DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

Student Hearing Office
810 First Street, N.E., Second Floor
Washington, DC 20002

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STUDENT HEARING OFFICE
2011 FEB 22 AM 10:00

STUDENT,[1]	)	Case Number:
	)	
Petitioner,	)	Hearing Dates:
	)	October 26, 2010, Room 2006
v.	)	November 18, 2010, Room 2006
	)	January 18, 2011, Room 2009
THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS,	)	February 11, 2011, Room 2009
	)	
	)	Hearing Officer: Frances Raskin
Respondent.	)	

HEARING OFFICER DETERMINATION

I. JURISDICTION

This proceeding was invoked in accordance with the rights established under the Individuals With Disabilities Education Improvement Act of 2004 ("IDEIA"), and its implementing regulations at 20 U.S.C. §§ 1400 et seq., Title 34 of the Code of Federal Regulations, Part 300; and Title 38 of the D.C. Code, Subtitle VII, Chapter 25.

II. BACKGROUND

The Student is an -year-old, special education student who presently attends a District of Columbia senior high school. On July 29, 2010, the Student's mother ("Parent") filed a Due Process Complaint Notice ("Complaint") alleging that, from 2005 to the present, the District of Columbia Public Schools ("DCPS") had failed to (1) evaluate him in all areas of suspected disability;[2] (2) develop an appropriate individualized educational program ("IEP") for the Student, including an appropriate placement; and (3) develop an appropriate behavior

[1] Personal identification information is provided in Attachment A.

[2] The Complaint alleges that DCPS failed to conduct a clinical evaluation of the Student to assess "his emotional state." During the prehearing conference on August 31, 2010, counsel for Petitioner informed this Hearing Officer that Petitioner would not pursue this claim. On September 21, 2010, counsel for Petitioner then filed a motion seeking leave to introduce evidence on this issue. This Hearing Officer issued an order granting Petitioner leave to introduce evidence that, between July 29, 2008, and the present, DCPS failed to conduct clinical evaluations of the Student.

intervention plan ("BIP").[3] The Complaint further alleges that DCPS owes the Student compensatory education in the form of wrap-around services. As relief, the Complaint seeks an order requiring DCPS to fund the Student's (1) tuition at a special education, non-public day school; (2) extended school year services ("ESY"); and (3) wrap-around services that include individual and family counseling, medication management, and therapeutic recreation, as part of his IEP and as compensatory education to be implemented after he turns twenty-three years old.

On August 9, 2010, DCPS filed a "Response to Petitioner's Due Process Complaint." On August 19, 2010, the parties participated in a resolution meeting. The parties were unable to resolve the Complaint and agreed to proceed to a due process hearing. Thus, the resolution period ended on August 19, 2010. The parties agreed that the forty-five day, due process hearing timeline began on August 20, 2010.

This Hearing Officer held a prehearing conference on August 31, 2010. Counsel for the Student and counsel for DCPS participated in the prehearing conference. This Hearing Officer issued a Prehearing Order on September 13, 2010. This Hearing Officer held subsequent prehearing conferences on September 21 and 24, 2010.

This Hearing Officer held a fourth prehearing conference on October 21, 2010, to discuss the parties' respective disclosures and their failure to comply with the directives of the September 13, 2010, Prehearing Order. On October 25, 2010, this Hearing Officer issued a Prehearing Conference Order Regarding Five Day Disclosures.

The due process hearing commenced on October 26, 2010. This Hearing Officer admitted into evidence the parties' respective and joint five-day Disclosures at the inception of the hearing. During the four days of hearing, the Student testified and presented the testimony of five other witnesses including the Parent. DCPS presented the testimony of three witnesses. The due process hearing concluded on February 11, 2011.

III. ISSUES PRESENTED

This Hearing Officer certified the following issues for adjudication at the due process hearing:

A. Whether DCPS denied the Student a free, appropriate, public education ("FAPE) by failing to develop appropriate IEPs for the Student during the two years prior to the filing of the Complaint, *i.e.*, for the 2008-2009, 2009-2010, and/or 2010-2011 school years;

B. Whether DCPS denied the Student a FAPE by failing to provide him ESY during the summers of 2009 and 2010;

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[3] The Parent filed the complaint on the Student's behalf in July 2010, when he was still a minor. In December 2010, after the Student turned eighteen, he assumed all educational decision-making rights that the Parent previously held. Thus, the Student currently is the sole party in interest and the Petitioner in this case.

C. Whether DCPS denied the Student a FAPE by failing to provide him an appropriate BIP during the two years prior to the filing of the Complaint;

D. Whether the Student requires a full-time, therapeutic out of special education placement in a non-public school; and

E. Whether, as a remedy for the failure of DCPS to provide him a FAPE during the two years prior to the filing of the Complaint, the Student is entitled to compensatory education in the form of wrap-around services.

IV. FINDINGS OF FACT

1. The Student is an ·year-old, special-education student who attends a District of Columbia high school. The Student has attended seven DCPS schools since pre-kindergarten.[4] He attended one school from pre-kindergarten through third grade, and another school from the fourth through sixth grades.[5] In middle school, the Student attended one school for the first half of seventh grade and another for the second half of seventh grade and for eighth grade.[6] He attended one high school for ninth and tenth grades and another high school for eleventh grade.[7]

2. An evaluation of the Student in 2005, when he was in fifth grade, revealed that he had borderline to low average intellectual ability.[8] He was four years behind his same-age peers in academic performance.[9] The evaluation noted that he needed a low student-teacher ratio, highly structured environment, and multisensory approaches to education.[10] That year, the Student's IEP failed to provide the interventions he required.[11]

