

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| TRACY DAVENPORT, <i>et al.</i> , |) | |
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| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. 13-cv-1014 (KBJ) |
| |) | |
| DISTRICT OF COLUMBIA, |) | |
| |) | |
| Defendant. |) | |
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**MEMORANDUM OPINION ADOPTING
REPORT & RECOMMENDATION OF MAGISTRATE JUDGE**

Plaintiff Tracy Davenport (“Davenport”) is the mother of plaintiff A.M. (collectively, “Plaintiffs”), a child who has a disability and who is eligible to receive special education services from the District of Columbia Public Schools (“DCPS”) under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400-1450 (“IDEA”). When DCPS did not respond to Davenport’s requests for an updated Individualized Education Program for A.M. for the 2012-2013 school year, Davenport filed an IDEA due process complaint with the DC Office of the State Superintendent of Special Education (“Due Process Complaint”). The assigned Hearing Officer dismissed the Due Process Complaint without holding a hearing or allowing Davenport to submit any evidence. Plaintiffs appeal that decision through the instant complaint, which they filed on July 3, 2013. (ECF No. 1.) In their complaint, Plaintiffs allege that DCPS violated the IDEA when the school system failed to provide A.M. with a free appropriate public education for the 2012-2013 school year, and that the Hearing

Officer violated Plaintiffs' due process rights when Davenport's Due Process Complaint was summarily dismissed. (*Id.* at ¶¶ 49-55.)

On August 29, 2013, this Court referred the matter to a Magistrate Judge for full case management. (Minute Order of August 29, 2013.) On June 3, 2014, Plaintiffs filed a motion for summary judgment, in which they requested that the Court remand the matter to the Hearing Officer so that the parties can present evidence and testimony on the merits of the Due Process Complaint. (Mem. in Supp. of Pls.' Mot. for Summ. J., ECF No. 17 at 13.) On July 2, 2014, DCPS responded to that motion, stating that it "does not oppose a remand for a full hearing on the merits of Plaintiffs' due process complaint." (Def.'s Resp. to Pls.' Mot. for Summ. J., ECF No. 18 at 1.)

On August 7, 2014, the assigned Magistrate Judge, Deborah A. Robinson, issued a Report and Recommendation (ECF No. 21, attached hereto as Appendix A) regarding the motion for summary judgment. The Report and Recommendation reflected Magistrate Judge Robinson's opinion that Plaintiffs' motion for summary judgment should be denied without prejudice and that, pursuant to the parties' agreement, this Court should remand the matter to the Student Hearing Office of the DC Office of the State Superintendent for Education for a hearing on the merits of the Due Process Complaint. (*Id.* at 2-3.) Magistrate Judge Robinson also recommended that, in light of the parties' agreement, this action should be dismissed without consideration of the merits of the arguments in Plaintiffs' motion.

The Report and Recommendation also advised the parties that either party may file written objections to the Report and Recommendation, which must include the portions of the findings and recommendations to which each objection is made and the

basis for each such objection. (*Id.* at 3) The Report and Recommendation further advised the parties that failure to file timely objections may result in waiver of further review of the matters addressed in the Report and Recommendation. (*Id.*)

Under this Court's local rules, any party who objects to a Report and Recommendation must file a written objection with the Clerk of the Court within 14 days of the party's receipt of the Report and Recommendation. LCvR 72.3(b). As of this date—months after the Report and Recommendation was issued—no objections have been filed.

This Court has reviewed Magistrate Judge Robinson's report and will **ADOPT** the Report and Recommendation in its entirety. Accordingly, the Court will **DENY** Plaintiffs' motion for summary judgment without prejudice, **REMAND** this matter to the Student Hearing Office of the DC Office of State Superintendent for Education for further proceedings, including a hearing on the merits of the Due Process Complaint, and **DISMISS** this action.

A separate Order accompanies this Memorandum Opinion.

DATE: December 19, 2014

Ketanji Brown Jackson
KETANJI BROWN JACKSON
United States District Judge