

DC Office of the State Superintendent of Education  
Office of Compliance and Review  
Student Hearing Office

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**Confidential**

<p>STUDENT<sup>1</sup>, by and through Parent</p> <p>Petitioners,</p> <p>v.</p> <p>District of Columbia Public Schools</p> <p>Respondent.</p>	<p><b>HEARING OFFICER'S DECISION</b></p> <p><b>Date: October 17, 2009</b></p> <p><b><u>Hearing Officer: Wanda I. Resto, Esquire</u></b></p>
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2009 OCT 17 AM 9:18  
STUDENT HEARING OFFICE

<sup>1</sup> Personally identifiable information is attached as Appendix A to this decision and must be removed prior to public distribution.

## I. PROCEDURAL BACKGROUND

On August 3, 2009, parent's counsel filed a Due Process Complaint ("Complaint") against the District of Columbia Public Schools and City Collegiate Public Charter School<sup>2</sup> ("Respondents"), pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. §1415(c)(2)(B)(i)(I) alleging the Respondent denied the Student a Free Appropriate Public Education (FAPE) during the 2007-08 and the 2008-09 school years.

The Petitioner requested that the Respondents be deemed to have denied the Student a FAPE, for failing to timely evaluate the student, failing to provide the student with an appropriate IEP and failing to provide the student with an appropriate placement. The parent also requested that the Hearing Officer order the Respondent to provide the parent a placement meeting to make an appropriate placement determination; to convene a multidisciplinary team ("MDT") meeting to develop an appropriate individualized education program ("IEP") and to develop a compensatory education plan. Finally, the parent requests that the Hearing Officer order DCPS and ██████████ to award the student with a compensatory education plan that will remedy the missed services for the last two school years and to provide the educational benefits that would have been provided had the student been timely evaluated.

On August 12, 2009, the Respondent CCPCS filed a Response to the Parent's Administrative Due Process Complaint and asserted the student was evaluated by the CARE Center in March 2008 and diagnosed with a specific learning disability and it is providing the student with a reading remediation program.

On August 12, 2009, the DCPS filed a Response to the Parent's Administrative Due Process Complaint, and Motion to Dismiss the Complaint. The Respondent asserted the student was not registered in a DCPS during the 2007-2008 school year. The Respondent further asserted that the Petitioner rejected a placement offered by the DCPS and enrolled the student in Holy Comforter, and therefore the student was not entitled to FAPE by DCPS.<sup>3</sup> The Respondent contends that the Petitioner chose to place the student in a Charter school which is its own Local Education Agency (LEA) and the DCPS is not responsible for ensuring that the requirements of the IDEIA. The Respondent further asserted that the DCMR 3019.3 states it is the LEA Charter's responsibly. It's the contention of the Respondent that the Petitioner requested from the PCS on 12/2/8 and DCPS is not obligated to act in response to that request.

A September 27, 2009 Order *inter alia* court granted the Respondents Motion to Dismiss allegations in the Complaint extending beyond the two year statute of limitations; and that by 1:30 PM on September 24, 2009, the Petitioner file and E-mail the Hearing Officer, a Motion in Support of maintaining the DCPS in the Complaint. The parties filed their corresponding Motions and Responses.

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<sup>2</sup> D.C. Code § 38-1802.02(19) the DCPS does not serve as the charter school's Local Education Agency (LEA) for purposes of IDEIA.

<sup>3</sup> 34 CFR 200.137a

A hearing was held on October 7, 2009. The Petitioner presented a disclosure letter dated October 1, 2009 listing nine witnesses; three witnesses testified. The Respondent presented a disclosure letter dated October 1, 2009 identifying five witnesses and to which fifteen documents were attached, labeled DCPS 1 through 15; witness testified. The Respondent CCPCS presented a disclosure letter dated October 1, 2009, listing five witnesses and attaching twenty-two documents labeled CC 1 through 22.<sup>4</sup>

The hearing was conducted in accordance with the rights established under the IDEIA and the implementing regulations, 34 CFR Part 300; and Title 5 District of Columbia Municipal Regulations (D.C.M.R.), Chapter 30, including §§3029-3033, and the Special Education Student Hearing Office Due Process Hearing Standard Operating Procedures (“SOP”).