3. Since 2005, the Student's educational performance deteriorated.[12] Because he did not receive the specialized instruction he required, and DCPS failed to meet his cognitive and social-emotional needs, he became depressed and avoided school.[13] Nonetheless, DCPS never conducted a clinical evaluation of the Student.[14] In all, he obtained only four months' academic growth between 2005 and 2010.[15]

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[4] Joint Exhibit 4 at 34 (December 29, 2009, report of confidential psycho-educational evaluation); Petitioner Exhibit 6 at 34 (May 1, 2010, psychiatric evaluation).
[5] Joint Exhibit 4 at 34; Petitioner Exhibit 6 at 35.
[6] *Id.*
[7] *Id.*
[8] Testimony of Expert in Psychoeducation.
[9] *Id.*
[10] *Id.*
[11] Testimony of Expert in Psychoeducation.
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.*

4. The Student has a history of truancy, cutting class, and multiple suspensions.[16] During the 2009-2010 school year, the Student did not attend school until February 2010 because the Parent had not enrolled him.[17] In September 2010, the Student enrolled in a third high school after receiving a transfer for safety reasons.[18]

5. The Student has been charged with numerous criminal offenses, including distribution of cocaine in a drug-free zone in May 2007, robbery and simple assault in November 2007, and distribution of a controlled substance in November 2009.[19] The Student remains at risk for this type of behavior.[20]

6. The Student's sister was diagnosed with cancer in 2008 or 2009.[21] Her terminal illness devastated the family.[22] The Student became very depressed and began using daily.[23]

7. In 2009, as measured by the Wechsler Adult Intelligence Scale, Fourth Edition (WAIS-IV), the Student had a full-scale IQ (FSIQ) of 67, which is in the first percentile of his same-age peers and in the extremely low range.[24] However, his IQ score may have been depressed due to the fact that, at the time the WAIS-IV was administered, he smoked marijuana at least five times a week.[25]

8. The FSIQ is an aggregate of four index scores and is generally considered the most representative measure of global intellectual functioning.[26] These indices reflect a person's functioning in verbal comprehension, perceptual reasoning, working memory, and processing speed.[27] DCPS should have conducted an adaptive assessment of the Student to rule out an intellectual disability.[28] The failure by DCPS to conduct this assessment likely impeded the

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[16] Petitioner Exhibit 6 at 35.
[17] *Id.* at 36. In January 2010, the Parent attempted to enroll the Student in a DCPS high school but school officials rebuffed her efforts, stating that this school was not the Student's assigned school. Testimony of Parent.
[18] *Id.*; Respondent Exhibit 13 at 1.
[19] Joint Exhibit 4 at 31, 33.
[20] Petitioner Exhibit 6 at 41.
[21] *Id.* at 37.
[22] *Id.*
[23] *Id.* at 38.
[24] Joint Exhibit 4 at 36. An FSIQ score of 100 is considered average. *Id.* With 95 percent confidence, the Student's true FSIQ score is between 64 and 72. *Id.*
[25] *Id.* at 35; testimony of Expert in Psychoeducation.
[26] Joint Exhibit 4 at 36.
[27] *Id.*
[28] Testimony of Expert in School Psychology. DCPS failed to properly serve the Student when it failed to conduct an adaptive functioning assessment. *Id.* One cannot appropriately plan for a child educationally if he does not have an accurate disability classification. *Id.* Thus, there should have been an attempt to clarify that and determine whether ID was an issue. *Id.*

Student's academic progress.[29]

9. In 2009, the Student's verbal comprehension was in the second percentile, which is in the borderline range.[30] His perceptual reasoning was in the third percentile and in the borderline range of functioning.[31] His working memory was in the fourth percentile and in the borderline range.[32] His processing speed was in the fourth percentile and in the borderline range.[33]

10. In 2009, the Student's academic achievement was extremely low.[34] He functioned at the second grade level in broad written language, including letter-word identification, passage comprehension, and reading fluency.[35] In spelling, he functioned at the level of a student in the eighth month of first grade.[36] In writing samples, he functioned at the level of a student in the seventh month of first grade.[37] In writing fluency, he performed at the third-grade level.[38]

11. In 2009, the Student functioned at the second-grade level in broad math, including math fluency and calculation.[39] In math fluency, he functioned at the third-grade level.[40] He functioned at the fourth-grade level in applied problems.[41] As a result of his low-levels of cognitive ability and academic functioning, the Student would have a very difficult time accessing grade or age level material.[42]

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[29] *Id.* School personnel cannot appropriately plan for a child educationally if he does not have an accurate disability classification. *Id.* Thus, there should have been an attempt to clarify that and determine whether the Student had an intellectual disability. *Id.*
[30] *Id.* The verbal comprehension index ("VCI") of the WAIS-IV represents the Student's ability to reason with previously learned information. *Id.* His composite score on the VCI was 70. *Id.* With 95 percent confidence, his true VCI would fall between 66 and 77. *Id.*
[31] *Id.* at 37. The perceptual reasoning index ("PRI") of the WAIS-IV measures an individual's ability to look at, synthesize, and reason with visual information. *Id.* The Student's composite score on the PRI was 71. *Id.* With 95 percent confidence, his true PRI would fall between 66 and 79. *Id.*
[32] *Id.* The working memory index ("WMI") of the WAIS-IV is a measure of short-term memory and represents the Student's ability to remember and respond to information in a sequential fashion. *Id.* His composite score on the WMI was 74. *Id.* With 95 percent confidence, his true WMI would fall between 69 and 82. *Id.*
[33] *Id.* The processing speed index ("PSI") of the WAIS-IV measures the ability to perform cognitive tasks under time pressure. *Id.* The Student's composite score on the PSI was 74. *Id.* With 95 percent confidence, his true PSI score would fall between 68 and 85. *Id.*
[34] *Id.* at 38.
[35] *Id.*; Joint Exhibit 5 at 42 (Report of February 11, 2009, educational evaluation).
[36] *Id.*
[37] *Id.*
[38] *Id.*
[39] Joint Exhibit 5 at 42.
[40] *Id.*
[41] *Id.*
[42] Testimony of Expert in School Psychology.

