties' disclosures (Petitioner's Exhibits 1 through 49 and Respondent's Exhibits 1 through 6) that were all admitted into the record and are listed in Appendix A.⁴ Witnesses are listed in Appendix B.

FINDINGS OF FACT: ⁵

1. The student is _____ with a disability classification of ED. She attends School A where she began attending during SY 2012-2013. She is repeating the _____ grade for the third time. (Parent's testimony, Petitioner's Exhibit 6-1)

² The alleged violation(s) and/or issue(s) listed in the complaint or in the pre-hearing order may not directly correspond to the issues outlined here. The Hearing Officer restated the issue(s) at the outset of the hearing and the parties agreed that these were the issue(s) to be adjudicated.

³ Least Restrictive Environment: § 300.114 (2): Each public agency must ensure that—(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

⁴ Any items disclosed and not admitted or admitted for limited purposes was noted on the record and summarized in Appendix A.

⁵ The evidence that is the source of the Finding of Fact ("FOF") is noted within a parenthesis following the finding. The second number following the exhibit number denotes the page of the exhibit from which the fact was extracted. When citing an exhibit that has been submitted by more than one party separately the Hearing Officer may only cite one party's exhibit.

2. On January 25, 2013, the student was administered the Kaufman Test of Educational Achievement II (“KTEA II”). In broad math the student received a composite score of 66, placing her in the lower extreme range for her age group. The data suggested that the student was performing at the 2.6 grade level for math concepts and applications and at the 3.2 grade level for math computation. In broad reading the student received a composite score of 72, placing her in the below average range for her age group. She was then performing on a 3.5 grade level in the areas of letter and word recognition and of reading comprehension. (Petitioner’s Exhibit 6-4, 6-6)
3. On August 2, 2013, Petitioner filed a due process complaint (case number 2013-0434) in which she claimed among other things DCPS failed to provide the student with a FAPE by failing to provide an appropriate placement and an appropriate IEP. The complaint resulted in a HOD issued on September 27, 2013. (Petitioner’s Exhibit 44)
4. In that HOD the Hearing Officer concluded that the evidence presented did not support a finding that School A was an inappropriate placement for the student; but the Hearing Officer dismissed that claim without prejudice. The Hearing Officer concluded that the student was denied a FAPE because her January 31, 2013, IEP did not include appropriate supports and interventions based upon a current FBA. The Hearing Officer granted as relief an independent FBA and ordered DCPS to reconvene the student’s IEP team to review the FBA, revise the student’s IEP as appropriate and to identify an appropriate placement. (Petitioner’s Exhibit 44)
5. In accordance with the September 27, 2013 HOD, the student received an independent FBA. On January 24, 2014, DCPS convened an IEP meeting to review the FBA, develop behavior interventions and supports related to the student’s behavior and class attendance and to revise the student’s IEP as appropriate. (Petitioner’s Exhibits 3, 7, 39)
6. The student’s parent and her educational advocate participated in the January 24, 2014, meeting. DCPS reviewed the independent FBA and reviewed the student’s BIP. The student’s educational advocate raised concerns about the student’s BIP being inappropriate and too ambitious. The student’s educational advocate believes the student’s academic goals are not directed to her weaknesses and expressed those concerns during the meeting. Nonetheless, there was little discussion of the BIP or the student’s IEP and no changes were made to the IEP based on what the advocate shared. The team agreed to reconvene in a few weeks when the student’s eligibility was to be updated and determine if the BIP was working and to review the student’s IEP. Within a week of the meeting the student was engaged in fight at school and was made to stay home for few days. (Witness 4’s testimony, Petitioner’s Exhibit 7, Respondent’s Exhibit 4)
7. DCPS issued a new IEP for the student dated January 22, 2014. This IEP required the student to receive 31 hours of specialized instruction outside of the general education setting, 2 hours per month of speech/language services and 240 minutes per month of behavioral support services. The IEP included goals in the areas of math,

reading, written expression, communications, and emotional, social and behavioral development. The present levels of performance (“PLOP”) indicate the student’s academic progress has been hindered by numerous peer conflicts, tardiness to school/class, inconsistent attendance, and frequent early departures from school due to behavior outbursts. (Petitioner’s Exhibit 6)

