

**DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**

Office of Dispute Resolution
810 First Street, N.E., 2nd Floor
Washington, DC 20002

OSSE
Office of Dispute Resolution
January 20, 2015

STUDENT, ¹)	
through the Parent,)	
)	Date Issued: January 18, 2015
Petitioner,)	
)	Hearing Officer: John Straus
v.)	
)	
District of Columbia Public Schools)	
)	
)	
Respondent.)	
)	

HEARING OFFICER DETERMINATION

Background

The Petitioner, who is the mother of the Student, filed a due process complaint notice on November 4, 2014, alleging that Student had been denied a free appropriate public education (“FAPE”) by the District of Columbia Public Schools (“DCPS”) in violation of the Individuals with Disabilities Education Act (“IDEA”).

The Petitioner alleged that DCPS had failed to evaluate the Student prior to exiting the Student from special education services, failed to evaluate the Student in all areas of suspected disability, and failed to determine the Student is a student with an Other Health Impairment (“OHI”) or a student with an Emotional Disturbance (“ED”) under the IDEA.

DCPS denied that the Student was denied a FAPE. DCPS states the parent submitted a revocation of consent for services and addendum letter on or about April 12, 2013 demonstrating an informed, written revocation of consent. DCPS asserts an LEA cannot force services or evaluations on the student and DCPS cannot therefore be held liable for any educational harm stemming from this revocation as a matter of law and equity. DCPS further states the Petitioner’s claim regarding an improper evaluation is factually incorrect because DCPS obliged when the parent revoked her consent. DCPS states it has continuously complied with its child find obligations and reconsidered the Student’s eligibility just this past year. In doing so, DCPS argues that the student’s academic scores range from the average to above average in all

¹ Personal identification information is provided in Appendix A.

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academic areas and that the student does not require specialized instruction to access the curriculum.

Subject Matter Jurisdiction

Subject matter jurisdiction is conferred pursuant to the IDEA, as modified by the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. Section 1400 et. seq.; the implementing regulations for the IDEA, 34 Code of Federal Regulations (“C.F.R.”) Part 300; Title V, Chapter E-30, of the District of Columbia Municipal Regulations (“D.C.M.R.”); and 38 D.C. Code 2561.02.

Procedural History

The due process complaint was filed on November 4, 2014. This Hearing Officer was assigned to the case on November 6, 2014. DCPS timely filed a response to the complaint on November 14, 2014 and made no challenges to jurisdiction. A Prehearing Conference took place on December 1, 2014 and a Prehearing Order was issued on the same day.

Neither Petitioner nor Respondent waived the resolution meeting. A resolution meeting took place on November 14, 2014, at which time parties agreed to keep the resolution period open.

The 30-day resolution period ended on December 4, 2014, the 45-day timeline to issue a final decision began on December 5, 2014 and the final decision is due by January 18, 2014.

The due process hearing was a closed hearing

Neither party objected to the testimony of witnesses by telephone. Petitioner participated in the hearing in person.

Petitioner’s Disclosure Statement, filed and served on December 22, 2014, consisted of a witness list of nine witnesses and documents P-01 through P-44. The Petitioner withdrew documents P-1, P-2 and P-31. The Respondent’s objections to documents P-24 through P-30, P-34 and P-38 on the basis of relevance were overruled. The Respondent made objections to documents P-21 through P-24, P-28 through P-30, P-36 and P-42 because the document were created after the filing of the complaint. Those objections were overruled. The Respondent withdrew his objection based on relevance to document P-42. Document P-43 was admitted to the record but not as evidence. The Petitioner withdrew a paralegal as a witness and the expert status of another witness. Finally, the Petitioner made a change to document P-39 without objection.

DCPS’ Disclosure Statement, dated December 18, 2014, consisted of a witness list of four witnesses and documents R-1 through R-8. The Petitioner did not object to DCPS’ disclosures.

Petitioner presented the following six witnesses in her case in chief: (1) Petitioner; (2) Psychologist who qualified as an expert in psychological services and evaluation in a school

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setting (“Psychology Expert”); (3) Educational Advocate (“Advocate”); (4) Child Care Provider; (5) Special Education Consultant (“Consultant”) and (6) Social Worker.