12. The Student has reading and math learning disorders.[43] He also has borderline intellectual functioning.[44] Due to his extremely low cognitive abilities and academic achievement, the Student needs direct, individualized instruction in all basic skill areas.[45] He requires multimodal instruction and accommodations, including access to photocopied notes, modified assignments, and additional time.[46]

13. The Student has a language disorder characterized by deficits in receptive and expressive language.[47] He has difficulty comprehending and following directions in the classroom setting due to his deficits in vocabulary and written language.[48] He also has difficulty understanding relationships between words that are related by semantic class association, opposites, and synonyms.[49]

14. The Student has been diagnosed with depressive disorder, not otherwise specified, and cannabis abuse.[50] He is typically sad and has low self-esteem.[51] His negative affective state appears to stem from his childhood experiences, his sister's illness, and the deaths of three of his friends.[52] His family is dysfunctional and he was exposed to domestic violence between his parents, struggled throughout school, and has been retained twice.[53]

15. In part because DCPS failed to provide counseling on his IEP, the Student has not learned effective coping strategies to deal with his frustrations, especially given his age and ability level.[54] As a result, he avoids things that upset him by missing court-related appointments, violating curfew, not attending school, and using alcohol and marijuana.[55] These behaviors perpetuate his difficulties, further depressing his mood and making him fall farther behind in school.[56] The Student most likely will continue to abuse marijuana until his condition is successfully treated.[57]

16. The Student requires substantial home, school, and community support to experience academic and social success.[58] He needs family therapy to assist him in dealing with his

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[43] Joint Exhibit 4 at 39.
[44] *Id.*
[45] *Id.*
[46] *Id.* at 40.
[47] Joint Exhibit 2 at 15 (March 12, 2009, IEP); Joint Exhibit 1 at 6 (June 8, 2010, IEP).
[48] *Id.*
[49] *Id.*
[50] Joint Exhibit 4 at 38.
[51] *Id.*; Petitioner Exhibit 6 at 40. DCPS did not conduct this evaluation; rather was conducted at the request of the Superior Court of the District of Columbia. *Id.* at 34.
[52] *Id.*
[53] *Id.*
[54] Joint Exhibit 4 at 38; testimony of Expert in Psychoeducation.
[55] Joint Exhibit 4 at 38.
[56] *Id.*
[57] Petitioner Exhibit 6 at 41.
[58] Joint Exhibit 4 at 40.

emotions about the domestic violence between his parents.[59] Family therapy is needed to improve communication within the family, and to help the Student's parents be more effective in providing the necessary structure, support, guidance, boundaries, and supervision for the Student.[60]

17. The Student requires individual therapy to help him understand his maladaptive defenses and the self-destructive nature of some of his behaviors.[61] The therapy also should help the Student deal with his depression and his emotions related to his sister's illness and untimely death.[62] He should be involved in productive, positive activities to help build his self-esteem and improve his relationships with a positive, support peer group.[63] These activities are generally referred to as "therapeutic recreation."[64] He also should receive community-based intervention and multisystemic therapy, which is short-term intensive therapy that is centered on the home environment and involves providing counseling to both the child and family.[65]

18. On February 8, 2008, the Student's IEP team met to develop an IEP for him.[66] The Student was fifteen years old and in tenth grade.[67] The 2008 IEP does not reflect the Student's present levels of performance, but provides annual goals in math, written expression, reading, and speech and language.[68] The IEP provides that the Student was to receive ten hours of specialized instruction and one-half hour of speech-language therapy outside the general education setting.[69]

19. As a result, the Student would have spent more time in the general education setting than in the special education setting.[70] Special education classes generally are limited to twelve students and have a low student-teacher ratio.[71] The stimuli in the general education setting would make it difficult for the Student to navigate, negotiate, and regulate his social behaviors.[72]

20. The February 8, 2008, IEP does not provide a dedicated aide or ESY for the Student.[73] This IEP provides no behavioral support services to address the Student's social-emotional needs.[74] It also does not include a BIP.[75] During the 2007-2008 school year, the

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[59] *Id.*
[60] Petitioner Exhibit 6 at 41.
[61] *Id.*
[62] *Id.*
[63] Joint Exhibit 4 at 40.
[64] Testimony of Expert in Psychoeducation.
[65] Testimony of Expert in Psychiatry; Petitioner Exhibit 6 at 41.
[66] Respondent's Exhibit 10 (February 14, 2008, meeting notes).
[67] *Id.*
[68] Joint Exhibit 2 at 22-26.
[69] *Id.* at 21.
[70] Testimony of Expert in Psychoeducation.
[71] *Id.*
[72] *Id.*
[73] Joint Exhibit 2.
[74] *Id.*; testimony of Expert in Psychoeducation.
[75] Joint Exhibit 2.