8. The IEP team met again on March 28, 2011. DCPS gave Petitioner a document tracking the student’s class attendance and elopements. The data indicated the student had been absent 5 of 13 class sessions. The School A staff spoke about the student’s behavior and the student’s academic performance. The parent and her advocate stated during the meeting they did not believe the school was an appropriate program for the student. Despite the discussion that included the student’s teacher’s comments that the student was failing all of her classes, that she was fighting and skipping classes, DCPS claimed School A was appropriate and could implement the student’s IEP. (Witness 3’s testimony, Petitioner’s Exhibit 12, Respondent’s Exhibit 6)
9. On April 9, 2014, the student’s IEP was amended to add transportation services. (Petitioner’s Exhibit 13-1)
10. At School A the student regularly wanders the halls, leaves the school building, has been suspended and has made little educational progress since attending School A. (Parent’s testimony, Student’s testimony, Petitioner’s Exhibit 18-3)
11. Prior to the second semester of SY 2014-2015, the student had earned only 2 credits toward high school graduation and had failed 8 of the 10 courses she had taken at School A. (Petitioner’s Exhibit 23-8, 23-9, 23-10)
12. By the second semester of SY 2013-2014 the student was able to pass 5 courses with a grade of “D” but failed 4 courses. She has now earned 7.5 credits toward graduation. (Petitioner’s Exhibit 24-1)
13. From January 2014 through May 2014 the student was absent a total of 34 days, suspended 6 days and tardy numerous other days. At the end of SY 2013-2014 DCPS initiated truancy proceeding for the student. (Petitioner’s Exhibits 16, 18-7, 18-8)
14. From the start of SY 2014-2015 through September 22, 2014, the student has been absent more than half the time. She has demonstrated the same behaviors and is not making any academic or behavioral progress. (Witness 3’s testimony, Petitioner’s Exhibit 22-1)
15. On September 22, 2014, DCPS convened a meeting to discuss the student. Petitioner believed the meeting was called to discuss a fight the student had with another School A student. However, when Petitioner arrived for the meeting DCPS advised her that they wanted to discuss a “safety transfer” for the student. The student’s parent stated that she was not requesting a safety transfer for the student. Despite the discussions by the School A staff that the parent might want to consider a different school for the student, the School A staff took no appropriate action to secure a different and

appropriate school for the student. (Witness 3's testimony, Petitioner's Exhibit 14, Respondent's Exhibit 5)

16. The student has learned little since attending School A and she complains that there are too many students and the students fight a lot. On occasions when her behavior has been appropriate she is allowed to take lunch in the main school building cafeteria with students from the full high school. Often this is when altercations between students occur. Since the student has attended School A she has been in fights with students in her self-contained program as well as students not in her program who attend the high school. (Student's testimony)
17. The student has been interviewed by and admitted to School B, a private special education day school. School B currently has 37 students and is licensed to serve 75. There 21 students in the high school division with 3 homerooms grouped by age. All classes have a certified special education teacher and an instructional assistant to help with behavior management. There is a school wide behavior management system. There are three licensed clinical social workers on staff who provide services. The maximum number of students in a class is 10 but most classes have 8 or 9 students. School B can provide the student with a DCPS high school diploma and School B holds a certificate of approval ("COA") from OSSE. The cost of tuition is approximately \$43,000 annually and has been approved by OSSE. Related services are billed separately at hourly rates. (Witness 2's testimony, Petitioner's Exhibit 48)
18. The student has had a learning ability evaluation at Lindamood-Bell. The evaluation indicates the student is operating from the third to fifth grade equivalent in reading components and at a mid third grade equivalent in math. The evaluation recommends the student have 2 hours per day for 5 days per week of daily instruction at an hourly cost of \$115 for 20 to 24 weeks to gain a year's worth of academic progress. (Witness 1's testimony, Witness 2's testimony, Petitioner's Exhibit 43)
19. The parent's educational advocate proposed a compensatory education plan to compensate the student from the date the last HOD was issued to present. Petitioner is seeking 240 hours of Lindamood Bell instruction that can be provided 2 hours per day, 5 days a week for 24 weeks and transportation to and from the Lindamood-Bell Washington, D.C. Center. In addition Petitioner is seeking 50 hours of independent counseling or mentoring to address the student's lack of motivation, poor self esteem and low frustration tolerance that has come from not having an appropriate placement and continuously failing ninth grade. (Witness 4's testimony, Petitioner's Exhibit 1)

CONCLUSIONS OF LAW:

Pursuant to IDEA §1415 (f)(3)(E)(i) a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education ("FAPE").

Pursuant to IDEA §1415 (f)(3)(E)(ii) in matters alleging a procedural violation a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies impeded the child's right to FAPE, significantly impeded the parent's opportunity to participate in the decision making process regarding provision of FAPE, or caused the child a deprivation of educational benefits. An IDEA claim is viable only if [DCPS'] procedural violations affected the student's substantive rights." *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006)

34 C.F.R. § 300.17 provides:

A free appropriate public education or FAPE means special education and related services that--
(a) Are provided at public expense, under public supervision and direction, and without charge;
(b) Meet the standards of the SEA, including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Sec. 300.320 through 300.324

Pursuant to 5E DCMR 3030.14 the burden of proof is the responsibility of the party seeking relief.⁶ *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528 (2005). In this case the student/parent is seeking relief and has the burden of proof that the action and/or inaction or proposed placement is inadequate or adequate to provide the student with FAPE.