DCPS presented two witnesses: (1) Director and (2) DCPS school psychologist who qualified as an expert in school psychology and eligibility, including the evaluation process (“School Psychology Expert”).

The issues to be determined in this Hearing Officer Determination is as follows:

1. Whether Respondent denied Student a FAPE by failing to evaluate the Student prior to exiting the Student from special education services.
2. Whether Respondent denied Student a FAPE by failing to determine the Student is a student with an Other Health Impairment or a student with an Emotional Disturbance under the IDEA.

Another issue, whether Respondent denied Student a FAPE by failing to evaluate the Student in all areas of suspected disability, was withdrawn by the Petitioner without prejudice at the outset of the hearing.

Petitioner requested the following relief:

- (1) The Hearing Officer to order DCPS to reinstate the Student’s IEP;
- (2) DCPS to conduct a clinical psychological assessment, including a Conner’s test for Attention Deficit Disorder, and a functional behavioral assessment;
- (3) DCPS to provide compensatory services to redress the lack of special education and related services as a result of DCPS’ exiting the Student from special education services on April 12, 2013 until November 4, 2014; and
- (4) Any other appropriate relief.

Findings of Fact

After considering all the evidence, as well as the arguments of both counsel, this Hearing Officer’s Findings of Fact are as follows:

1. The Student _____ resides with his mother in the District of Columbia.
2. _____ the Student received an academic achievement assessment due to the Petitioner’s concerns with the Student’s focusing and inattention. The evaluator noted the Student had difficulty attending and was distracted but completed the assessment. The assessment included the Battelle Developmental Inventory and yielded low average scores.³

² Petitioner

³ P-4, R-1

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3. On August 13 and 27, 2012, the Student received a psychological assessment from the school psychology expert. The School Psychology Expert stated the Student is a student with Attention Deficit Hyperactivity Disorder (“ADHD”). She further stated the Student manifests difficulty controlling his behavior at appropriate times. These difficulties adversely affect the Student’s ability to follow classroom and school routines, follow directions and successfully make transitions. The Student also demonstrated difficulty attending, remaining on task and focused in the classroom. These difficulties may result in the Student missing critical information presented during key classroom activities. The School Psychology Expert stated the Student may be a student with developmental delay under the IDEA.⁴
4. On August 30, 2012, the IEP team convened. The team reviewed the psychological assessment conducted on August 13 and 27, 2012 and determined the Student is a student with a developmental delay under the IDEA. The team developed an IEP that includes goals in adaptive/daily living skills and three hours of specialized instruction per week in a general education setting.⁵
5. The Student attended a DCPS Elementary School for the 2012-2013 school year.⁶
6. On April 12, 2013, in a letter, the Petitioner revoked consent to provide special education services for the Student because the Student “does not exhibit the behaviors originally stated within his original evaluation”. The Petitioner stated she removed the Student from special education services based on recommendations of a DCPS social worker that the Student was doing well academically. The teacher disagreed with the decision to remove the Student from special education services based on the Student’s extreme behavioral difficulties which warranted the Student being removed from the classroom and denying access to academic material.⁷
7. The Student attended a Charter School that was closer to the Student’s house from the beginning of the 2013-2014 school year until December 2014.⁸
8. On August 21, 2013, the Petitioner was interviewed for a Social History Assessment due to the Student’s difficulty with following instructions, difficulty remaining on task, physicality toward students and staff and use of inappropriate language.⁹
9. On September 24, 2013, the Student received a psychiatric assessment. The assessment included an interview with the Petitioner who stated the Student has a possible history of exposure to aggression and violence. The evaluator noted the Student gets into frequent conflicts with peers, sometimes hitting them, grabbing toys. He has also hit teachers and

⁴ P-3, R-2, School Psychology Expert, Psychology Expert

⁵ P-6, Petitioner

⁶ Petitioner

⁷ P-39, R-3, Petitioner, Director, Consultant

⁸ Petitioner

⁹ P-18

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the principal on more than one occasion. His behavioral difficulties have gotten worse when his younger brother required hospitalization.¹⁰