Student's academic performance declined significantly.[76]

21. On March 12, 2009, the Student's IEP team developed an IEP for the Student.[77] The Student and his mother participated in the IEP meeting.[78] Also present were a regular education teacher, special education teacher, special education coordinator, and a speech-language pathologist.[79]

22. The March 12, 2009, IEP provides present levels of performance and annual goals in math, reading, written expression and speech and language.[80] The IEP provides that the Student would receive fifteen hours of specialized instruction in these subjects in the general education classroom.[81] The IEP also provides that the Student is to receive thirty minutes per week of speech-language therapy outside the general education setting.[82]

23. Pursuant to the March 12, 2009, IEP, the Student spent almost all of his time in general education classes, rather than in special education classes.[83] This is a decrease in the intensity of services provided by the 2008 IEP because the Student would receive all of his instruction in the general education setting.[84]

24. The March 12, 2009, IEP does not provide a dedicated aide or ESY for the Student.[85] It provides no behavioral support services to address the Student's social-emotional needs.[86] It also does not include a BIP.[87]

25. The Student's IEP team met on June 8, 2010, to review his recent psychiatric evaluation and develop an IEP.[88] The Student was seventeen at this time.[89] The Student and the Parent did not attend the IEP meeting.[90] At the time of the meeting, the Parent was living in the Ronald McDonald House in Baltimore near the hospital where her fourteen-year-old daughter was dying of cancer.[91]

26. Present at the June 8, 2010, meeting were the Special Education Coordinator

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[76] Testimony of Expert in Psychoeducation.
[77] Joint Exhibit 2 at 13.
[78] *Id.*
[79] *Id.*
[80] Joint Exhibit 2 at 14-15.
[81] *Id.* at 17.
[82] *Id.*
[83] Testimony of Expert in Psychoeducation.
[84] *Id.*
[85] *Id.*
[86] *Id.*; testimony of Expert in Psychoeducation.
[87] *Id.*
[88] Joint Exhibit 6 at 43-45 (June 8, 2010, meeting notes).
[89] *Id.* at 43; Joint Exhibit 1 at 1.
[90] *Id.* at 43; Joint Exhibit 1 at 1.
[91] Testimony of Parent.

("SEC"), Social Worker, a speech-language pathologist, and a special-education teacher.[92] The Student's counsel participated in the meeting, as did counsel for DCPS.[93]

27. At the June 8, 2010, IEP meeting, DCPS proposed an IEP that would provide the Student ten hours of specialized instruction per week in the general education setting and five hours per week outside the general education setting.[94] DCPS also proposed thirty minutes per week of speech-language pathology outside the general education setting.[95] DCPS did not propose extended school year ("ESY") services or a dedicated aide for the Student.[96]

28. The Student's counsel objected to the proposed IEP, and asserted that the Student required a total of thirty-two hours, rather than 15.5 hours, per week of specialized instruction and related services.[97] The DCPS members of the team responded that, due to the Student's failure to regularly attend school, they could not determine whether he required more hours of specialized instruction.[98] The IEP team also discussed the request by the Student's mother that he be placed on an academic track that would allow him to earn a high school diploma.[99]

29. The IEP team also discussed wrap-around services.[100] DCPS had previously referred the Student's mother to First Home Care and Roving Leaders for assistance with his attendance issues and stressors.[101] First Home Care provides therapeutic services, diagnostic assessment, therapeutic counseling, and community support services.[102] The Social Worker referred the Parent to Roving Leaders to address the Student's truancy and his social emotional needs.[103]

30. Before May 2010, DCPS never reached out to the Student or his family to ascertain why he was not attending school.[104] During the last two weeks of May and the first week of June 2010, the Social Worker attempted to contact the Parent to determine the status of her application to First Home Care for wrap-around-services for the Student.[105] The Social Worker believed that

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[92] Joint Exhibit 6 at 43.
[93] *Id.* At this meeting, DCPS was represented by a different counsel than at the due process hearing. *Id.*
[94] *Id.*; Joint Exhibit 1 at 7.
[95] Joint Exhibit 1 at 7.
[96] *Id.* at 7, 9.
[97] Joint Exhibit 6 at 46.
[98] *Id.*
[99] Joint Exhibit 6 at 47.
[100] *Id.*
[101] *Id.*
[102] Testimony of Social Worker.
[103] *Id.*
[104] *Id.*
[105] Testimony of Social Worker; Respondent's Exhibit 6 (Parent Contact Log). On May 24, 2010, the Social Worker discussed the wrap-around-services with the Parent by phone, and provided her the phone number for First Home Care. Testimony of Social Worker. On May 26, 2010, the Social Worker again spoke with the Parent by phone, and she agreed to pursue the referral to First Home Care and allow Roving Leaders to visit her home to talk to the Student. Respondent's Exhibit 6 at 4. On June 2, 2010, the Social Worker attempted to contact the Parent

the Student and his family required services to address their needs in the home, at school, and in the community.[106]

31. The Student's June 8, 2010, IEP provides present levels of performance and annual goals in math, reading, written expression and speech and language.[107] The IEP provides that the Student would receive specialized instruction in math, reading, and written expression in the general education classroom, as well as additional instruction in these subjects in a resource room outside the general education environment.[108] The IEP also provides that the Student is to receive thirty minutes per week of speech-language therapy outside the general education setting.[109] The IEP does not provide a dedicated aide or ESY.[110]

32. In the 2007-2008 school year, the Student failed all of his classes.[111] In the 2008-2009 school year, the Student failed all of his classes but one.[112] The only class he passed that year was biology.[113] He failed all of his classes in the 2009-10 school year other than an English class he took in summer school.[114] As of September 2010, the Student had earned only two credits toward graduation.[115]

33. The Student repeated ninth grade twice.[116] He was then promoted two grade levels, from ninth grade to eleventh grade, skipping tenth grade, even though he had not earned a passing grade in algebra 1.[117] DCPS standards require students to earn passing grades in these classes in order to be promoted to the tenth grade.[118] To date, the Student has not passed algebra 1.[119] Thus, his promotion to eleventh grade was based more on his age than on his academic performance.[120] As a result of his repeated failure in school, social promotions, and depression, the Student developed antisocial behaviors.[121] He also turned to in an attempt to self-medicate because DCPS failed to provide the interventions he required.

