This is a redacted version of the original decision. Select details have been removed from the decision to preserve anonymity of the student. The redactions do not affect the substance of the document.

Pennsylvania

Special Education Hearing Officer

DECISION

Child's Name: B.L.

Date of Birth: [redacted]

Date of Hearing: 12/14/16

CLOSED HEARING

ODR File No. 18443-16-17-AS

Parties to the Hearing:	Representative:
Parents Parent[s]	Parent Attorney Pro Se
Local Education Agency Owen J. Roberts School District 3650 St. Peters Road Elverson, PA 19465	LEA Attorney Sharon Montanye Esq. Sweet, Stevens, Katz & Williams 331 Butler Avenue New Britain , PA 18901
Date of Decision:	January 9, 2017
Hearing Officer:	William Culleton Esq.

INTRODUCTION AND PROCEDURAL HISTORY

Student[1] is an eligible child with a disability pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1401 et seq. (IDEA). Student lives within the respondent District and is of school age. (NT 10-11.) Student is identified under the IDEA as a child with the disabilities Intellectual Disability, 34 C.F.R. §300.8(c)(6)[2], and Autism, 34 C.F.R. §300.8(c)(1). (NT 10.)

The Parents challenge the timing of the District's provision to them of a Notice of Recommended Placement/Prior Written Notice form (NOREP) on November 4, 2016. The District asserts that it provided the NOREP when it did because it was obligated to comply with the Order of a Pennsylvania hearing officer dated September 30, 2016 (Order), which required it to provide the NOREP by November 30, 2016[3]. Parents argue that the District should not have issued the NOREP when it did, because this effectively reduced Parents' time within which to appeal the hearing officer's decision.

The hearing was completed in one session. I have determined the credibility and reliability of all witnesses, and I have considered and weighed all of the evidence of record. I conclude that the District's issuance of the NOREP on November 4, 2016 was appropriate.

ISSUES

1. Did the District appropriately issue the NOREP on November 4, 2016?

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[1] Student, Parents and the respondent District are named in the title page of this decision; personal references to the parties are omitted in order to guard Student's confidentiality. Because the Student's father engaged in most of the transactions with the District, he is referred to below as "Parent" in the singular.

[2] Although the IDEA category is labeled "mental retardation", 34 C.F.R. §300.8(c)(6), in Pennsylvania, this classification is referred to as "intellectual disability" in keeping with current nomenclature, as recognized by the American Psychiatric Association and the American Association on Intellectual and Developmental Disabilities. See generally, Commonwealth v. Hackett, 99 A.3d 11, 49 n. 2, 50 (Pa. 2014)(Baer, dissenting)(citing recognizing entities).

[3] It is not within my jurisdiction to interpret the terms of the Order, as explained below.

2. Did the NOREP form presented to Parent require Parent to consent to services?

3. Did the previous hearing officer have legal authority to set deadlines for compliance with his order?

FINDINGS OF FACT

1. Student is mid-teen aged. Student is diagnosed with autism and intellectual disability, and is classified as a child with those disabilities for purposes of the IDEA. (NT 10.)

2. Student attends an approved private school (APS) as a day student, placed there by the District pursuant to Student's eligibility for special education. Student has attended the same APS for more than one year, and the District has proposed to maintain Student in that placement and location. (NT 10; P 3.)

3. There is a history of litigation between the parties on a number of disagreements between them, some of which included due process requests. (NT 48-50.)

4. On September 30, 2016, Pennsylvania Hearing Officer Michael J. McElligott, Esquire, issued the Order pursuant to a due process hearing between the present parties, apparently directing the taking of certain actions detailed in the Order. (P 13.)

5. The Order contained language that appeared to allow the parties to reach an agreement to alter its terms; however, the parties did not reach such an agreement. (NT 22-23, 63.)

6. In October, November and December 2016, pursuant to the District's interpretation of the Order, the District's Supervisor of Special Education attempted to schedule an IEP team meeting with a private evaluator who had previously performed an evaluation of Student, and whose evaluation had been one of the subjects of the Order. The Supervisor was not able to find a date on which the Parent, evaluator and other team members could meet. (NT 53-55, 58, 60, 62; S 2-6.)

7. The Supervisor has advised Parent that he will continue to attempt to schedule an IEP team meeting with the private evaluator. (P 3 p. 2)

8. On November 4, 2016, pursuant to its interpretation of the Order, the District conveyed a NOREP to Parent. (NT 53-55, 58, 60, 62; P 3.)

