

DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
Student Hearing Office
810 First Street, NE, Second Floor
Washington, DC 20002

OSSE
Student Hearing Office
April 28, 2014

Petitioner

Hearing Officer: Kimm Massey, Esq.

v.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

Respondent.

HEARING OFFICER DETERMINATION

**BACKGROUND AND
PROCEDURAL HISTORY**¹

Student is currently not attending school. On February 10, 2014, Petitioner filed a Complaint against Respondent District of Columbia Public School (“DCPS”). On February 20, 2014, DCPS filed its Response to the Complaint.

The parties concluded the Resolution Meeting process by participating in a resolution session meeting on February 25, 2014. No agreement was reached, but the parties did not agree to prematurely shorten the 30-day resolution period. The 45-day timeline began on March 13, 2014 and will end on April 26, 2014, which is the HOD deadline.

On March 1, 2014, the hearing officer conducted a prehearing conference and determined, that the claims to be adjudicated, defenses asserted, and relief requested were as follows:

Petitioner’s Claims: (i) Alleged failure to assess and evaluate Student in all areas of suspected disability. (ii) Alleged failure to appropriately develop appropriate IEP for Student. (iii) Alleged failure to provide an appropriate placement/location of services, and consequently, an alleged failure to provide necessary and prescribed instruction and services.

Respondent’s Defenses: (i) DCPS made proposals to place Student at one private and two DCPS schools, but Petitioner rejected the proposals. Petitioner filed a due process complaint on August 24, 2012, rejected DCPS’s renewed offer of placement at the private school, and a hearing officer determined that one of the DCPS middle schools offered was an appropriate placement. Petitioner never enrolled Student at that school, but DCPS allowed Student to remain at his then current DCPS school, which subsequently closed at the end of SY 2012/13. (ii) DCPS reevaluated Student on August 2, 2012 with a March 2012 orientation and mobility assessment, a

¹ This section sets forth only the basic procedural history. Other events, including motions practice, may have taken place that are not listed here.

vision screening in June 2012, and a June 2011 OT assessment. Moreover, a private school conducted psychological assessments in 2010 and 2006, and Parent never requested another triennial evaluation after the one conducted in August 2012. (iii) DCPS complied with all procedural requirements and convened an IEP team meeting on May 29, 2013. (iv) Parent has always been represented by various counsel since 2009 and had the opportunity to request anything desired. (v) The IEP is reasonably calculated to confer educational benefits. (vi) In July 2013, DCPS identified a different DCPS school (“School 1”) as the location of service for Student for SY 2013/14. Petitioner pulled Student from school after one hour and filed a due process complaint on September 13, 2013. DCPS proposed another DCPS school (“School 2”) as a new location of services; however, Petitioner rejected DCPS’ proposal. Petitioner subsequently withdrew his due process complaint without prejudice. Both of the DCPS schools proposed for SY 2013/14 are able to substantially implement Student’s IEP, but Student is not attending any school at the present time. (vii) Student has not been denied a FAPE.

Relief Requested: (i) A finding that DCPS denied Student a FAPE. (ii) DCPS to immediately determine an appropriate interim school placement for Student that meets the requirements of his May 2013 IEP. (iii) DCPS to assess and evaluate Student in all areas of suspected disability. (iv) DCPS to revise Student’s IEP as appropriate based on the results of that evaluation. (v) DCPS to determine an appropriate school placement for Student based on his revised IEP. (vi) DCPS to reimburse the cost of instruction and services privately provided to Student during the 2013/2014 school year. (vii) Compensatory education.

By their respective letters dated April 2, 2014, Petitioner disclosed eleven documents (Petitioner’s Exhibits 1-11), and DCPS disclosed twenty-three documents (Respondent’s Exhibits 1-23). By email dated April 5, 2014, Petitioner asserted various objections to DCPS’s disclosures.

The hearing officer convened the due process hearing on April 9, 2014.² At the outset, Petitioner withdrew that portion of claim number two concerning the composition of the IEP team but indicated an intent to proceed with that portion of claim number two concerning the failure to base the IEP on current evaluations. Thereafter, the hearing officer admitted all of Petitioner’s disclosures without objection. Then, based on DCPS’s assertion that Petitioner’s objections to DCPS’s disclosures were untimely, the hearing officer rejected Petitioner’s objections as untimely and admitted all of DCPS’s documents into the administrative record.