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by phone but was unsuccessful. *Id.* at 6. On June 2, 2010, the Social Worker attempted to contact the Parent by phone but was unsuccessful. *Id.* On June 3, 2010, the Social Worker mailed a copy of a First Home Care brochure to the Parent. *Id.* at 7-8.

[106] *Id.*

[107] Joint Exhibit 1 at 1-5.

[108] *Id.* at 3-5.

[109] *Id.* at 6.

[110] *Id.* at 7, 10.

[111] Joint Exhibit 9 at 1 (Transcript printed on September 2, 2010).

[112] *Id.*

[113] *Id.*

[114] *Id.*

[115] *Id.* at 2; Testimony of Expert in Psychoeducation.

[116] Testimony of Expert in Psychoeducation

[117] *Id.*

[118] *Id.*

[119] Joint Exhibit 9 at 1.

[120] Testimony of Expert in Psychoeducation.

[121] *Id.*

[122] *Id.*

34. Since 2007, DCPS has not developed a BIP to address the Student's truancy and academic failure.[123] A behavior intervention plan is usually developed for a student who has behaviors that interfere with learning.[124] Due to his low academic performance, repeated school failure, and depression, the Student has avoided school.[125] The Student should have had a BIP to ensure he is committed to attending school and agrees to participate in his academics as expected.[126]

35. The Student stopped regularly attending school when he was in sixth grade because he did not understand the instruction.[127] He wants to learn to read, "do math," and obtain a high school diploma so that he can gain employment after high school.[128] He would like to obtain a commercial driver's license and work as a truck driver.[129] He also would like to receive therapeutic counseling in school.[130]

36. Because his academic performance is still at the first- through fourth-grade levels, he may not be able to earn a diploma in the three years he has left in high school.[131] Thus, he should be provided alternative educational opportunities, including vocational education, and intensive instruction in reading and math.[132]

37. Due to his impaired cognitive functioning, low academic achievement, depression, and school failure, the Student requires an IEP that provides at least 27.5 hours of specialized instruction outside the general education setting.[133] He needs intensive instruction in a small, highly structured environment to address his low cognitive functioning and depression.[134]

38. The Student requires a small school so that his school attendance may be closely monitored.[135] He should be in a classroom with no more than eight students.[136] Such a small class size is necessary to enable the teacher to monitor his social-emotional and academic needs.[137] Because he often shuts down when he becomes overwhelmed and frustrated, the Student should have access to a social worker or other counselor throughout the school day.[138]

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[123] *Id.*
[124] *Id.*
[125] *Id.*
[126] *Id.*
[127] Testimony of Student.
[128] *Id.*
[129] *Id.*
[130] *Id.*
[131] Testimony of Expert in Psychoeducation.
[132] *Id.*
[133] *Id.*
[134] *Id.*
[135] *Id.*
[136] Testimony of Expert in Psychology.
[137] *Id.*
[138] *Id.*

39. He requires behavioral support services to encourage him to attend school.[139] He requires a lot of structure and monitoring during the lunch period and other opportunities for socialization during the school day because he does not know how to socialize appropriately without engaging in negative or antisocial behavior.[140] He requires a therapeutic environment, i.e., a school environment that monitors his social-emotional functioning throughout the school day and assists him in recognizing and addressing his antisocial behaviors.[141] He should be in a school with students with similar disabilities.[142] No DCPS public high school can provide the structure, monitoring, and therapeutic environment that the Student requires.[143]

40. The Non-Public School has accepted the Student for the remainder of the 2010-11 school year.[144] The Non-Public School is a small, therapeutic, day program for students with emotional disturbance and learning disabilities.[145] It serves thirty-three students between the ages of fourteen and twenty-one.[146] Thirteen of these students are serviced in their homes.[147] Thus, a maximum of twenty students presently receive instruction at the school.[148]

41. The Non-Public School provides academic, therapeutic, and vocational programs for its students.[149] It provides both diploma-track programs as well as certificate-track programs.[150] The certificate-track program is self-contained and designed for lower-functioning students, including students with mental retardation, who need more individualized attention.[151]

42. At the Non-Public School, the Student would be placed in a self-contained classroom.[152] His classroom would have two teachers and no more than ten students.[153] The Student would receive a lot of one-on-one instruction in this classroom.[154] He also would receive multimodal instruction.[155] The other students in the classroom on average are functioning at the second- to third-grade levels.[156] The Student may work toward earning a

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[139] Testimony of Expert in Psychoeducation.
[140] *Id.*
[141] *Id.*
[142] *Id.*; testimony of Expert in Psychology.
[143] Testimony of Expert in Psychoeducation.
[144] Petitioner Exhibit 12.
[145] Testimony of Expert in Psychoeducation.
[146] Testimony of Non-Public School Vice Principal/Education Director.
[147] *Id.*
[148] *Id.*
[149] *Id.*
[150] *Id.*
[151] *Id.*
[152] *Id.*
[153] *Id.*
[154] *Id.*
[155] *Id.* Multimodal instruction is a method that uses verbal, written, and pictorial techniques to aid learning. *Id.*
[156] *Id.*

diploma in this classroom, or may earn a certificate of completion, depending on his progress.[157]

43. The Non-Public School provides vocational programming, including a transitional work program that leads to internships and competitive employment.[158] It also provides individual and group therapy to students with emotional needs.[159] The school also provides behavioral specialists who interact with students as they enter the school in the morning and as needed throughout the day.[160] The school would develop a BIP for the Student to address his difficulties attending school regularly.[161] If the Student continues to miss school, the Non-Public School would visit the home after his third absence.[162]