9. The November 4, 2016 NOREP proposed to continue Student's placement as a day student in Full-Time Life Skills Support, located at the Approved Private School that Student has been attending as a day-student. (P 3.)

10. The District interpreted the Order as requiring it to issue a NOREP reflecting amendments to the IEP that it deemed to be required by the Order. These amendments in its view solely

consisted of moving language from one place in the prevailing IEP to another place in the proposed IEP. (NT 53-58, 60, 62; P 3.)

11. The November 4, 2016 NOREP proposed to issue an Individualized Educational Program (IEP) with amendments that the NOREP asserted were required by the Order. The proposed amended IEP was conveyed with the NOREP. (P 3.)

12. The NOREP was in the customary form utilized by most local educational agencies in Pennsylvania. (P 3.)

13. Item "8" of the NOREP form indicates that parental consent is requested for the proposed action. It advises parents that, where parental consent is not required and the parent does not return the form, the local agency will implement the proposed action after ten calendar days. (P 3.)

14. Item "8" of the NOREP form requests that parents check one of three boxes, indicating either: a request for an informal meeting to discuss the recommended action; "I approve this action/recommendation"; or "I do not approve this action/recommendation … ." (P 3.)

15. Item "8" of the NOREP form indicates that the agency will implement the recommended action if the parent returns the form indicating disapproval of the recommended action, unless the parent requests either an informal meeting, mediation or due process. (P 3.)

16. On Item "8" of the November 4, 2016 NOREP, Parent checked the "I do not approve" box and the box indicating a desire for a due process hearing. In the "reasons" space, Parent indicated that Parent was entitled to a period of 90 days within which to decide whether or not to appeal the Order, and that therefore the NOREP constituted a "premature" request for parental consent to the proposed actions. (P 3.)

17. Parent signed the NOREP on November 10, 2016. (P 3.)

18. Parent filed a Complaint Notice requesting due process with the Office for Dispute Resolution (ODR) on November 10, 2016. (P 4.)

19. The District received the signed copy of the NOREP on December 19, 2016. (P 3.)

20. Parent continues to desire that Student receive special education and related services as needed. (NT 73-75.)

21. ODR has published a form which includes a notification of appeal timelines and instructions to local educational agencies for submitting an "Assurance Form" to ODR whenever an agency receives a hearing officer order requiring agency action. (P 9.)

22. The "Assurance Form" is a written assurance to the Pennsylvania Department of Education that the agency has complied with the hearing officer's order. (P 9.)

DISCUSSION

BURDEN OF PROOF

The burden of proof is composed of two considerations, the burden of going forward and the burden of persuasion. Of these, the more essential consideration is the burden of persuasion, which determines which of two contending parties must bear the risk of failing to convince the finder of fact.[4] In Schaffer v. Weast, 546 U.S. 49, 126 S. Ct. 528, 163 L.Ed.2d 387 (2005), the United States Supreme Court held that the burden of persuasion is on the party that requests relief in an IDEA case. Thus, the moving party must produce a preponderance of evidence[5] that the moving party is entitled to the relief requested in the Complaint Notice. L.E. v. Ramsey Board of Education, 435 F.3d 384, 392 (3d Cir. 2006).

This rule can decide the issue when neither side produces a preponderance of evidence – when the evidence on each side has equal weight, which the Supreme Court in Schaffer called "equipoise". On the other hand, whenever the evidence is preponderant (i.e., there is weightier evidence) in favor of one party, that party will prevail, regardless of who has the burden of persuasion. See Schaffer, above.

In the present matter, based upon the above rules, the burden of persuasion rests upon the Parents, who initiated the due process proceeding. If the Parents fail to produce a preponderance

[4] The other consideration, the burden of going forward, simply determines which party must present its evidence first, a matter that is within the discretion of the tribunal or finder of fact (which in this matter is the hearing officer). [5]A "preponderance" of evidence is a quantity or weight of evidence that is greater than the quantity or weight of evidence produced by the opposing party. See, Comm. v. Williams, 532 Pa. 265, 284-286 (1992). Weight is based upon the persuasiveness of the evidence, not simply quantity. Comm. v. Walsh, 2013 Pa. Commw. Unpub. LEXIS 164.

of the evidence in support of Parents' claims of fact, or if the evidence is in "equipoise", the Parents cannot prevail under the IDEA.