10. On October 11 and 25, 2013, the Student was given another psychological assessment by the School Psychology Expert. The School Psychology Expert noted the Student began demonstrating significant behavior concerns since enrolling in the Charter school. The assessment included an interview with the Petitioner who stated that she sits with the Student in class and the Student is required to leave school before the end of the school day due to his behaviors. The Petitioner expressed concern that the Student is suffering academically because he is missing instruction. The assessment also included a teacher interview. The teacher stated the Student engages in inappropriate classroom behavior such as being out of location, verbal outbursts, not following directions and physically aggressive behavior towards teacher and school administration. The teacher stated the Student's behavior escalates during whole group instruction. The Student demonstrates inappropriate language and hits his peers. The Student has been removed from the classroom when his behavior becomes unmanageable. The assessment included a 25 minute classroom observation. During the observation, the Student walked out of the classroom without permission, he returned with the principal but refused to return to his seat and instead ate his teacher's oatmeal and he threw the toys and markers, marked on the floor and talked loudly. The School Psychology Expert intervened when the Student did not follow his teacher's directions. The School Psychology Expert stated the Student manifests significant behavior problems in the classroom but he is accessing the general education curriculum despite these behaviors. The school had not tried any research based interventions to address the Student's behaviors. Therefore, the School Psychology Expert stated the Student is not a student with a Developmental Delay. The School Psychology Expert recommended the Student receive an academic achievement assessment and a functional behavioral assessment.¹¹
11. On October 11, 2013, the Student received another Academic Achievement assessment. The assessment included the Young Children's Achievement Test which yielded scores in the average range in all areas except spoken language where the student was measured in the below average range. The assessment was administered in a one on one setting.¹²
12. From October 7, 2013 to October 22, 2013, the Student was observed on three occasions as part of a Functional Behavioral Assessment ("FBA"). The evaluator noted since the beginning of the 2013-2014 school year to November 14, 2013, the Student received 30 office time outs for hitting peers or staff and/or running away from staff, two out of school suspensions and two early dismissals due to persistent defiance leading to physically acting out towards peers and teachers. On one occasion, the Student put his hands around the teacher's neck and squeezed when told to stop throwing learning tools and continuing to scratch and hit the principal on the way to the office. Another incident included throwing a marker at a parent and running around the room when asked to apologize and then crawling under a table, pinching a student's leg, and throwing pillows

¹⁰ P-8, Psychology Expert

¹¹ P-9, R-5, School Psychology Expert

¹² P-5, R-4, Psychology Expert, Director

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at his teacher. Other typical behaviors include punching, slapping, running in and out of several classrooms and throwing objects. He typically is brought to the office 1 to 3 times per week for unsafe behavior. The Student was observed on October 7, 2013, October 15, 2013 and October 22, 2013. During the observations, the student made faces, hit other students, required redirection on several occasions, put toys in his mouth, yelling, grabbed other students, pulled down a poster on the wall, running in class and drumming with pencil, walking around the classroom while eating, put a paper in his mouth and threw it on the ground, hit a computer, screamed, opened and closed a door, waived a toy at other student's faces and took a toy from another student and hit him with it among other behaviors. The data collected from the observations indicate the Student was appropriate 30% of the time and inappropriate 70% of the time. The Student's teacher was interviewed and reported the Student demonstrates physical aggression, physical distraction, yelling, running away, leaving the classroom, talking or throwing classroom items or furniture and inappropriate language on a daily basis, continuously throughout the school day in all settings.¹³