44. The Non-Public School can implement the goals on the Student's IEP.[163] Upon enrolling in the Non-Public School, the Student's IEP team would increase the hours of instruction and related services on his IEP to 27.5 hours per week, which would include one hour of therapeutic counseling.[164] Thirty days after the Student enrolls in the Non-Public School, the school would convene an IEP meeting to review his IEP and determine whether he requires additional services.[165]

45. Wraparound services comprehensively address a child's needs, including his academic, emotional, and family needs.[166] Wrap-around services are a holistic approach to helping a student and his family gain an understanding of the student's disability and utilize community resources to achieve self-sufficiency.[167]

46. The Student requires wrap-around services to break his cycle of school avoidance.[168] If the Student does not receive intensive support, he may drop out of school and become more involved in criminal activity and other activities that would reinforce his negative self-image and emotional state.[169]

47. Wrap-around services involve a team of individuals who are trained to help students resolve the underlying issues that prevent them from attending school.[170] Due to his low level of cognitive functioning and low academic performance, the Student also requires assistance with his homework.[171] Wrap-around services would assist the Student in addressing his academic and

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[157] *Id.*
[158] *Id.*
[159] *Id.*
[160] *Id.*
[161] *Id.*
[162] *Id.*
[163] *Id.*
[164] *Id.*
[165] *Id.*
[166] Testimony of Expert in Psychoeducation
[167] *Id.*
[168] *Id.*
[169] Testimony of Expert in Psychology.
[170] *Id.*
[171] *Id.*

social-emotional needs.[172] Due to his history of educational neglect, the Student should receive twenty-five hours of wrap-around services per week.[173]

48. Wrap-around service providers involve child-serving government agencies, including DCPS, the Child and Family Services Agency ("CFSA"), Department of Youth Rehabilitation Services ("DYRS"), Department of Mental Health, or other agencies as appropriate.[174] In the Student's case, the wrap-around provider would work with the Student and DCPS to ensure he attends school and completes assignments.[175] The provider also may provide executive function training to assist the Student in becoming accountable for his actions and in developing organizational and planning skills.[176]

49. The wrap-around provider may provide mentoring and counseling to the Student and work on behavior intervention strategies.[177] The provider should meet with the Student's family to discuss the Student's needs and behavior.[178] The provider should work with the Student and his peers to ensure the Student has positive social interactions and breaks the cycle of antisocial behavior.[179]

50. The wrap-around provider should engage the Student in therapeutic recreation to help him make better decisions when he is not in a structured environment.[180] This would carry over into the school environment in the Student's interactions during lunchtime or transitions between classes.[181] The Student requires therapeutic recreation to address his depression, give provide opportunities for pleasurable activities, and increase the supports in his life so he can have healthy positive relationships.[182] Therapeutic recreation also may alleviate his depression, thereby making him more available for academic instruction.[183]

51. Independence & Dependence is a wrap-around service provider that provides community-based intervention services, including therapeutic interventions.[184] Most of the counselors who work for Independence & Dependence possess master's degrees in psychology or sociology.[185] Most of the students that Independence & Dependence serves are enrolled in DCPS schools.[186] The wrap-around-service provider works to help students navigate the challenges presented in school, home, and the community, develop healthy relationships with

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[172] *Id.*
[173] Testimony of Expert in Psychoeducation.
[174] *Id.*
[175] *Id.*
[176] *Id.*
[177] *Id.*
[178] *Id.*
[179] *Id.*
[180] *Id.*
[181] *Id.*
[182] Testimony of Expert in Psychology.
[183] *Id.*
[184] Petitioner Exhibit 10B (Independence & Dependence brochure).
[185] Testimony of Wrap-around-services Provider.
[186] *Id.*

peers, succeed in school, and obtain employment.[187] The provider attempts to mimic the instruction and assignments each student receives in school to help the student achieve academic success.[188]

52. Independence & Dependence provides strategies for students to break their cycles of truancy.[189] Many of these students have difficulty getting out of bed in the morning and lack motivation to get prepared for school.[190] Independence & Dependence providers work with students on the organizational skills and motivational strategies that will enable them to regularly attend school.[191]

53. Independence & Dependence also provides therapeutic recreation and behavioral support.[192] It provides counseling to students and their families, and links the families with child-serving agencies such as DCPS, CFSA, and DYRS.[193]

54. The Psycho-educational Expert was a credible witness at the due process hearing. The Psycho-educational Expert has a doctorate degree in psycho-education.[194] She has thirty-seven years working with students with emotional disturbance and learning disabilities.[195] This experience includes thirty-five years working for DCPS, including eleven years as a special education teacher, principal, case manager, and special education specialist in the public schools.[196] The Psycho-educational Expert also serves as an adjunct professor at George Washington University and teaches post-graduate courses on education and implementation of IDEA.[197] She possesses in-depth knowledge of the Student, his educational history, and his recent evaluations.[198]

55. The Psychological Expert was similarly credible. She specializes in child and adolescent psychology. Currently, the Psychology Expert works as a staff psychologist for the Superior Court of the District of Columbia.[199] She has six years' experience as a school psychologist.[200] The Psychology Expert participated in the 2009 psychological evaluation of the Student, and thus has extensive knowledge of his disabilities and his academic and social-emotional needs.[201]

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[187] *Id.*
[188] *Id.*
[189] *Id.*
[190] *Id.*
[191] *Id.*
[192] *Id.*
[193] Petitioner Exhibit 10B.
[194] Testimony of Expert in Psychoeducation.
[195] *Id.*
[196] Petitioner Exhibit 9 Curriculum Vitae of Expert in Psychoeducation.
[197] *Id.*
[198] *Id.*
[199] Testimony of Expert in Psychology.
[200] *Id.*
[201] *Id.*

56. Other than her testimony regarding the nature of the Student's disability, and whether he may be intellectually disabled, the testimony of Expert in School Psychology was not credible. Her testimony was inherently contradictory,[202] and was contradicted by the credible testimony of the Psycho-educational Expert.