## II. ISSUE(S)

1. Did the Respondents fail to adhere to the 120 day DCMR deadline to test and determine the student eligible for services for dyslexia?
2. Whether the Respondents failed to develop an appropriate individualized education plan (“IEP”) for the student?
3. Whether the Respondent failed to provide an appropriate placement for the 2007-08 and 2008-09 school years?
4. Did the Respondent fail to provide the student educational, related and special education services during the 2007-08 and 2008-09 school years?
5. Was the Student denied a FAPE?

## III. FINDINGS OF FACT

1. Both the parent and the Student reside within the District of Columbia. The Student is eligible for special education services as a student with a Specific Learning Disability.<sup>5</sup>
2. The Petitioner through counsel made a formal request for DCPS to evaluate the student for dyslexia, via a 12/06/07 letter, written by Counsel.<sup>6</sup> The process at the CARE Center requires the Petitioner make a formal request for an evaluation, a Student Evaluation Plan is then prepared; consent is obtain from the parents and the areas of concern as mentioned by parents and others are evaluated. If the criterion for a disability is met, then an IEP is developed. Dyslexia is a reading disorder and not a disability classification for special education purposes.<sup>7</sup>

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<sup>4</sup> The hearing officer sustained DCPS’ objections to Petitioner’s proposed exhibit numbers 10 through 23, it had not received copies of the documents. The hearing officer accepted the substitution of P#2 for CCPCS # 24, 06/02/09-IEP a complete copy of the IEP.

<sup>5</sup> Parties’ stipulation.

<sup>6</sup> P-23.

<sup>7</sup> Testimony of the School Psychologist -M. Stuart; and the Case Manager - Angel Hunter.

3. On March 13, 2008, one hundred and four days later after the date of the December 5, 2007 letter, DCPS conducted a comprehensive psychological evaluation the Student. The evaluation was conducted to determine his eligibility as a child with a disability per the Petitioner's request.<sup>8</sup>
4. On May 20, 2008, an eligibility meeting was conducted. At that meeting, the student's March 18, 2008 evaluation was reviewed with the IEP team, which included both of the student's parents. Petitioner's attorney was also present at this meeting. At that MDT/IEP meeting, the principal of [REDACTED] indicated that the student's writing is not backward; the O/T specialist also indicated that the student's writing had difficulty completing a written task; however was able to complete the assignment. A comprehensive psychological evaluation of the student was discussed; the Petitioner disagreed with the evaluation because she felt that it did not evaluate the student for dyslexia and requested that the Care Center test the student for dyslexia. The IEP team informed the Student's parents that dyslexia is included under the diagnosis of a reading disorder and the eligibility category of specific learning disabled. The Student was determined eligible for special education as a child with a disability because he had a Specific Learning Disabilities in written expression, basic reading skills, reading comprehension and mathematics reasoning and an IEP was developed providing 15 hours weekly of specialized instruction in a special education setting. At the meeting the parent was told to visit the [REDACTED] the school offered as a potential placement; the parents insisted they did not want a DCPS.<sup>9</sup>
5. Both parent's testified, that at the May 2008 meeting, they expressed their concerns as to the student's reading and backwards writing, his inconsistency with homework and his slow processing speed. The Mother testified that she did not and does not want any DC public school for the student; and that he has not been enrolled in a DCPS for the past 3 or 4 years. Had [REDACTED] been offered at the May 2008 meeting she would have considered it an appropriate placement. Neither of the parents visited [REDACTED] the school offered by the DCPS. The Father testified that he had safety concerns about the school. She has seen improvement in the student's school work.<sup>10</sup>
6. On 12/5/08, the Petitioner sent a letter to [REDACTED] requesting that the school evaluate the student to address his suspected dyslexia.<sup>11</sup> ..... The student was evaluated for dyslexia on 01/22/09, the Neuropsychological evaluation which was funded by DCPS and reviewed by the MDT/IEP team on 06/2/09.<sup>12</sup> The student has Dyslexia and is a student with Attention Deficit Hyperactivity Disorder. The IEP must integrate the student's special reading program with the rest of his regular classroom work and his reading progress must be monitored frequently.<sup>13</sup> The evaluation indicates the student's dyslexia requires small group, direct reading instruction using an Orton-Gillingham based reading program."