13. On October 5, 2013, a Behavior Intervention Plan ("BIP") was developed for the Student. The target behavior was physicality towards peers. The goal of the plan was for the Student to express his wants using 1 out of 3 taught sentences during centers time instead of hitting his peers or grabbing materials that do not belong to him.¹⁴
14. On October 22, 2013, the Student was suspended for one day due to running out of the classroom, hitting and kicking staff and trying to bite staff.¹⁵
15. On October 28, 2013, the Student was suspended for two days due to hitting another student, running around the room, throwing objects and hitting staff members.¹⁶
16. On December 2, 2013, the IEP team reviewed the October 11 and 25, 2013 psychological assessment, October 11, 2013 academic achievement assessment, and the May 4, 2012 Ages and Stages Questionnaire. The team noted the Student was referred for special education services for unmanageable behavior such as hitting, pushing and snatching toys. The team also noted that in 2012 the Student's behaviors were a hazard to other students. However, the team determined the Student is not a student with a disability under the IDEA.¹⁷
17. On September 14, 2014, the BIP was revised. The new target behavior was physical aggression towards students and teachers such as hitting, slapping, spitting, throwing items, climbing on furniture, leaving the classroom without permission and running from adults. The goal of the plan was to keep a safe body for the duration of the Student's school day. Negative emotions will be expressed and managed through appropriate language and coping skills. The BIP stated the student would benefit from an

¹³ P-13, R-6, Psychology Expert, Director, Advocate

¹⁴ P-14, Advocate

¹⁵ P-25

¹⁶ P-26

¹⁷ P-7

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individualized daily schedule. A follow up meeting was scheduled for November 17, 2014.¹⁸

18. On September 15, 2014, the Petitioner was informed the Student was not following directions.

The Student was placed in weekly sessions with a social worker and received preferential seating. The Petitioner was informed the Student would not be allowed to attend an extended day program with his peers. The charter school would review progress by January 22, 2015 and determine whether the Student was eligible to the extended day program by April 2, 2015.¹⁹

19. , the Student's academic schedule was changed due to a pattern of disruptive and aggressive behavior in the general education setting. The Student was placed in a small group or one on one instruction during most of the school day, including one hour in special education class. A safety plan was developed in the event the Student displays unsafe behavior such as physical aggression towards teachers or students, running out of the classroom or running away from teachers. If hitting occurs, the Petitioner will be called to be made aware of the incident. If a second incident occurs, the Petitioner must come to school to sit with the Student or pick the Student up from school.²⁰

20. On October 20, 2014, the Petitioner, through counsel, requested the student receive another Clinical Psychological assessment, Connor's Rating Scale and another FBA to determine whether the Student is a student with Attention Deficit Hyperactivity Disorder. A second request was made on October 31, 2014.²¹

21. On November 4, 2014, the Student was suspended for two days due to running in the school building, throwing materials and running out of the school building into the parking lot.²²

22. On December 5, 2014, the Student was suspended for one day due to destroying a computer and keyboard by banging on the items with a plastic pointer.²³

23. On December 8, 2014, the Student was suspended and recommended for expulsion from the Charter School due to extended and excessive disruptive behavior such as refusal to comply with teacher directions, unsafe behaviors and endangered other students, excessive physicality toward staff in the form of punching and kicking, punching a staff member in the crotch and placing his hand up her skirt.²⁴

¹⁸ P-14

¹⁹ P-16

²⁰ P-15, Petitioner, Advocate

²¹ P-32, P-33

²² P-24

²³ P-27

²⁴ P-21, P-22, P-23

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24. On December 10 or 11, 2014, the IEP team convened to determine whether the Student's behaviors were a manifestation of the Student's disability. The team determined that because the Student did not have a disability under the IDEA, the team could not determine whether the Student's behavior is a manifestation of his disability and stated the team would reconvene after assessments are completed to determine whether the Student's behavior is a manifestation of his disability. The team noted the Student has a BIP that was reviewed on November 7, 2014.²⁵
25. The Student was placed at another Charter School campus which is further from the Student's home on January 8, 2015 as an interim alternative setting.²⁶

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:

"Based solely upon evidence presented at the hearing, an impartial hearing officer shall determine whether the party seeking relief presented sufficient evidence to meet the burden of proof that the action and/or inaction or proposed placement is inadequate or adequate to provide the student with a FAPE." 5 D.C.M.R. E-3030.3. The burden of proof in an administrative hearing is properly placed upon the party seeking relief. *Schaffer v. Weast*, 44 IDELR 150 (2005).

A hearing officer's determination of whether a child received a FAPE must be based on substantive grounds. In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies (i) impeded the child's right to a FAPE; (ii) significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) caused a deprivation of educational benefit. 34 C.F.R. 300.513(a).