Petitioner sought to make an oral motion for summary judgment. On DCPS’s objection, the hearing officer declined to hear the motion on the grounds that it was untimely and would be prejudicial to DCPS because DCPS had not been given any time to consider Petitioner’s arguments and formulate a response.

Thereafter, DCPS stated that it is willing to evaluate Student by providing a reevaluation pursuant to the statute, which would consist of a comprehensive psychological assessment that uses a cognitive measure designed for blind students and an occupational therapy assessment. The hearing officer indicated that the Order attached to the instant decision would require DCPS, pursuant to its offer, to conduct the agreed upon assessments and convene a meeting to review

² Counsel for each party and the witnesses for each party are listed in the Appendix that accompanies this decision.

those assessment reports and revise Student's IEP as appropriate. Parent then signed DCPS's Consent form authorizing the assessments.

Once all preliminary matters had been concluded, the parties waived their respective rights to present opening statements, and the hearing officer received the testimonial evidence offered by each party, the parties' closing statements, and a 10-day letter provided by DCPS prior to concluding the hearing.

The due process hearing was convened and this Hearing Officer Determination is written pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. §§ 1400 et seq., the implementing regulations for IDEIA, 34 C.F.R. Part 300, and Title V, Chapter 30, of the District of Columbia Municipal Regulations ("D.C.M.R.").

ISSUE(S)

1. Did DCPS deny Student a FAPE by failing to assess and evaluate Student in all areas of suspected disability?
2. Did DCPS deny Student a FAPE by failing to appropriately develop an IEP for Student because the IEP provided was not based on current assessments?
3. Did DCPS deny Student a FAPE by failing to provide an appropriate placement/location of services, and consequently, failing to provide necessary and prescribed instruction and services?

FINDINGS OF FACT^{3,4}

1. Student is currently is not attending school.
2. Student is blind.⁵
3. Student's most recent diagnostic assessment report was conducted in January 2010. However, the report indicates that "due to [Student's] blindness, he was not administered any visually-based tasks . . . Therefore, while summary statistics were obtained for [Student] in the areas of verbal comprehension and working memory, a Full Scale IQ statistic could not be computed for [Student]." This means that the evaluator failed to assess Student's nonverbal/perceptual reasoning skills. Moreover, although the

³ To the extent that the hearing officer has declined to base a finding of fact on a witness's testimony that goes to the heart of the issue(s) under consideration, or has chosen to base a finding of fact on the testimony of one witness when another witness gave contradictory testimony on the same issue, then the hearing officer has taken such action based on the hearing officer's determinations of the credibility and/or lack of credibility of the witness(es) involved.

⁴ When citing an exhibit that has been submitted by both parties, the hearing officer may only cite to one party's exhibit.

⁵ Respondent's Exhibit 4 at 1.

assessment was conducted at a facility that services blind students, the evaluator did not utilize any tests or instruments specifically designed for blind students.⁶

4. Based on Student's performance on the tests and instruments administered during Student's January 2010 diagnostic assessment, the evaluator determined that Student's verbally-based cognitive abilities and adaptive functioning were in the Intellectually Deficient range. Ultimately, the evaluator concluded that Student met the diagnostic and federal educational guidelines for a diagnosis of Intellectual Disability ("ID"). The evaluator acknowledged that the cognitive testing utilized was not normed for blind students, but also pointed out that Student's medical history of microcephaly and thinning in his corpus callosum (the nerve bundle that links the two halves of the brain and allows them to communicate with each other) are neurologic and developmental risk factors often associated with subaverage intellectual functioning.⁷
5. Student's next most recent diagnostic assessment was conducted in November 2006. Once again, however, "[b]ecause of his blindness, [Student] was only administered verbal tasks. Therefore, a Full Scale IQ statistic could not be computed for [Student]." This evaluator determined that Student's verbal abilities were in the Intellectually Deficient to Borderline range and his overall adaptive functioning and self-help skills were in the Mildly Intellectual Deficient range, although his day-to-day communication skills were in the Borderline range and his social skills were in the Low Average range.⁸
6. In December 2009, Student received an Educational Evaluation that consisted of the Brigance Diagnostic Inventory, the Oregon Project for Visually Impaired and Blind Children, and the American Printing House for the Blind Patterns post test. Based on Student's performance on these instruments, the evaluator concluded that Student was globally progressing at the readiness level, had emerging academic skills for cognition and computation, and was learning to read and write Braille effectively.⁹
7. In October 24, 2010, a neurologist issued a letter report concerning her examination of Student. The neurologist conducted an in-depth physical examination of Student and reviewed Student's medical/family history and educational progress. Ultimately, the neurologist concluded that although Student is totally blind, he made progress in a school program for children with mixed disabilities, was well behaved and spoke well. The neurologist noted that it is often difficult, even with special testing, to assess the intelligence of a blind child, and recommended that if psychological testing for blind children cannot be found, then Student should be treated as a child with average intelligence and provided a school placement as such so that he can reach his maximum potential. The neurologist opined that a school program for children with mixed disabilities is appropriate and preferable to a program for the retarded because it is impossible to know Student's potential IQ at this time.¹⁰