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<sup>8</sup> Testimony of M. Stuart and Petitioner; DCPS-13; and P-10.

<sup>9</sup> The parent signed in agreement with the services in the IEP; P-6; testimony of the Case Manager and of the Mother.

<sup>10</sup> Petitioners' testimony.

<sup>11</sup> Testimony of the Education Advocate; the Special Education Coordinator for City Collegiate 2008-2009; and CC-5.

<sup>12</sup> DCMR 3019.4

<sup>13</sup> 1/22/09 Neuropsychological Evaluation and Dr. Ballard's testimony.

(Although this evaluation includes the term dyslexia, it also states that there is no specific diagnosis in the Diagnostic and Statistical Manual, Fourth Edition for dyslexia; rather, dyslexia falls under the diagnosis of a reading disorder. <sup>14</sup>

7. On December 12, 2008, [REDACTED] responded to the Petitioner's request for a dyslexia evaluation indicating that the requested evaluation was not required by law because the student had already been tested only eight months earlier<sup>15</sup>, and was unnecessary in any event because dyslexia is not a disability category distinct from the "specific learning disability" with which he had been diagnosed, and for which he had been determined eligible, in May 2008. On January 22, 2009 the requested evaluation was conducted. Petitioner thereafter made no further testing demands of [REDACTED].<sup>16</sup>
8. The [REDACTED] received the evaluation on February 2, 2009, it sent a letter to the Petitioner inviting to schedule a meeting to review the report on February 9; and the Petitioner's counsel indicated the dates of the invitation were too soon. The next day [REDACTED] sent a second invitation, offering three different dates more than two weeks later (February 23 at 9:30am, February 25 at 1:30pm, and February 26 at 1:30pm). The Education Advocate confirmed that she received the invitations, but, according to the Petitioner, never informed Petitioner of those invitations. Petitioner never responded to the February 10 invitation nor requested that [REDACTED] review the January 2009 neuropsychological evaluation report *until May 12, 2009*, at the annual MDT meeting to review and update the existing IEP. <sup>17</sup>
9. A MDT meeting to review the evaluation was held on June 2, 2009 and, with the full input of the parents and the determination was made by all that no material change to the content of the student's IEP was needed. The student's present level of educational performance indicates the student has received targeted reading instruction to address his dyslexia through the program Language to Literacy which focuses on phonics and phonetics. He has greatly improved his fluency and is receiving specialized instruction in reading comprehension to address his reading based learning disability (dyslexia). The Petitioner signed in agreement with the IEP.<sup>18</sup>
10. Both [REDACTED] who was qualified as an expert in special education assessment, and [REDACTED] who was qualified as an expert in clinical psychology, testified that there is no material difference between the student's March 18, 2008 evaluation and his January 22, 2009 evaluation. There is no specific assessment to diagnose dyslexia. Further, the later

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<sup>14</sup> CC-10.

<sup>15</sup> A reevaluation may not occur more than once a year unless the parent and LEA agree otherwise. 34 C.F.R. §300.303(b)(1).

<sup>16</sup> Testimony of Ashley Johnson; CC-6; and CC-10.

<sup>17</sup> Testimony of Samar Malik; Testimony of Tonya Pettis.) Testimony of Ashley Johnson; CC-10-1.) (CC-12-1.) (CC-13-1.) Pettis conceded that her lawyers had instructed City Collegiate to communicate with Petitioner *only* through her counsel's office. (CC-5-2; Testimony of Tonya Pettis; Testimony of Ashley Johnson.)

