

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

MICHELLE LYNCH,

Plaintiff,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Civil Action No. 11-2091 (JEB)

MEMORANDUM OPINION AND ORDER

This matter is before the Court on the Report and Recommendation filed by Magistrate Judge John M. Facciola on January 2, 2103. The 14-day period during which the parties may file objections to the Report and Recommendation has expired, see Local Civil Rule 72.3(b), and neither party has filed objections.

Plaintiff Michelle Lynch brought this action pursuant to the Individuals with Disabilities Education Improvement Act on behalf of her minor child C.L. seeking judicial review of the decision by a hearing officer in favor of the District of Columbia Public Schools. Plaintiff argued that the Individual Education Plan (IEP) created by DCPS was insufficient. The hearing officer disagreed and held that DCPS did not deny C.L. a free and appropriate public education.

In considering the parties' Cross-Motions for Summary Judgment, Magistrate Judge Facciola was concerned that events following the May 2011 IEP may have meant that this IEP was never implemented. If so, the question of its validity would not present an actual case or controversy, and the Court would lack subject-matter jurisdiction. As a result, he recommended the denial without prejudice of the Motions and a requirement that the parties submit

supplemental briefs addressed to whether a case or controversy exists here. The Court adopted that Report & Recommendation on August 21, 2012. See ECF No. 26.

After review of such supplemental briefs, Magistrate Judge Facciola has issued a subsequent Report and Recommendation. See ECF No. 32. He determined that, as Plaintiff had not met her “burden of showing that this case, as filed, presents an actual case or controversy subject to review,” the matter should be dismissed for lack of subject-matter jurisdiction. Id. at 1-2. This Court agrees.

As a result, after consideration of the Report and Recommendation of Magistrate Judge Facciola and the absence of any party’s objection thereto, the Court will adopt the Report and Recommendation and dismiss the matter for lack of subject-matter jurisdiction.

The Court, accordingly, ORDERS that:

1. The Report and Recommendation is hereby ADOPTED; and
2. The case is DISMISSED WITHOUT PREJUDICE for lack of subject-matter jurisdiction.

IT IS SO ORDERED.

/s/ James E. Boasberg
JAMES E. BOASBERG
United States District Judge

Date: Feb. 11, 2013