

Stephen E. Oshrin, Ph.D., CCC-A
IDEA Hearing Officer

February 10, 2009

To: Ms. [REDACTED], Parent
Mr. [REDACTED], Director of Special Education
Leflore County School District

From: Stephen E. Oshrin, Ph.D., CCC-A
Hearing Officer

Copy: Jean Bounds, Due Process/Mediation Coordinator
Mississippi Department of Education

RE: Due Process Proceedings for [REDACTED]

Pursuant to the due process request filed by Ms. [REDACTED] on January 12, 2009, a pre-hearing conference telephone conference was held at 9:00 a.m. on February 10, 2009. Participants were

- Ms. [REDACTED], parent of the child
- Ms. [REDACTED], advocate for the child
- Mr. [REDACTED], Director of Special Education
- Mr. [REDACTED], Principal, Claudine Brown Elementary School

The purpose of the pre-hearing conference was to identify the issues to be addressed at the due process hearing scheduled for February 26, 2009. In the *Request for Due Process Hearing* filed by Ms. [REDACTED] on January 12, 2009, she stated the reason for the due process request as "*On May, 21, 2008, district refuse a parent request for evaluation, on December 5, 2008, the district was in receive of due process, on January 8, 2009 district refuse to address because I did not file with the SEA.*"

When the hearing officer attempted to confirm that the primary issue for the due process hearing was the district's failure to evaluate the child's eligibility for services under IDEIA, Ms. [REDACTED] stated that evaluation was not the issue. She stated that the issue was the failure of the district to provide procedural safeguards, although Mr. [REDACTED] indicated that the parent had been provided with information about procedural safeguards. When the hearing officer informed the parent that it would be necessary for the district to evaluate the child in order determine the child's eligibility

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for services under IDEIA, she again emphasized that the issue was not the district's failure to identify, but rather confirming the district's alleged failure to provide procedural safeguards.

The pre-hearing concluded at 9:37 a.m., without identifying any hearable issues under IDEIA. The parent maintained that the original issue of failure to identify was not to be at issue in the due process hearing, but rather it was to be the failure of the district to provide procedural safeguards. The district maintained, and the parent did not refute, that information about procedural safeguards was provided to the parent. Further, when asked if the parent would allow the district to evaluate the child for eligibility, the parent did not answer; she reiterated that she requested the due process hearing not to compel the district to evaluate the child, but rather to establish that the district failed to provide procedural safeguards.

THEREFORE, finding that no hearable issues exist pertaining to the due process request filed on January 12, 2009, it is the decision of the hearing officer that the due process proceedings be dismissed with prejudice.

Signed this 10 day of February, 2009:



Stephen E. Oshrin, Ph.D., CCC-A
IDEIA Hearing Officer

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