<sup>18</sup> Testimony of Ashley Johnson and CC-24.

evaluation did not provide information to the IEP team that required it to make substantial changes to the Student's IEP.<sup>19</sup>

11. There is no "dyslexia" certification, (ii) "certified" special education teachers are appropriately trained to provide services to students with dyslexia, as well as any other reading disability, and (iii) [REDACTED] special education teachers were so certified.<sup>20</sup>
12. The Student was never enrolled in DCPS, but in a religious school in the school year 2007-2008 and then enrolled in a public charter school.<sup>21</sup>
13. The Petitioner provided [REDACTED] with a copy of the May 2008 IEP in August 2008 at the start of the school year. The [REDACTED] provides the special educational services and accommodations required by the IEP in a "combination" setting. The services include fifteen weekly hours of special education in reading, reading comprehension, spelling, written expression, and mathematics.<sup>22</sup>
14. The student is receiving his 15 hours weekly in specialized instruction and during assessments of the student's progress done in February 2009 it demonstrated an increase in grade level in less than 3 months of receiving the services. During the June 2009 MDT meeting counseling was added to the student's IEP. A combination setting is appropriate for the student, and he was progressing in that setting. The student prefers to stay in the general education classes although he does go to his one-to-one literacy classes and is receiving one hour with the reading specialist. The student's grades are B, C and A.<sup>23</sup>
15. The student's father confirmed that between the student's first day of school at [REDACTED] in August 2008 and the present, the student's progress has been "significant," especially in the areas of writing and reading comprehension and is receiving 45 to 60 minutes of counseling as prescribed in his IEP.<sup>24</sup>
16. The student's reading test demonstrated that he went up in grade level. The Reading Tutors are certified in special education and in the Orton-Gillingham an intervention program utilizing the National Reading Panel approved. The student was receiving (and continues to receive) instruction under that approach at [REDACTED] and he had been receiving it since October 2008.<sup>25</sup>

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<sup>19</sup> Testimony of Stephen Quinn and Stuart; and who was qualified as an expert in clinical psychology

<sup>20</sup> Testimony of Ashley Johnson; and of Delila Pinckney.

<sup>21</sup> Testimony of the Petitioner.

<sup>22</sup> Testimony of the Petitioner; and of Ashley Johnson.

<sup>23</sup> Testimony of Delila Pinckney.

<sup>24</sup> Testimony of Ashley Johnson; and of Dr. Stephen Quinn. (Testimony of Leonard Johnson.)

<sup>25</sup> (Testimony of Ashley Johnson; and CC-6.

## IV. CONCLUSIONS OF LAW

### Preliminary Matters

The Hearing Officer determined that the student was not a student of ██████████ during the 2007-2008 school year. Consequently the Respondent ██████████ is granted its request for a Directed Judgment on all claims against it to the extent those claims related to the 2007-2008 school year. The Respondent DCPS is denied its request for summary judgment. At the hearing's outset, the Petitioners withdrew their request for a placement.

### FAPE Determination

The Respondent is required to make a FAPE available to all children with disabilities within the jurisdiction of the District of Columbia.

The IDEIA regulations at 34 C.F.R. § 300.17 define a FAPE as "special education and related services that are provided at public expense; meet the standards of the SEA; include an appropriate pre-school, elementary school, or secondary school; and are provided in conformity with an individualized education program (IEP)."

### Burden of Proof

Pursuant to 5 D.C.M.R. § 3030.3, the burden of proof shall be the responsibility of the party seeking relief, in this case the parent. It requires that 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 that the action and/or inaction or proposed placement is inadequate or adequate to provide the student a FAPE.

The Respondents met their legal obligation under the IDEIA.

### Failure to evaluate

Petitioner alleged that her counsel's December 5, 2007 letter was a referral for an evaluation or assessment. The Petitioner argued that although enrolled in a public charter school, the student's IEP followed him there and thus the charter school was put on notice of this continuous request to DCPS to conduct an evaluation for dyslexia. It is the contention of the Petitioner that the DCPS continues to be responsible for the child if the child enrolled in another LEA Charter during the 120 days for evaluating.<sup>26</sup>

States<sup>27</sup> receiving IDEA grants must ensure that "[a]ll children with disabilities *residing* in the State ... are identified, located, and evaluated." 20 U.S.C. § 1412(a)(3)(A) (emphasis added). The plain

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<sup>26</sup> DCMR 3019.4.