The Respondent did not deny the Student a FAPE by failing to evaluate the Student prior to exiting the Student from special education services

DCPS must discontinue the provision of services to a student with a disability after the parent revokes consent in writing. A district does not violate its obligation to make FAPE available to students with disabilities by discontinuing services after the parent withdraws consent. 34 C.F.R. § 300.300 (b)(4)(iii). Once a parent revokes consent and the district provides prior written notice about the termination of the student's services, the district has no obligation to hold an IEP meeting or develop an IEP for the student. 34 C.F.R. § 300.300 (b)(4)(iv). OSEP has noted that disagreements between parents who both have the right to make educational decisions for the student do not affect a district's obligation to discontinue services upon receiving written revocation of consent. So long as the parent revoking consent has the right to do so, the district must provide prior written notice in accordance with 34 C.F.R. § 300.503, discontinue the student's special education and related services, and treat a subsequent evaluation

²⁵ P-28, P-30

²⁶ P-28, Petitioner

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request by either parent as a request for an initial evaluation. *Letter to Cox*, 54 IDELR 60 (OSEP 2009).

The Petitioner provide no support to her argument that DCPS must evaluate the Student prior to discontinuing special education services. The Petitioner failed to meet her burden of proof by a preponderance of the evidence that DCPS denied the Student a FAPE by failing to evaluate the Student prior to exiting the Student from special education services.

Respondent denied Student a FAPE by failing to determine the Student is a student with an OHI or a student with an ED under the IDEA.

The overall purpose of the IDEA is to ensure that all children with disabilities²⁷ have available to them a free appropriate public education that emphasizes special education²⁸ and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. 34 C.F.R. 300.1. To that end, DCPS must have procedures in place to ensure that all children with disabilities residing within the District of Columbia, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located and evaluated and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services. And, this obligation extends to children who are suspected of being a child with a disability and in need of special education, even though they are advancing from grade to grade. 34 C.F.R. § 300.111, 5 D.C.M.R. E-3002.1(d).

ADHD is not a specific disabling condition under the IDEA, although a student with ADHD may be eligible as OHI. 34 C.F.R. § 300.8(c)(9). The classification of ADHD depends on the particular presentation of the disorder in an individual student and must be determined on a case-by-case basis. In other instances, a student with ADHD may be eligible for services under the classification of an ED. It is important to note that a student with ADHD will not qualify for a classification of ED unless he meets the specific eligibility criteria for ED.

A student needs to exhibit one of the five criteria of the definition of ED listed in 34 C.F.R. § 300.8(c)(4) over a long period of time²⁹ and to a marked degree³⁰ to be so classified, provided that his educational performance is thereby adversely affected. *See, e.g. Lapidus v.*

²⁷ Child with a disability means a child who is evaluated as having one of the defined disabilities under the IDEA, and who, by reason thereof, needs special education and related services. 34 C.F.R. § 300.8(a). Disability includes, but is not limited to Emotional Disturbance, Hearing Impairment, Specific Learning Disability, and Other Health Impairment.

²⁸ Special education means specially designed instruction, to meet the unique needs of the child with a disability. Specially designed instruction means adapting, as appropriate to the needs of an eligible child, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability, and ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children. 34 C.F.R. 300.39.

²⁹ According to OSEP, a generally acceptable definition of a long period of time is a range of time from two to nine months, preliminary interventions have been implemented and proven ineffective during that period. *Letter to Anonymous*, 213 IDELR 247 (OSEP 1989).

³⁰ OSEP takes the position that "to a marked degree" generally refers to the frequency, duration or intensity of a student's emotionally disturbed behavior in comparison to the behavior of his peers and can be indicative of either degree of acuity or pervasiveness. *Letter to Anonymous*, 213 IDELR 247 (OSEP 1989).

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Coto, 559 IDELR 387 (N.D. Cal. 1988). The five criteria are 1) An inability to learn that cannot be explained by intellectual, sensory, or health factors; 2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers; 3) Inappropriate types of behavior or feelings under normal circumstances; 4) A general pervasive mood of unhappiness or depression; 5) A tendency to develop physical symptoms or fears associated with personal or school problems.