This analysis pertains to fact finding, but not to the application of law to the facts found. The appropriate interpretation of law is the obligation of the hearing officer in the first instance. My resolution of the matter at hand, while based upon some fact finding, depends heavily upon my interpretation of the law, as to which neither party bears a burden of persuasion in the sense discussed above.

CREDIBILITY

It is the responsibility of the hearing officer to determine the credibility of witnesses. 22 PA. Code §14.162 (requiring findings of fact); A.S. v. Office for Dispute Resolution, 88 A.3d 256, 266 (Pa. Commw. 2014)(it is within the province of the hearing officer to make credibility determinations and weigh the evidence in order to make the required findings of fact). Accordingly, I have weighed the evidence and made findings regarding credibility as applied to the specific issues of fact before me. In the present matter, I find that both witnesses were credible and reliable as to all material issues.

MOOTNESS

Events subsequent to the hearing in this matter raise a question of mootness. On December 22, 2016, Parent sent a message to the hearing officer by email. Parent argued, as I read his message, that the expiration of the 90 day federal appeal period on December 29, 2016 would obviate his need for a decision in this matter. Parent asserted that the only reason for filing the present request for due process was to avoid being forced to undercut his appeal, by consenting to the changes in the IEP that were proposed in the NOREP and required in the hearing officer Order

that Parent contemplated appealing. Subsequently, on January 4, 2017, Parent advised the hearing officer that he has appealed the Order and its underlying decision. These events naturally raise the question whether or not a decision in the present matter would resolve any live issues between the parties[5], and thus there is a suggestion of mootness.

An administrative hearing officer is not subject to the jurisdictional limits of federal courts that forbid deciding moot questions, Honig v. Doe, 484 U.S. 305, 317-323, 108 S. Ct. 592, 98 L.Ed.2d 686 (1988), so I am not precluded jurisdictionally from providing the parties with an advisory opinion about the substantive issues regarding the delivery of a FAPE. Sch. Dist. of Phila. v. Williams, No. 14-6238, 2015 U.S. Dist. LEXIS 157493 (E.D. Pa. Nov. 20, 2015)(citing Hesling v. Avon Grove Sch. Dist., 428 F. Supp. 2d 262 (E.D. Pa. 2006)). I nevertheless consider the question of mootness as it implicates administrative efficiency. In this case, I conclude that, especially in view of the completion of the hearing in this matter – and the costs already allocated to this matter - there remains an appropriate reason to decide the issues presented.

I conclude that the context of this particular due process request raises a reasonable expectation that the issue will arise again in future, and that a decision at this juncture might be helpful to the parties. As this and the previous due process decision illustrate, the parties' relationship is characterized by the litigation of a number of their disagreements.[6] This pattern has touched upon matters related to the content of IEPs and NOREPs. Given this context, it is reasonable to anticipate future litigation between the parties regarding the meaning and effect of hearing officers' orders and NOREPs issued in compliance with such orders. In legal parlance, the issue raised in this matter is "capable of repetition, yet evading review". K.A. v. Fulton Cty. Sch.

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[5] Parent, an experienced pro se litigant, has not withdrawn his request for due process.

[6] In making this observation, I do not mean to assert or imply that this pattern of behavior indicates fault on either side; I merely note its obvious prevalence in the parties' relationship.

Dist., 741 F.3d 1195, 1200-1201 (11th Cir. 2013)(finding reasonable expectation of repetition based upon disagreements between parties); J.V. v. Stafford Co. Sch. Bd., 69 IDELR 13 n. 8 (Va. Ct. Appls 2016)(finding issues capable of repetition due to ongoing disputes between parties); J.D. v. Kanawha Cty. Bd. of Educ., No. 2:09-cv-000139, 2009 U.S. Dist. LEXIS 112900 (S.D. W. Va. Nov. 4, 2009)(finding issue not moot due to reasonable expectation of repetition). Therefore, I deem it appropriate to provide an administrative decision on the issues presented, to the extent permitted by my jurisdiction under state and federal law.

There is an alternative reason for deciding this matter: either party may desire to appeal the issues in this matter to the courts. The final decision which I file today reduces the risk to either party that a court would remand the matter for necessary fact finding, thus causing an unwanted delay in the judicial determination of the issues.