<sup>27</sup> "State" includes the District of Columbia. 20 U.S.C. § 1401(31). 53 IDELR 47 *Phyllis JONES, parent and next friend of A.J., a minor, Plaintiff, v. DISTRICT OF COLUMBIA, et al., Defendants* U.S. District Court,  $\leq$ District of Columbia 08-01434 (HHK) August 19, 2009.

language of the statute requires the state to evaluate the student so long as he is a resident of the District of Columbia, regardless of whether he is in a public school, a private school, or no school at all.<sup>28</sup>

The IDEIA provides that the LEA where the private elementary schools and secondary schools are located, after timely and meaningful consultation with private school representatives, is responsible for conducting the child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA.<sup>29</sup> In this case, D.C. is both the place where the student was enrolled in a private school and the residing state. The evidence was that the parent requested in December 2007 an initial request for an evaluation. Thus, DCPS effectively was on notice of a child find obligation on 12/07.

Pursuant to D.C. Code § 38-2561.02 initial evaluations are to be completed “within 120 days from the date that the student was **referred** for an evaluation.” Emphasis added. While D.C. Mun. Regs. Tit. 5 § 3004.1 (b) (1) and (c), states that a referral for evaluations can be made by the parent, in writing, to the school principal. See also *Kruvant v. District of Columbia*, CA No.: 03-1402 (JDB) (D.D.C. 2005)

The IDEIA contains provisions related to, and benefits available to, children with disabilities who are enrolled by their parents in private schools, including religious schools. In *IDEA*, the benefits available to them differ from the benefits for children with disabilities in public schools.<sup>30</sup>

The DCPS established a process for the identification and evaluation of nonpublic school students through the C.A.R.E. Center. On March 13, 2008, one hundred and four days later after the date of the December 5, 2007 letter, DCPS conducted a comprehensive psychological evaluation of the Student. The evidence was that the C.A.R.E. Center team, convened an eligibility meeting, determined the Student’s eligibility, drafted his IEP and proposed a location of services.

The Petitioner disagreed with the evaluation because she felt that it was not an evaluation for dyslexia, none of the expert witnesses testified that the March 2008 evaluation did not evaluate the Student for dyslexia. Petitioner did not presented any evidence that the use of the term dyslexia in the January 22, 2009 neuropsychological evaluation necessitated any change in the Student’s IEP.<sup>31</sup>

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<sup>28</sup> *Hawkins ex rel. D.C. v. District of Columbia*, 539 F. Supp. 2d 108, 113-114 (D.D.C. 2008) (citing *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 519, 365 U.S. App. D.C. 234 (D.C. Cir. 2005)); D.C. Mun. Regs. tit. 5, § 3002.

<sup>29</sup> 20 U.S.C. §§ 1412(a)(1)(3); 1412(a)(10)(A)(ii).

<sup>30</sup> The regulations at 34 C.F.R. §300.111(a)(1) impose child find responsibilities for parentally-placed private school children attending private schools on the local education agencies (“LEAs”) in whose school districts the private schools are located. Thus, IDEIA is consistent in imposing FAPE requirements on the LEA in the jurisdiction where the child actually resides.

<sup>31</sup> P-5; P-6; DCPS-06 thru 09; testimony of M. Stuart; L. Johnson; S. Quinn; A. Hunter; and Petitioner.

Furthermore, the Petitioner failed to put forth proof of when she provided informed consent for DCPS to evaluate the Child. The evidence was that Respondents did not fail to conduct a timely evaluation of the student. Nor was there evidence that any delay caused the student harm.

**Inappropriateness of 5/20/08 student's IEP and related services.**

According to 20 U.S.C. § 1414 (d)(1)(A)(i) Individualized Education Programs or IEP “means a written statement for each child with a disability that is developed, reviewed, and revised and that includes a statement of the child’s present levels of academic achievement and functional performance, including measurable annual goals, and objectives to meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and meet each of the child’s other educational needs that results from the child’s disability.”

The Respondent proved that on May 20, 2008, an eligibility meeting was conducted. At that meeting, the student’s March 18, 2008 evaluation was reviewed with the IEP team, which included both of the student’s parents. Petitioner’s attorney was also present at this meeting. The IEP team informed the Student’s parents that dyslexia is included in the diagnosis of a reading disorder and the eligibility category of specific learning disabled. The Student was determined eligible for special education as a child with a disability because he had a Specific Learning Disabilities and an IEP was developed providing 15 hours weekly of specialized instruction in a special education setting and the parent signed in agreement. The evidence demonstrated that the Petitioner agreed with the services on the IEP and disagreed with the location of the services.