⁶ See Respondent's Exhibit 4; testimony of special education expert.

⁷ Respondent's Exhibit 4.

⁸ Respondent's Exhibit 1.

⁹ Respondent's Exhibit 2.

¹⁰ Petitioner's Exhibit 8.

8. In March 30, 2012, Student received an independent Orientation and Mobility Assessment.¹¹
9. The administrative record for this case contains no formal assessments for Student besides the assessments described in Paragraphs 3 through 8 above, which, with the exception of the 2012 Orientation and Mobility Assessment, were all conducted in or before 2010.
10. At the due process hearing for this case, DCPS agreed to evaluate Student by providing a reevaluation pursuant to IDEA, which would consist of a comprehensive psychological assessment that uses a cognitive measure designed for blind students and an occupational therapy assessment, and Parent signed a Consent Form authorizing the reevaluation.
11. Prior to determining that a student is MR, that student must be given both verbal and nonverbal cognitive assessments to determine the student's Full Scale IQ score. A student cannot be classified as MR based solely on a verbal reasoning assessment, because some students have low verbal IQs but high perceptual reasoning IQs, which could constitute a learning disability ("LD") or some other classification besides MR.¹²
12. Student's current IEP is dated June 12, 2013. The IEP requires Student to receive a total of 28.5 hours of specialized instruction outside general education, 240 minutes per month of adapted physical education, 240 minutes per month of occupational therapy, and 360 minutes per month of orientation and mobility services. The IEP also requires Student to be provided with extended school year ("ESY") services. The Present Levels of Academic Achievement and Functional Performance ("PLOP") sections of the IEP for the academic areas of Mathematics, Reading, and Written Expression, and the area of Adaptive/Daily Living Skills all note that Student was able to complete DCCAS Alt testing and reference the results of Student's performance on the Oregon Project for Visually Impaired Children and the Braille edition of the Brigance Diagnostic Inventory before proceeding to a discussion of anecdotal information about Student's skills that seemingly is based on Student's performance in class. For the areas of Vision, Motor Skills/Physical Development, and Health/Physical, the PLOP sections merely note that Student was able to complete DCCAS Alt testing before proceeding a discussion of anecdotal information about Student's skills. Although the PLOP for the area of Health/Physical also references the Brunininks Oseretsky Test of Motor Proficiency, it notes that the test was used only to introduce the procedure.¹³
13. On July 12, 2013, DCPS issued a location of services ("LOS") letter assigning Student to attend School 1, a DCPS school.¹⁴

¹¹ Respondent's Exhibit 8.

¹² Testimony of special education expert.

¹³ Petitioner's Exhibit 2.

¹⁴ Respondent's Exhibit 18.