INTERPRETATION OF THE ORDER

As noted above, I cannot rule on all of the issues presented. It is not within my jurisdiction to interpret the terms of the Order. As stated in the ODR form setting time frames for filing the "Assurance Form", (P 9), ODR does not enforce or interpret hearing officer decisions, because these are final, 34 C.F.R. § 300.514, and because the responsibility for enforcement lies with the Pennsylvania Department of Education, 34 C.F.R. §300.600(e), through its Bureau of Special Education. (P 9.) My lack of jurisdiction extends to any action regarding another hearing officer's decision or order; therefore, I likewise cannot determine whether or not another hearing officer had authority to issue any final order – for the very reason that it is final and can be challenged only by recourse to the courts. Pennsylvania Special Education Dispute Resolution Manual,

sections 1403(B)(hearing officers have no authority over the implementation of hearing officer decisions) and 1408(A)(no ODR interpretation or other action regarding hearing officer decisions). Consequently, I dismiss any issue that Parent raises regarding the interpretation of the Order, including whether or not the Order required Parent to do anything, and whether or not the prior hearing officer had legal authority to issue it.

This applies also to my analysis of the appropriateness of the District's actions: I do not interpret the Order as requiring the District to take action; rather, the District has interpreted the Order as requiring its action, and my decision is that, given that interpretation, the District was authorized by law to act accordingly. If Parent disagrees with the District's interpretation of the Order, Parent's recourse is to the Pennsylvania Department of Education, Bureau of Special Education, or to the courts.

THE DISTRICT WAS AUTHORIZED TO ISSUE THE NOREP AND DID SO APPROPRIATELY

The IDEA provides for state enforcement of hearing officer orders. 20 U.S.C. §1416(a)(1)(C)(ii)(states required to "enforce" IDEA Part B requirements[7]). The United States Department of Education articulated this mandate in its regulations issued December 1, 2008 at 34 C.F.R. §300.600 (states must "enforce this part … ."). The regulation makes clear that any noncompliance with the IDEA must be "corrected as soon as possible, and in no case later than one year after the state's identification of the noncompliance." 34 C.F.R. §300.600(e).

[7] As discussed above, the Commonwealth of Pennsylvania enforces the requirements of hearing officer orders through its Department of Education, not by means of due process hearing officer decisions.

The District concluded that the previous hearing officer ordered the District to issue a NOREP by a date certain. The District complied with this Order as it so interpreted. This was consistent with the above IDEA mandates for correction of deficiencies "as soon as possible". Ibid.

THE IDEA APPEAL PERIOD DOES NOT CONFLICT WITH THE DISTRICT'S AUTHORITY TO ISSUE A NOREP

Parent argues that another section of the IDEA prohibited the District from complying with the hearing officer Order as the District construed it. The IDEA provides that a party "shall have 90 days from the date of the decision" to file an action in federal court challenging the hearing officer's decision. 20 U.S.C. §1415(i)(2)(B). Parent argues that the District contravened this section when it issued its November NOREP in asserted compliance with the hearing officer's Order.

The IDEA's 90 day time line in the present matter gave Parent until December 29, 2016 to decide whether or not to appeal the hearing officer's decision and Order. By issuing the NOREP on November 4, 2016, the District asked Parent to "approve" certain IEP amendments allegedly addressed in the Order well in advance of the 90 day time limit for deciding whether or not to appeal the Order. Parent argues that issuing the NOREP before expiration of the 90 day appeal period forced Parent to decide in November whether or not to "consent" to IEP changes that Parent might want to contest in court by December 29, 2016. In short, Parent urges that there is a conflict in the law which should be resolved by a determination that the statutory appeal period prohibited the District's compliance with the Order as it construed the Order. Parent's point - that the issuance of the NOREP in this case seems to be at odds with the statutory appeal time line – is understandable and calls for a careful reading of the words of the applicable legal provisions.

Having read the applicable provisions, I do not agree with Parent's interpretation. The IDEA's 90 day limitation period says nothing about the District's authority to comply with a hearing officer's order, or the time at which it is authorized to comply. Neither its purpose nor its language provides any basis to interpret it as prohibiting a district from complying with a hearing officer's order as the district interprets such order.

The 90 day appeal period is a statute of limitations. Jonathan H. v. Souderton Area Sch. Dist., 562 F.3d 527, 529-530 (3d Cir. 2009). Its function and purpose is to limit the amount of time that a party can take to file a civil action in federal court for purposes of challenging a hearing officer decision. See, e.g., Dakota G. v. New Caney Indep. Sch. Dist., No. H-12-3242, 2015 U.S. Dist. LEXIS 177929 (S.D. Tex. Jan. 8, 2015)(application for attorney fees barred by ninety day appeal period). By its terms, it applies only to the time within which a party may seek relief in the courts, and nothing in its language prohibits a local education agency from complying with the deadlines imposed by a hearing officer order. Nothing in this statute of limitations contradicts the requirement of the law, discussed above, that non-compliance with the IDEA must be "corrected as soon as possible, and in no case later than one year after the state's identification of the noncompliance." 34 C.F.R. §300.600(e).