The Petitioner conceded that the student received all of the special educational services and accommodations required by the IEP. During the hearing the Petitioner identified no specific deficiencies with the implementation of the May 2008 IEP. As an afterthought the Petitioner addresses the alleged failures of the IEP and services in the Closing Statement; however none of Petitioner’s witnesses testified about the contents or desired contents of the IEP. The record confirmed the student was receiving (and continues to receive) instruction utilizing the National Reading Panel approved Orton-Gillingham approach, and that he had been receiving it since October 2008 services focused to address his reading disorder.<sup>32</sup>

The Petitioners did not present any evidence during the hearing that the IEP was not meeting the unique needs of the student.<sup>33</sup> There was no demonstration that material changes

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<sup>32</sup> Testimony of [REDACTED]; and CC-6-1.

<sup>33</sup> Although the Petitioners in their written closing statements, attempt to raise concerns alleging that “the 01/22/09 Neuropsychological Evaluation recommend that the student is in need of Occupational Therapy (“O/T”) to address his difficulty with fine motor skills and visual scanning, neither the 05/20/08 nor the 06/02/09 IEP reflect O/T services for the student. In addition the 03/18/08 Psycho Educational Evaluation notes that as determined by the Beery VMI test, the student’s visual motor integration skills are below age level, yet no O/T services were recommended by the evaluator.” However, the Petitioner did not raise the issue at the hearing and failed to present evidence towards the student’s specific needs not addressed by the IEP.

to the program set forth in the existing IEP were necessary. The Petitioner signed off on the new June 2, 2009 IEP without reserving or qualifying her agreement in any manner

Finally, services are not determined by the disability category a child has. Services are determined by the student's educational needs and it was demonstrated that the student's needs were being met and student was progressing.

### **Placement**

IDEIA regulations require when determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. It also states that the determination of the educational placement of a child with a disability must be based on a child's IEP.<sup>34</sup>

The Student was never enrolled in DCPS, but in a religious school. Petitioner's choice to enroll him in a religious school denied him of the right to educational benefits from DCPS.<sup>35</sup> Later the student was enrolled in a Public Charter School and the evidence demonstrated the Petitioner believes it is an appropriate educational placement and the student is progressing academically.

The Petitioner did not demonstrate that the student suffered an educational harm or was affected by any procedural violation the DCPS committed. The student did not prove there was an untimely evaluation; nor that the student was deprived the student of educational benefit or that the parent was impeded of an opportunity to participate in the decision making process. The student was not denied a FAPE.

### **Compensatory Education Award**

"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." See, *G. ex rel. RG v. Fort Bragg Dependent Schs.*, 343 F.3d 295, 308 (4th Cir. 2003). More specifically, as the Fourth Circuit has explained, "[c]ompensatory education involves discretionary, prospective, injunctive relief crafted by a court to remedy what might be termed an educational deficit created by an educational agency's failure over a given period of time to provide a FAPE to a student." *G. ex rel. RG*, 343 F.3d at 309

In *Reid v. District of Columbia*, 401 F.3d 516 (D.C. Cir. 2005) the D.C. Circuit held, with respect to compensatory education, that, "In every case, however, the inquiry must be fact-specific and, to accomplish IDEA's purposes, the ultimate award must be reasonably calculated

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<sup>34</sup> 20 U.S.C. 1412(a)(5); and 34 C.F.R. § 300.116.

<sup>35</sup> See 34 C.F.R. § 200.137(a) ("No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.").

to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place.”

The parties must present evidence regarding [the student’s] specific educational deficits resulting from his loss of a FAPE and the specific compensatory measures needed to best correct those deficits. It rejected arbitrary approaches to the award of compensatory education. (Emphasis supplied)

Moreover, there is neither legal basis for an award of compensatory education nor was there a denial of a FAPE to warrant an award of compensatory education.