14. School 1 is one of the cluster schools for DCPS's vision program, and normally when a Student is to receive more than 5 hours per month of vision services that student is serviced at a vision cluster program. For SY 2013/14, School 1 offers 3 teachers for the visually impaired, 1 orientation and mobility services provider contracted to DCPS from a private facility for blind persons, and assistive technology support.¹⁵
15. Parent was told that DCPS's vision program was being moved to School 1. However, upon sending Student to school on the first day of SY 2013/14, Parent learned that Student would be placed in large general education classrooms, and that there was only one special educational class at School 1 which included students ranging all the way from pre-K to 8th grade. Although DCPS promised to provide a special education teacher at School 1 who would teach Student and another student with similar needs, that plan ultimately did not come to fruition.¹⁶
16. On October 2, 2013, DCPS issued a Prior Written Notice ("PWN") that changed Student's educational placement to School 2 and stated that the "current educational placement at [School 1] is not able to provide a program that will meet the student's needs per the IEP."¹⁷
17. However, when Parent went to visit School 2 in October 2013, she discovered that DCPS intended to place Student in a class with students who had moderate to severe mental retardation ("MR"), and who were much lower functioning than Student and making the kinds of noises that MR students make. As a result, Parent never sent Student to School 2.¹⁸
18. In or about November 2013, DCPS convened an MDT meeting for Student. Parent expressed her concerns about School 2 and was invited to visit again. When Parent returned to visit School 2 the second time, she found that the new class also contained moderate to severe MR students. So, once again, Parent declined to send Student to School 2.¹⁹
19. After her second visit to School 2, Parent contacted a school for the blind and arranged in-home services for Student. The private school began sending Student a vision teacher who provides him Braille services twice a week for an hour each visit, and an orientation and mobility teacher who also provides Student with services twice per week. Parent is being billed \$60 per hour for the vision teacher, but the orientation and mobility services are being provided to Student free of charge through a grant. Currently, Parent's outstanding bill for the vision teacher is \$1,020, which covers the period from January through March 2014, and the fees continue to accrue.²⁰

¹⁵ Testimony of manager of low incidence disabilities for DCPS.

¹⁶ Testimony of Parent.

¹⁷ Respondent's Exhibit 20.

¹⁸ Testimony of Parent.

¹⁹ Stipulation of parties regarding meeting date; testimony of Parent.

²⁰ Testimony of Parent; Petitioner's Exhibit 10.

20. School 2 is a 100% special education school. All the students at the school are Intellectually Deficiency (“ID”), and some of the students have other disabilities as well, including severe autism and sensory deficiencies. Hence, if a child does not have ID, it is unlikely that School 2 would be an appropriate school placement for that child.²¹
21. Prior to SY 2013/14, Student attended a DCPS school for LD students. Student performed well academically at this school. In August 2012, DCPS issued a PWN that assigned Student to attend the new vision program at a different DCPS middle school, and stated that the school for LD students could not meet Student’s unique needs as a blind student who did not possess life skills commensurate with those of his same age peers. Parent fought the school reassignment and ultimately took the matter up with the Mayor’s Office, which intervened so that Student could remain at the school for LD students through the end of SY 2012/13. However, that school has now been closed.²²
22. Parent would like DCPS to provide Student with a placement in an LD program. Specifically, Parent has asked DCPS to place Student in the LD program at his neighborhood school.²³
23. As compensatory education, Petitioner is requesting a total of 380 hours of academic tutoring, 275 hours of vision tutoring, and 32 hours each of occupational therapy, adapted PE, and orientation and mobility services. However, the individual who formulated the compensatory education plan candidly admitted at the due process hearing that there is no way to determine the true amount of harm suffered by Student because such a determination would have to be based on a comparison of assessments administered before and after the missed services, and there are no such assessments in this case.²⁴ Student has not been assessed cognitively since 2010.
24. DCPS’s 10-day letter, which was submitted to the hearing officer at the conclusion of the hearing pursuant to 20 U.S.C. § 1415(i)(3)(D)(i), offered Petitioner the following services: (i) specialized instruction for Student pursuant to the current IEP at School 2 for the remainder of SY 2013/14; (ii) a comprehensive psychological assessment and an occupational therapy assessment; (iii) a meeting within 20 days of receipt of the assessment reports to review the assessments, review and revise Student’s IEP if necessary, and determine a location of services for SY 2014.15; (iv) reimbursement for reasonable and documented fees for out-of-pocket expenses incurred to date from the private service provider, and (v) funding for Braille, orientation mobility, and tutoring like skills services from the private facility for blind persons. DCPS’s 10-day letter does not offer relief more favorable to Petitioner than the relief awarded herein.

²¹ Testimony of School 2’s principal.

²² Testimony of Parent; Respondent’s Exhibit 12.

²³ Testimony of Parent.

