

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

VIRGINIA NOCE, <i>et al.</i> ,	)	
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 13-1133 (ABJ)
	)	
DISTRICT OF COLUMBIA	)	
	)	
Defendant.	)	
	)	

**ORDER**

On September 18, 2014, Magistrate Judge Alan Kay issued a Report and Recommendation [Dkt. # 16] with respect to plaintiffs’ motion for summary judgment [Dkt. # 9] and defendant’s motion for summary judgment [Dkt. # 8]. The report advised the parties “that under the provisions of Local Rule 72.3(b) of the United States District Court for the District of Columbia, any party who objects to the Report and Recommendation must file a written objection thereto with the Clerk of this Court within 14 days of the party’s receipt of this Report and Recommendation.” September 18, 2014 Report and Recommendation at 19. To date, no objections have been filed.

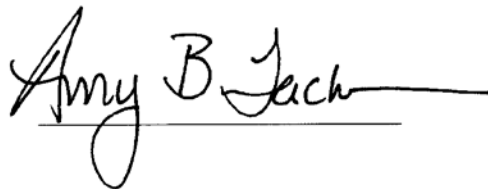
It is therefore ORDERED that the Report and Recommendation [Dkt. # 16] is ADOPTED in its entirety;

it is FURTHER ORDERED that plaintiffs’ motion for summary judgment [Dkt. # 9] is granted in part and denied in part; and

it is FURTHER ORDERED that defendant’s motion for summary judgment [Dkt. # 8] is granted in part and denied in part.

Specifically, it is ORDERED that:

- The Hearing Officer's Determination that even if defendant failed to comply with the Previous Hearing Officer's Decision, this failure did not constitute a denial of a Free Appropriate Public Education ("FAPE") is reversed;
- The May 31, 2012, Individual Educational Program ("IEP") meeting failed to remedy defendant's procedural violation of the Individuals with Disabilities Education Act ("IDEA") and resulted in an ongoing denial of a FAPE;
- This denial of a FAPE justifies reimbursement for the cost of tuition at Lab School for a period between May 31, 2012, and April 11, 2013;<sup>1</sup>
- The Hearing Officer's Determination that defendant committed a procedural violation of the IDEA by failing to conduct an annual review of M.K-N.'s IEP is upheld;
- The Hearing Officer's Determination that this procedural violation did not constitute a denial of a FAPE is reversed;
- The Hearing Officer's Determination that defendant did not deny M.K-N. a FAPE by failing to issue prior written notice following the May 31, 2012, IEP meeting is upheld; and
- The Hearing Officer's Determination denying alteration of M.K-N.'s IEP to place M.K-N. at Lab School and require defendant to prospectively fund M.K-N.'s private education is upheld.

A handwritten signature in black ink, reading "Amy B. Jackson", with a horizontal line underneath the name.

AMY BERMAN JACKSON  
United States District Judge

DATE: October 6, 2014

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<sup>1</sup> Neither party has challenged the selection of May 31, 2012 as the operative date for determining the reimbursement period for M.K-N.'s Lab School tuition costs.