V. CONCLUSIONS OF LAW

The burden of proof is properly placed upon the party seeking relief.[203] Under IDEA, the Petitioner must prove the allegations in the due process complaint by a preponderance of the evidence.[204] The burden of showing something by a preponderance of evidence simply requires the trier of fact to believe that the existence of a fact is more probable than its nonexistence before she may find in favor of the party who has the burden of persuasion.[205] In other words, preponderance of the evidence is evidence that is more convincing than the evidence offered in opposition to it.[206] Unlike other standards of proof, the preponderance standard allows both parties to share the risk of error in roughly equal fashion,[207] except that when the evidence is evenly balanced, the party with the burden of persuasion must lose.[208]

IDEA guarantees children with disabilities the right to a free and appropriate public education with services designed to meet their individual needs.[209] FAPE is defined as "specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability."[210] FAPE "consists of educational instruction specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child to benefit from the instruction."[211]

DCPS is obligated to provide a FAPE "for all children residing in the state between the ages of 3 and 21, inclusive."[212] In deciding whether DCPS provided the Student a FAPE, the

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[202] The Expert in School Psychology testified that school personnel could not develop an appropriate IEP for the Student because they had failed to rule out his possible intellectual disability by conducting an adaptive assessment. She then testified that his IEPs were appropriate. Thus, her testimony was inherently contradictory.
[203] *Schaffer v. Weast*, 546 U.S. 49, 56-57 (2005).
[204] 20 U.S.C. § 1415 (i)(2)(c). *See also Reid v. District of Columbia*, 401 F.3d 516, 521 (D.C. Cir. 2005) (discussing standard of review).
[205] *Concrete Pipe & Products of California, Inc. v. Construction Laborers Pension Trust for Southern California*, 508 U.S. 602, 622 (1993) (internal quotation marks omitted).
[206] *Greenwich Collieries v. Director, Office of Workers' Compensation Programs*, 990 F.2d 730, 736 (3rd Cir. 1993), aff'd, 512 U.S. 246 (1994).
[207] *Herman & MacLean v. Huddleston*, 459 U.S. 375, 390 (1983) (internal quotation marks omitted).
[208] *Director, Office of Workers' Compensation Programs v. Greenwich Collieries*, 512 U.S. 267, 281 (1994).
[209] 20 U.S.C. §§ 1400(d)(1)(A),1412(a)(1).
[210] 20 U.S.C. § 1401(28), 34 C.F.R. § 300.39, D.C. Mun. Reg. tit. 30 § 3001.1.
[211] *Bd. of Education v. Rowley*, 458 U.S. 176, 188-89 (1982) (citation omitted).
[212] 34 C.F.R. § 300.101.

inquiry is limited to (a) whether DCPS complied with the procedures set forth in IDEIA; and (b) whether the Student's IEP reasonably calculated to enable the Student to receive educational benefits.[213]

In matters alleging a procedural violation, a hearing officer may find that the child did not receive FAPE only if the procedural inadequacies impeded the child's right to FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding provision of FAPE, or caused the child a deprivation of educational benefits.[214] In other words, an IDEA claim is viable only if those procedural violations affected the student's *substantive* rights.[215]

VI. DISCUSSION

A. Petitioner Proved that DCPS Denied the Student a FAPE by Failing to Develop Appropriate IEPs over the Past Three Years.

The IEP is the centerpiece of special education delivery system.[216] The adequacy of the student's IEP is determined by whether the student has "access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child."[217] IDEIA does not require that the services provided maximize each child's potential.[218]

In developing an IEP, the IEP team must consider the strengths of the child; concerns of the parents for enhancing the education of the child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child.[219] An IEP must include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum.[220] The services provided to the child in the IEP must address all of the child's identified special education and related services and must be based on the child's unique needs and not on the child's disability.[221]

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[213] *Rowley* at 206-207.
[214] 20 U.S.C. § 1415 (f)(3)(E)(ii).
[215] *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006) (emphasis in original; internal citations omitted). *Accord, Kruvant v. District of Columbia,* 99 Fed. Appx. 232, 233 (D.C. Cir. 2004) (denying relief under IDEA because "although DCPS admits that it failed to satisfy its responsibility to assess [the student] for IDEA eligibility within 120 days of her parents' request, the [parents] have not shown that any harm resulted from that error").
[216] *Lillbask ex rel. Mauclaire v. Conn. Dep't of Educ.*, 397 F.3d 77, 81 (2d Cir. 2005) (internal quotation marks omitted).
[217] *Rowley,* 458 U.S. at 201 (1982).
[218] *Id.* at 198.
[219] 34 C.F.R. § 300.324 (a).
[220] 34 C.F.R. § 300.320 (a) (1); 5 D.C.M.R. § 3007.2 (a).
[221] D.C. Mun. Reg. tit. 30 § 3002.1(f).

1. The February 8, 2008, IEP.[222]

The Student's 2005 evaluation revealed that he had borderline to low-average intellectual ability. This evaluation also found that he was four years behind his same-age peers in academic performance. The evaluation noted that he needed a low student-teacher ratio, highly structured environment, and multisensory approaches to education.

The Student had stopped attending school regularly in 2006 because he could not understand the curriculum. During the 2007-2008 school year, he failed the ninth grade. The Student was arrested in May 2007 for distributing cocaine in a drug-free zone. He also began smoking marijuana to self-medicate his depression.