### V. SUMMARY OF DECISION

The [redacted] correctly asserted that the Petitioner’s entire case against it rested on an assumption: that under applicable law, there is a meaningful distinction between a “specific learning disability” manifesting itself in the areas of reading, writing, and written comprehension, and “dyslexia.” The law recognizes no such distinction, and Petitioner has failed to demonstrate any such distinction, whether in assessment, treatment, or special educational services and accommodations appropriate for education of students identified with such a disability. Accordingly, and for the reasons set forth above all of Petitioner’s claims against [redacted] are dismissed with prejudice. The evidence was that Respondents did not fail to conduct a timely evaluation of the student. There was no evidence that a delay caused the student harm. Furthermore, the Petitioner failed to provide evidence that the student’s was not receiving services to address his unique needs; and failed to prove that that the IEP was inappropriate. The Respondents prevailed on all issues.

### VI. ORDER

**ORDERED**, the Complaint is Dismissed with Prejudice.

This order resolves all matters presented in the Petitioner’s August 3, 2009 due process hearing complaint; and the hearing officer makes no additional findings.

### NOTICE OF RIGHT TO APPEAL

This is the FINAL ADMINISTRATIVE DECISION. An Appeal can be made to a court of competent jurisdiction within ninety (90)-days of this Order’s issue date pursuant to 20 U.S.C. § 1415 (i)(1)(A), (i)(2)(B) and 34 C.F.R. §300.516)

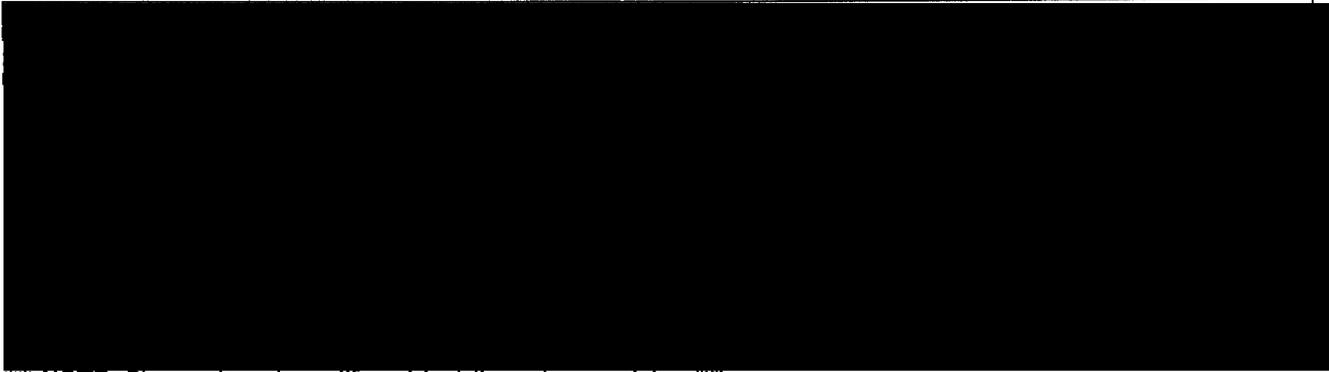


Wanda Iris Resto - Hearing Officer

*Signed: October 17, 2009*

**APPENDIX A**  
**INDEX OF NAMES**  
**In the MATTER OF "Student" V. DCPS**

Student Name:	[REDACTED]
[REDACTED]	[REDACTED]
Student's legal guardian	[REDACTED]
Education Advocate	[REDACTED]
Student /Parent's Representative	Christopher Anwah, Esquire
Special Education Coordinator - 2008/2009 school year	[REDACTED]
Psychologist	[REDACTED]
Case Manager Non Public Unit	[REDACTED]
School Psychologist	[REDACTED]
Special Education Coordinator -	[REDACTED]
DC PS Representative	[REDACTED]
Special Education Coordinator - [REDACTED]	[REDACTED]
Clinical Psychologist	[REDACTED]
CCPCS Representative	[REDACTED]
Attending School	[REDACTED]
Home School	[REDACTED]



\*\* NOTE: Please do not modify subject line when replying \*\*  
\*\* This email was sent by Wanda Resto-Torres <<mailto:Wanda.Resto@dc.gov>>  
\*\*

Counsels Good Day!  
Attached the HOD for KJ. WResto

HEARING OFFICE  
STREET HEARING OFFICE  
2009 OCT 19 AM 9:33