

**BEFORE THE
DUE PROCESS HEARING OFFICER
EMPOWERED PURSUANT TO
THE INDIVIDUALS WITH DISABILITY EDUCATION ACT
(34 CFR ' 303.420)**

PARENTS OF A MINOR CHILD, _____,)	
)	
Petitioners,)	
)	
vs.)	2006 - DESE - EFW
)	
MISSOURI DEPARTMENT)	
OF ELEMENTARY AND)	
SECONDARY EDUCATION)	
)	
Respondent.)	

ORDER OF DISMISSAL WITH PREJUDICE

On October 2, 2006, Petitioner filed a Request for Due Process Hearing (“Request”) pursuant to Part C of the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § § 1431-1445. Under applicable rules and regulations, the Hearing Officer must render his decision within 30 days from the date Respondent, Department of Elementary and Secondary Education (“DESE”) received the Request.

On October 13, 2006, Respondent filed its motion to Dismiss arguing that the Hearing Officer lacked sufficient subject matter jurisdiction to hear the dispute or, alternatively, that the issue raised was moot. Subsequently, Petitioner filed his Response in Opposition to Respondent’s Motion asserting that sufficient subject matter jurisdiction existed and that the issue raised for consideration was not moot. On October 19, 2006, the Hearing Officer issued an Order and Memorandum granting the Motion to Dismiss on the basis that insufficient subject matter jurisdiction existed to hear the dispute. Said Order and Memorandum is incorporated herein by reference. To date, neither party has requested that the Hearing Officer reconsider his decision in the Order and Memorandum.

ACCORDINGLY, Petitioner's Request for Due Process Hearing is **DISMISSED** with prejudice due to a fact that the issues raised for consideration on the Request do not pertain to matters involving identifying, evaluating or placing a child for service or to the actual providing of early intervention services to child and the child's family as required under the *State Application Under Part C of Individuals with Disabilities Education Act - Requirement IX - Procedural Safeguards*, p. 36 (Rev. October 2005); 34 CFR 303.403(a).

SO ORDERED this _____ day of October 2006.

EDWARD F. WALSH
HEARING OFFICER

Copies to:
All Parties
Margaret Strecker, DESE

CERTIFICATION OF IMPARTIALITY

I, **Edward F. Walsh**, certify that I am an **impartial person** as provided for in 34 C.F.R. 303.421 (2006). I am not an employee of the Missouri Department of Elementary and Secondary Education, the Office of Missouri Attorney General or the First Steps of Greater St. Louis organization. I have no personal or professional interests that would conflict or interfere with, or otherwise impair my ability to act impartially or objectively in the determination of this dispute. I was an appointed hearing officer and am paid for hearing officer services under contract.

Given this _____ day of _____ 2006.

EDWARD F. WALSH
HEARING OFFICER

CERTIFICATION OF TIMELINES

I, **Edward F. Walsh**, as the Hearing Officer certify that the applicable timelines in this Request for Due Process Hearing were adhered to as provided for in 34 C.F.R. 303.423 (2006). Petitioner's complaint was first received on October 2, 2006. As result, the due process proceeding had to be completed no later than November 1, 2006.

Given this _____ day of _____ 2006.

EDWARD F. WALSH
HEARING OFFICER

NOTICE OF RIGHT TO APPEAL

Any party aggrieved by the Hearing Officer's decision may bring an appeal to a court of proper jurisdiction. Pursuant to 34 C.F.R. 303.424 (2006) an aggrieved party may file a civil action in State or Federal court. To the extent this action is govern by Chapter 536, RSMo, a "Petition for Judicial Review" in state court may be filed by the aggrieved party. Section 536.110, provides that such an appeal must be filed within 30 days of the mailing or delivery of the decision. An aggrieved party may also file an appeal in federal court by filing a complaint in a district court of the United States, without regard to the amount in controversy. Parties, however, are responsible themselves for determining the applicable statute of limitations for such an appeal.