²⁴ Petitioner’s disclosure expert; testimony of special education expert.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

The burden of proof in an administrative hearing is properly placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005). In this regard, IDEA does not require a departure from the ordinary default rule that plaintiffs bear the risk of failing to prove their claims. *See id.*; *Ridley School District v. M.R.*, 680 F.3d 260, 269 (3rd Cir. 2012); *L.E. v. Ramsey Board of Educ.*, 435 F.3d 384, 391 (3rd Cir. 2006). Now, for a consideration of Petitioner's claims.

Alleged Denials of FAPE

Under IDEA, each public agency must ensure that a child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 C.F.R. § 300.304(c)(4). Each public agency must also ensure that the evaluation of each disabled child is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. 34 C.F.R. § 300.304(c)(7).

IDEA further provides that a reevaluation of each child with a disability must occur at least once every 3 years, unless the parent and the public agency agree otherwise. 34 C.F.R. § 300.303(b)(1). In turn, in revising a disabled child's IEP, the child's IEP team must consider, *inter alia*, the results of any evaluation conducted under 300.303. 34 C.F.R. § 300.324(b)(1)(ii)(B).

With respect to educational placements, IDEA requires that a public agency provide an appropriate educational placement/location of services for each child with a disability, so that the child's needs for special education and related services can be met. *See* 34 C.F.R. § 300.17; 34 C.F.R. §§ 300.114-300.120. In this regard, a FAPE consists of special education and related services that, *inter alia*, include an appropriate secondary school and are provided in conformity with the Student's IEP. *See* 34 C.F.R. § 300.17. Moreover, IDEA provides that in determining the educational placement of a child with a disability, each public agency must ensure, *inter alia*, that unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled. 34 C.F.R. § 300.116(c).

In the instant case, Petitioner contends that DCPS failed assess and evaluate Student in all areas of suspected disability because there have been no evaluations within the last three years, Student has never been provided with cognitive testing for a blind student, and Student needs updated OT, adaptive PE, and orientation and mobility assessments. Petitioner further contends that DCPS failed to appropriately develop an IEP for Student because the current IEP is not based on current assessments. Finally, Petitioner contends that DCPS failed to provide Student with an appropriate educational placement/location of services for SY 2013/14, and consequently, DCPS failed to provide the necessary and prescribed instruction and services for Student.

With respect to assessments and evaluations, the evidence in this case proves that (1) Student has not been evaluated in all areas of suspected disability because he has never been provided with cognitive testing for a blind Student, with the result that it has not been possible to determine the proper disability classification for Student; and (2) although Student received an orientation and mobility assessment in 2012, Student has not received comprehensive psychological, OT and adaptive PE reassessments within the past three years, as required by 34 C.F.R. § 300.303(b)(1). In turn, as there is no current triennial reevaluation of Student, DCPS could not consider the results of such a reevaluation in developing Student's current IEP, as required by 34 C.F.R. § 300.324(b)(1)(ii)(B). In fact, the PLOP sections of Student's current IEP reference only the instruments administered as part of Student's 2009 Educational Evaluation. Finally, the evidence proves that DCPS failed to provide Student with an appropriate educational placement for SY 2013/14 where Student could the instruction and services required under his IEP, because DCPS could not provide Student with an appropriate special education class at School 1 and School 2 is for ID students, but given the lack of an appropriate current cognitive assessment for Student, it is unclear whether Student is actually ID. Under these circumstances, the hearing officer concludes that Petitioner has met its burden of proving that DCPS denied Student a FAPE.

To remedy these denials of FAPE, the hearing officer will order DCPS to promptly provide Student with an appropriate interim educational placement that includes LD students and/or students with mixed disabilities other than moderate to severe ID; to conduct and complete appropriate comprehensive psychological, OT and adaptive PE assessments for Student; to convene a meeting upon completion of the assessments to review the assessment reports, review and revise Student's IEP as appropriate, and determine an appropriate educational placement and appropriate compensatory education for Student; and to provide payment for the vision services Student has received in his home during the period from January 2014 through the date of issuance of this Decision.