In this case, it is clear that the Student has not built or maintained satisfactory interpersonal relationships with peers and teachers; the second of the five criteria. Here, the student gets into frequent conflicts with peers and staff; sometimes hitting them, grabbing toys, use of inappropriate language, being out of location, verbal outbursts, not following directions. On one occasion, the Student put his hands around the teacher's neck and squeezed when told to stop throwing learning tools and continuing to scratch and hit the principal on the way to the office. Another incident included throwing a marker at a parent and running around the room when asked to apologize and then crawling under a table, pinching a student's leg, and throwing pillows at his teacher. Other typical behaviors include punching, slapping, running in and out of several classrooms and throwing objects. The student made faces, exhibited pica, hit a computer, screamed, opened and closed a door, waived a toy at other student's faces and took a toy from another student and hit him with it and tried to bite staff, on a daily basis, continuously throughout the school day in all settings. Documentation of all of these behaviors were available to the December 2, 2013 IEP team.

A student could have a qualifying OHI by reason of ADHD if the disorder limits the student's ability to attend to a specific academic task by causing him to be overly alert to his environment in general. In other words, if the student's disability-related distractibility adversely affects his educational performance, he has limited alertness. *See e.g. Letter to Cohen*, 20 IDELR 73 (OSEP 1993) (Limited alertness must be viewed in terms of its effect on educational performance.) The regulations at 34 C.F.R. 300.8(c)(9) define an OHI as including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment.

In this case, the Student has a well-documented history of difficulty with focusing, remaining on task, and paying attention. The School Psychology Expert noted the Student's difficulty attending, remaining on task, and focusing in the classroom adversely affect the Student's ability to follow classroom and school routines, follow directions, and successfully make transitions resulting in the Student missing critical information presented during key classroom activities. As a result, she stated the Student is a student with ADHD.

Regardless of the existence of ADHD, it is only a qualifying disability under the IDEA if the disability adversely affects a child's educational performance. 34 C.F.R. § 300.8(c)(9)(ii). Here, although the Student has received average scores on academic assessment, the Student is suffering academically because he is missing instruction. He is spending a significant part of his day either engaging in inappropriate behaviors or receiving timeouts, in school suspensions and out of school suspensions and expulsion as a result of engaging in these behaviors. The student's inattention and off task behaviors were documented when the December 2, 2013 IEP team convened.

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A child who meets one of the disability classifications under the IDEA who solely is in need of behavioral intervention or a related service and does not require special education services, does not qualify as a child with a disability under the IDEA. 34 C.F.R. 300.8(a)(2)(i). In this case, the fact that the charter school altered the Student's schedule and placed the student in special classes evinces that the Student does in fact require special education services. The evidence illustrates that the Student is a student with a disability under the IDEA either under the category of ED, OHI or Multiple Disabilities ("MD").

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. 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." *Reid v. District of Columbia*, 401 F.3d 522 & 524. To aid the court or hearing officer's fact-specific inquiry, "the parties must have some opportunity to present evidence regarding [the student's] specific educational deficits resulting from his loss of FAPE and the specific compensatory measures needed to best correct those deficits." *Id.* at 526.

The evidence demonstrates the December 2, 2013 IEP team should have determined the student was a student with a disability. The student missed at least a year of special education. The team should have developed an IEP that provided the student with at least one hour of specialized instruction per day, like the student's safety plan. Thus, the Hearing Officer grants what he considers to be a reasonable amount of compensatory services for the actual services missed that will allow the student to recoup some, if not all, of any lack of services.

ORDER

1. Within ten school days, DCPS shall convene an IEP team meeting to review any available assessments, develop an IEP based for the student and determine a placement, pursuant to 34 C.F.R. § 300.116, where the IEP may be implemented.
2. DCPS shall provide the Student with one to one independent tutoring service, not to exceed one hour per day, in reading, writing and mathematics for 50 weeks.

All other requested relief is denied.

IT IS SO ORDERED.

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

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controversy within ninety (90) days from the date of the Hearing Officer Determination in accordance with 20 U.S.C. §1415(i).

Date: January 18, 2015

John Straus
Hearing Officer