Based solely upon the evidence presented at the due process hearing, an impartial hearing officer must determine whether the party seeking relief presented sufficient evidence to prevail. See DCMR 5-3030.34. The normal standard is preponderance of the evidence. See, e.g. *N.G. V. District of Columbia* 556 f. Sup. 2d (D.D.C. 2008) se also 20 U.S.C. §1451 (i)(2)(C)(iii).

ISSUE 1: Whether DCPS denied the student a FAPE by failing to develop an appropriate IEP on January 24, 2014, and April 9, 2014, because the IEPs (a) do not provide for a sufficiently restrictive LRE in a separate day school and (b) the goals are not individualized to the student's ability levels, need for remediation, and lack of academic progress.

Conclusion: Petitioner sustained the burden of proof by a preponderance of the evidence that the student's IEP as of the March 28, 2014, meeting and the IEP developed thereafter was inappropriate because it did not provide for a sufficiently restrictive LRE in a separate day school. However, the Hearing Officer was not convinced by the evidence that the student's IEP goals are inappropriate.

"The IEP is the "centerpiece" of the IDEA's system for delivering education to disabled children," *D.S. v. Bayonne Bd. of Educ.*, 54 IDELR 141 (2010) (*quoting Polk v. Cent. Susquehanna Intermediate Unit 16*, 853 F.2d 171, 173 (3d Cir. 1988), and the centerpiece for the

⁶ The burden of proof shall be the responsibility of the party seeking relief. Based solely upon the evidence presented at the hearing, an impartial hearing officer shall determine whether the party seeking relief presented sufficient evidence to meet the burden of proof.

implementation of FAPE is the IEP. *S.H. v. State-Operated Sch. Dist. of the City of Newark*, 336 F.3d 260, 264 (3d Cir. 2003).

In *Board of Education v. Rowley* the United States Supreme Court set forth a two-part inquiry for determining whether a school district has satisfied the FAPE requirement. First, the state must have "complied with the procedures set forth in the Act." *Rowley*, 458 U.S. at 206. Second, the IEP that is developed must be "reasonably calculated to enable the child to receive educational benefits." *Rowley*, 458 U.S. at 206-07.

Pursuant to *Schaefer v. Weast*, 554 F.3d 470 (U.S. App. 2009), the Hearing Officer must "focus on the adequacy of the IEP at the time it was created, and ask if it was reasonably calculated at that time to enable the student to receive educational benefits." *Schaefer v. Weast*, 554 F.3d 470 (U.S. App. 2009).

Pursuant to 34 C.F.R. § 300.115: (a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. (b) The continuum required in paragraph (a) of this section must— (1) Include the alternative placements listed in the definition of special education under § 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

The evidence demonstrates that when the student's independent FBA was reviewed on January 24, 2014, the parent's educational advocate voiced concerns that the student's BIP was too ambitious. However, the DCPS team members determined that the BIP should be implemented and that a meeting would be held in a few weeks to review its success or lack thereof. The primary purpose of the January 24, 2014, meeting was to review the student's independent FBA and that was done. Although there was testimony that the advocate attempted to discuss other aspects of the IEP her attempts at the those discussions and her comments about the IEP were not convincing to the Hearing Officer that, as of that meeting, the goals and other aspects of the student's IEP were inappropriate.⁷ It was reasonable for the team to agree for the post FBA BIP to be implemented first. Consequently, the Hearing Office concludes that the student's January 24, 2014, IEP was reasonably calculated at that time, with the development of the student's BIP and its implementation.

However, the evidence further demonstrates that before the team reconvened the student had engaged in a fight at school at by the time the team met in March 2014 the student's behavioral concerns had not abated. The data indicated the student had been absent 5 of 13 class sessions. The School A staff spoke about the student's behavior and the student's academic performance. The discussion included the student's teacher's comments that the student was failing all of her

⁷ The Hearing Officer did not find the testimony regarding the goals convincing because there was evidence that the student's lack of academic progress was substantially more related to her poor attendance and behavioral difficulties.

classes, that she was fighting and skipping classes.⁸ It was clear that by this March 28, 2014 meeting that the student's IEP was inappropriate as to the student's LRE. The evidence demonstrates that the student academic performance and behavior while at School A has been abysmal.⁹ The student has continued to engage in fights with peers in and outside of her special education program and it is clear that her being in a placement that is not totally removed from general education students has not worked and is not appropriate. Although the student has been in a self-contained special education program the level of restriction on the continuum of placements has proved insufficient. The evidence demonstrates the student requires a separate school. Consequently, the Hearing Officer concludes that student's IEP of March 28, 2014, is inappropriate because it does not prescribe that the student be in a separate school.