Although Petitioner has requested that DCPS be required to place Student in the LD program at his neighborhood school, there has been no proof in this case that there exists such a program or that such program would be appropriate for Student. Therefore, the hearing officer will only require that DCPS consider as a first choice whether an LD classroom or program at Student's neighborhood school would be appropriate. Moreover, although DCPS agreed to conduct only a comprehensive psychological assessment that includes a cognitive measure designed for blind students and an occupational therapy assessment, the evidence in this case proves that Student also requires an adaptive PE reassessment. Therefore, the hearing officer will order DCPS to conduct that assessment as well.

Compensatory Education

Under the theory of compensatory education, courts and hearing officers may award educational services to be provided prospectively to compensate for a past deficient program. *See Reid v. District of Columbia*, 401 F.3d 516, 522 (D.C. 2005). However, courts must not use a cookie cutter approach. In every case, however, the inquiry must be fact-specific and, to accomplish IDEA's purposes, the ultimate award must be reasonably calculated to provide the educational

benefits that likely would have accrued from special education services the school district should have supplied in the first place. *Id.*; *Schaffer v. Weast, supra*.

In the instant case, Petitioner is requesting specific forms and amounts of compensatory education to compensate for the alleged harm of Student's lack of progress. However, although the evidence in this case is clear that Student has not attended school during SY 2013/14, given the absence of any cognitive and/or academic evaluations for Student since 2009 and 2010, the evidence in this case is insufficient to establish what, if any, harm Student has suffered as a result, and what, if any, compensatory education should be awarded to remediate that harm.

The hearing officer has already determined to award Petitioner a comprehensive psychological assessment that includes a cognitive measure designed for blind students, and an occupational therapy assessment, pursuant to DCPS's agreement to provide same. These assessments will provide the evaluation data needed to determine what educational harm, if any, Student has suffered from the denials of FAPE identified herein, as well as whether and what instructional and related services will be required to compensate Student for any such harm. Moreover, the evidence in this case demonstrates that Student is already receiving vision services and orientation and mobility services through a private provider.

Under these circumstances, the hearing officer will order DCPS to provide Petitioner with interim compensatory education services for Student consisting of 1 hour per week each of occupational therapy and adapted physical education services, as well as prospective payment for the independent vision services Student is currently receiving until such time as either (1) DCPS assigns an appropriate interim placement for Student to attend, or (2) DCPS assigns an appropriate educational placement for Student to attend based on the data provided by the assessments awarded herein, whichever occurs first.

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby ordered:

1. Within 15 school days of the issuance of this Order, DCPS shall convene an MDT meeting to determine and assign an appropriate interim educational placement for Student that includes LD students and/or students with mixed disabilities, but that does not include Students who are moderately to severely ID. In making this determination, DCPS shall consider as a first choice whether an LD classroom or program at Student's neighborhood school would be appropriate. If so, DCPS shall assign Student to attend that classroom or program; if not, then DCPS shall designate another interim educational placement for Student as appropriate.
2. Within 30 calendar days of the issuance of this Order, DCPS shall conduct and complete for Student (i) a comprehensive psychological assessment that includes a cognitive measure designed for blind students, (ii) an occupational therapy assessment, and (iii) an adaptive PE assessment.

3. Within 15 days of receipt of the assessment reports generated pursuant to Paragraph 1 above, DCPS shall convene an IEP meeting for Student to review the reports and review and revise Student's IEP as appropriate, determine and assign an appropriate educational placement for Student, and determine and award appropriate compensatory education to Student if appropriate. However, the 15-day timeline established for DCPS herein shall be extended by one day for any and every day of delay caused by Petitioner and/or its agents.
4. Within 15 calendar days of the receipt of one or more invoices prepared by the private service provider, DCPS shall provide payment for the private vision services Student has received in his home from the period beginning in January 2014 and ending on the date of the issuance of this Order.
5. DCPS shall provide Petitioner with interim compensatory education services for Student consisting of 1 hour per week each of occupational therapy and adapted physical education services, as well as prospective payment for the independent vision services Student is currently receiving, until such time as either (1) DCPS assigns an appropriate interim placement for Student to attend, or (2) DCPS assigns an appropriate educational placement for Student to attend based on the data provided by the assessments awarded herein, whichever occurs first.

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within ninety (90) days from the date of the Hearing Officer Determination in accordance with 20 U.S.C. § 1415(i).

Date: 4/26/14

/s/ Kimm Massey

Kim Massey, Esq.
Hearing Officer