Rather, Parent's suggestion that the appeal period prohibits the District from complying with the Order would undercut this mandate to remedy non-compliance as soon as possible. Thus, Parent's suggestion would lead to an incongruous result. I conclude that the statutory appeal period provides no legal basis for arguing that the District's November compliance with the hearing officer's Order was inappropriate.

Parent argues that a hearing officer decision is not final until the time for appeal has expired. Parent points out that the regulation on finality, 34 C.F.R. §300.514(a), provides that the decision

is "final, except that any party involved in the hearing may appeal the decision … ." Parent concludes that this means that the decision has no effect until there is an appeal, or until the expiration of the appeal period.

Accepting Parent's argument for purposes of this decision, the asserted exception to finality does not transform the 90 day statute of limitations into a prohibition on compliance with hearing officers' orders. Even if the Order was not final until the expiration of the appeal period, nothing in the law prevented the District from implementing actions that it considered to be required by the Order before it became final. The District was authorized to offer the services that it deemed appropriate, and nothing in the statute of limitations for appeals rendered the District's offer of a NOREP in November inappropriate.

Parent points to the ODR form that provides instructions to local educational agencies regarding the filing of an "Assurance Form" that assures the Pennsylvania Department of Education that the agency has complied with a hearing officer order. (P 9.) Parent argues that this form absolves the District of responsibility to comply with a hearing officer order until 60 days after the expiration of the 90 day limitation period for filing a federal action challenging the order. Yet this is beside the point. Regardless of the District's obligation to issue the NOREP as expressed in this form, nothing therein prohibits district compliance with its understanding of a hearing officer order.

THE NOREP DID NOT REQUIRE PARENT TO COMPLY WITH THE ORDER

Parent argues that the NOREP was inappropriate because it required Parent to "comply" with the terms of the Order[8]. I disagree. By its terms, the NOREP form merely requested Parent to

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[8] Parent also argues that the Order required Parent to comply with its terms. Because this argument requests that I interpret the Order and thus enforce it, J.K. v. Council Rock Sch. Dist., 833 F. Supp. 2d 436 (E.D. Pa. 2011), it is not within my jurisdiction to do so, as discussed above. Therefore, without construing the Order itself, I here address

indicate Parent's position regarding the actions that the NOREP was proposing. This is not altered by the language in the NOREP indicating that the District believed that the Order required it to propose such actions. The NOREP did not force parental cooperation with the Order.

Rather, the NOREP by its terms invited Parent to do one of three things: to ask for an informal meeting about the proposed action by the District; to indicate approval; or to indicate disapproval. On its face the NOREP did not coerce Parent into doing anything. Rather, it was simply the legally required "Prior Written Notice", 34 C.F.R. §300.503, and a request that Parent indicate his position – or request an informal meeting to discuss the proposed District actions. As discussed above, the District was within its authority to issue the NOREP in November, notwithstanding the 90 day appeal period. The District having done so, Parent was within his rights to indicate one of the three options listed on the form. As a fourth option, Parent was free to ignore the form altogether. No language in the NOREP requires Parent to take any action at all.

Parent asserts that the NOREP did not leave him as free to choose as its language suggests. Rather, the NOREP in effect coerced him into complying with the Order because it forced him to request and prosecute this due process matter. Parent points out that being forced to file and prosecute this due process matter is costly to him in both time and money; thus, he characterizes this due process matter as a "penalty" to him, (NT 14-15, 21), for disapproving of the District's proposed actions which it asserts were required by the Order. In short, the NOREP imposed a "penalty" upon Parent for disagreeing with the proposed action, thus burdening Parent's enjoyment of his right to disapprove of the proposed action.

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whether or not the NOREP required any action on Parent's part, and if so, whether such action amounted to a requirement that Parent "comply" with the Order. I find that the NOREP required no such compliance.