The evidence demonstrates that School B is a separate school that can provide the student specialized instruction and related services and a behavior management system. The evidence¹⁰ demonstrates that School B can provide the student with educational benefit and meets the requirements that the Hearing Officer must weigh in considering an educational placement proposed by a parent. *Branham v. District of Columbia*, 427 F.3d 7, 12 (D.C. Cir. 2005) The Hearing Officer therefore directs in the order below that DCPS place and fund the student at School B.

ISSUE 2: Whether DCPS denied the student a FAPE by failing to provide the student with an appropriate placement and/or location of services from January 24, 2014, to the present as School A is an inappropriate placement/location for this student.

Conclusion: Petitioner sustained the burden of proof by a preponderance of the evidence that School A was an inappropriate placement for the student as of March 28, 2014.

Although there was evidence that the student had behavioral difficulties leading up to the January 24, 2014, meeting that were documented in the findings of the prior HOD, that HOD concluded that there was insufficient evidence that School A was inappropriate for the student. The HOD granted Petitioner an independent FBA and directed DCPS to review the FBA and review the student's IEP and placement. As discussed above DCPS acted reasonably in developing and then implementing a BIP for the student. It was clear thereafter, that the BIP was unsuccessful in altering the student's behaviors and as stated in the issue above it was clear by the March 28, 2014, meeting that the student's IEP and placement at School A was then inappropriate. Consequently, the Hearing Officer concludes the student is due some compensation for the time she was in an inappropriate placement.

Compensatory Education

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. The inquiry

⁸ FOF #8

⁹ FOF #s 2, 10, 11

¹⁰ FOF # 17

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." *Reid*, 401 F.3d 522 & 524. To aid the court or hearing officer's fact-specific inquiry, "the parties must have some opportunity to present evidence regarding [the student's] specific educational deficits resulting from his loss of FAPE and the specific compensatory measures needed to best correct those deficits." *Id.* at 526.

Petitioner did not sufficiently demonstrate that the amount of compensatory services requested was warranted. Petitioner has asserted the student made no academic progress; however, despite the student's chronic attendance issues as well as her behavioral difficulties during SY 2013-2014 the student was somehow still able to earn 5 credits toward her high school graduation.¹¹ Although Petitioner is seeking compensatory education in the form of 240 hours of tutoring at Lindamood Bell, the period for which that request has been made (from issuance of the prior HOD) is far beyond the period of what this Hearing Officer concludes is the denial of a FAPE to the student found herein.¹² The Hearing Officer concludes from the evidence that the student would benefit from tutoring; however, the requested amount is exorbitant. In addition, it is unclear with the new school placement ordered below that the student be able to tolerate and/or use the level of tutoring that has been requested. Consequently, the Hearing Officer reasons that the student should be compensated with an amount of tutoring, to be used within a reasonable period, that would provide her some progress toward recouping the academic loss she has endured by being assigned to School A since March 28, 2014.¹³

ORDER:¹⁴

1. DCPS shall within ten (10) school days of the issuance of this order place and fund the student at Oak Valley Center and provide transportation services for the remainder of SY 2014-2015.
2. DCPS shall within 30 days of the student arrival at Oak Valley Center convene a meeting to review and update the student's IEP as appropriate including the designation of the student's level of placement on the continuum of educational placements as a separate school.
3. DCPS shall provide the student the following as compensatory education: 75 hours of independent during at the DCPS/OSSE rate to be used at a provider of

¹¹ FOF #s 11, 12, 13, 14

¹² The period from which a violation was measured in the issue(s) was from January 24, 2014, and the period from which a denial was found was from March 28, 2014.

¹³ The Hearing Officer concludes that despite Petitioner's inability to establish appropriate compensatory education, to award nothing would be inequitable.

¹⁴ Any delay in Respondent in meeting the timelines of this Order that are the result of action or inaction by Petitioner shall extend the timelines on a day for day basis.

Petitioner's choice (or the total dollar amount equivalent to be used for Lindamood-Bell tutoring at the Lindamood-Bell rate). Petitioner must use this award by August 30, 2015.

4. All other requested relief is denied.

APPEAL PROCESS:

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. §1415(i)(2).

/S/ Coles B. Ruff

Coles B. Ruff, Esq.
Hearing Officer
Date: December 8, 2014