I accept Parent's assertion that, in this matter, he had to file for due process to prevent the District from implementing the proposed actions in the NOREP while Parent decided whether or not to appeal the Order. The NOREP does state that the proposed actions will commence if the parent disagrees, unless parent files for mediation or due process. Thus, the parent must file for either mediation or due process if parent desires to maintain the status quo when returning the NOREP form[9]. To this extent, Parent in this matter was required to file for due process, but that does not mean that the NOREP was inappropriately coercive, as Parent argues.

Parent's argument that the option to file for due process was a "penalty" is incorrect because, in the absence of filing for due process, Parent had no right to delay the District's implementation [10] of the NOREP in November. Without a right to block the District's implementation of the NOREP in November, Parent's characterization of due process as an inappropriate "penalty" is inaccurate. It was not inappropriate to require even costly parental action to block District action that the District had the authority – indeed in its opinion the obligation – to initiate, in response to the Order.

As discussed above, the 90 day appeal period gave Parent no right or privilege to block District action during that 90 day period. The District was authorized to proceed in November, and nothing in the 90 day appeal statute of limitations states otherwise. Thus, the requirement to file for due process did not burden any right arising from this source, contrary to Parent's argument.

[9] Another option for Parent would have been to request an informal meeting, thus delaying implementation at least temporarily. In the circumstances of this matter, however, I conclude that Parent is right to say that he had no choice but to file for due process in order to prevent implementation of the actions set forth in the NOREP.

[10] Parent suggests that the District was not authorized to implement because there was no IEP meeting prior to implementation. Based upon the current record, I conclude that this suggestion constitutes a challenge to the prior hearing officer's decision and Order, which the District interpreted as requiring implementation before it was possible to convene another IEP meeting. Thus, the argument is beyond my jurisdiction and must be addressed to another appropriate forum.

Nor did Parent have any other right or privilege to a delay of the implementation of the actions proposed in the NOREP based solely upon Parent's disagreement with the proposed actions. The IDEA provides explicitly that the current placement must be maintained during the pendency of due process. 20 U.S.C. §1415(j). It does not provide for this "stay put" right in the absence of a request for due process, nor does it require maintenance of the current placement during the 90- day appeal period, unless due process is requested during that period of time. There is no other IDEA provision that automatically prevents implementation of proposed district actions in response to a hearing officer order when a parent disagrees with them[11]. Thus, the IDEA provides that a parent can block implementation of such unwanted proposed district actions only by requesting due process or by recourse to the state department of education or the courts; otherwise, the parent has no legal right to a delay in such actions, where they are taken in response to a hearing officer order, in the absence of an agreement between the parties.

In sum, due process is in itself a privilege that the law accords to parents who are unsatisfied with proposed district actions in response to hearing officer orders, enabling them to block such actions before they happen. There is no statutory parental right to have districts stay such proposed actions in the absence of a request for due process[12]. In the present matter, the District took such actions as it deemed appropriate, in view of the Order. Within my limited jurisdiction to review its action, I find that it did not violate of Parent's rights in doing so.

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[11] This does not leave parents without remedies when they disagree with agency actions; they can always seek reversal of such actions and compensatory education services if such actions deny FAPE. The question that Parent raises is whether or not Parent has a right to a delay in proposed agency implementation of a hearing officer order before it happens. In the absence of collaborative discussion and mutual agreement between the parties – the course always to be preferred - the only way that the law requires such a delay is with the filing of a request for due process.

[12] Parent has made a general reference to liberty rights as another source of parental rights that are burdened by the requirement to file for due process. I decline to adopt this argument, because a constitutionally protected liberty interest must be one defined in state or federal law, and Parent has not identified such a right in the absence of a request for due process. Nor am I aware of any such right other than those proposed by Parent and discussed above.

CONCLUSION

I dismiss Parent's challenge to the authority of the previous hearing officer to issue the Order; I lack jurisdiction to decide this issue. I conclude that the District acted appropriately and within its authority under the law when it issued the NOREP on November 4, 2016. I conclude that the November 4, 2016 NOREP did not inappropriately require Parent to consent to its proposed actions or to withhold consent. Consequently, I decline to order relief, and I dismiss Parents' claims.

ORDER

In accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** that Parents' claims are hereby **DENIED** and **DISMISSED**. It is **FURTHER ORDERED** that any claims that are encompassed in this captioned matter and not specifically addressed by this decision and order are denied and dismissed.

William F. Culleton, Jr. Esq.

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WILLIAM F. CULLETON, JR., ESQ.
HEARING OFFICER

DATED: January 9, 2017