By the end of the 2007-2008 school year, DCPS should have been on notice that the Student required intensive specialized instruction, behavioral support services to address his truancy and antisocial behavior, and a BIP to address his truancy. In November 2007, the Student was again arrested, this time for a violent crime.

By February 8, 2008, the Student had a pattern of school failure and truancy. Yet, DCPS developed an IEP that provided the Student only ten hours of specialized instruction outside the general education environment. Instead, the Student spent more time in general education than in special education

Despite the Student's history of truancy, the February 8, 2008, IEP did not include a BIP or provide behavioral support services. The Student should have had a BIP to ensure he was committed to attending school and agreed to participate in his academics.

Thus, in developing the February 8, 2008, IEP, DCPS failed to provide the Student the specialized instruction, related services, and highly structured environment that he needed. This IEP was not reasonably calculated to provide the Student educational benefits. As a result, his educational performance further deteriorated, he became depressed, and he avoided school.[223]

2. The March 12, 2009, IEP.

By the end of the 2008-2009 school year, the Student had failed all of his classes. At a minimum, DCPS should have provided ESY to the Student so that he would have had an opportunity to make up some of the classes he had failed during the school year.[224] Instead, DCPS allowed the Student to enroll in summer school. In summer school, the Student passed English 1. DCPS then promoted the Student to eleventh grade even though he lacked the math

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[222] Although this IEP was developed at a time that is outside the statute of limitations, this Hearing Officer allowed Petitioner to proceed on this claim because this IEP was in effect during the two years preceding the filing of the Complaint.
[223] *Id.*
[224] *See* 34 C.F.R. § 300.106 (requiring local educational agencies to ensure that ESY services are available as necessary to provide FAPE).

credit required for promotion to the tenth grade.

On March 12, 2009, the IEP team developed an that provides the Student fifteen hours of specialized instruction in the general education classroom. Despite the Student's repeated truancy and antisocial behavior, DCPS failed to include behavioral support services on this IEP. Once again, DCPS failed to develop a BIP for the Student or provide him ESY.

Although the March 12, 2009, IEP provides more specialized instruction than the 2008-2009 IEP, it required the Student to spend almost all of his time in general education classes rather than in special education classes. This is a decrease in the intensity of services provided by the 2008 IEP. Because the Student failed all of his classes but one during the 2008-2009 school year, DCPS should have increased, rather than decreased, the intensity of his services. Instead, it left the Student to founder in general education classes far beyond his level of academic achievement and comprehension.

Thus, the March 12, 2009, IEP was not reasonably calculated to enable the Student to receive educational benefits. As a result, the Student failed all of his classes during the 2009-2010 school year.

3. The June 8, 2010, IEP.

Pursuant to a court order, the Student was re-evaluated in December 2009. This psychoeducational evaluation revealed that the Student had a full-scale IQ (FSIQ) of 67, which is in the first percentile of his same-age peers and in the extremely low range. The evaluation also revealed that the Student was performing academically at the first through fourth grade levels. As a result of his low-levels of cognitive ability and academic functioning, the Student would have had a very difficult time accessing grade or age level material.

Upon receipt of the December 29, 2009, report of the psychoeducational evaluation, DCPS was on notice that the Student has reading and math learning disorders and borderline intellectual functioning. DCPS also was on notice that the Student suffered from depression and that his academic performance was extremely low for his age.

Yet DCPS did not heed the recommendations in the report that the Student requires direct, individualized instruction in all basic skill areas, multimodal instruction and accommodations. Rather, it appears the IEP team ignored this evaluation altogether even though it was the only evaluative data that reflected the Student's current functioning.

On June 8, 2010, the DCPS members of the IEP team developed an IEP that provided ten hours of specialized instruction per week in the general education setting and five hours per week outside the general education setting. The IEP did not include behavioral support or ESY services. It also did not provide a dedicated aide for the Student.

Despite the requests of the Parent's attorney for a full-time IEP, the DCPS members of the team refused to provide him more hours of specialized instruction outside the special education setting. Their rationale was that, due to the Student's failure to regularly attend school, they could not determine whether he required more hours of specialized instruction. Yet, DCPS made no effort to investigate or address the reasons the Student avoided school.

Thus, the June 8, 2010, IEP was not reasonably calculated to enable the Student to receive educational benefits.

B. Petitioner Proved that the Student Requires a Full-Time, Therapeutic, Placement in a Nonpublic School.

The IDEIA requires 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.[225] In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of the services that he or she needs.[226] A child with a disability is not removed from education in age appropriate regular classrooms solely because of needed modifications in the general education curriculum.[227]

The term "educational placement" refers to the type of educational program prescribed by the IEP.[228] "Educational placement" refers to the general educational program, such as the classes, individualized attention, and additional services a child will receive, rather than the "bricks and mortar" of the specific school.[229]

The considerations relevant to determining whether a particular placement is appropriate for a particular student include the nature and severity of the student's disability; the student's specialized educational needs; the link between those needs and the services offered by the school; the placement's cost; and the extent to which the placement represents the least restrictive environment.[230]

To the maximum extent possible children with disabilities should be educated with children who are non-disabled.[231] Special classes separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.[232]

In the District of Columbia, special education placements shall be made in the following order or priority, provided, that the placement is appropriate for the student and made in accordance with IDEA: (1) DCPS schools, or District of Columbia public charter schools

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[225] 34 C.F.R. § 300.116 (c).
[226] 34 C.F.R. § 300.116 (d).
[227] *Id.* at (e).
[228] *T.Y. v. N.Y. Dept. of Educ.*, 584 F.3d 412, 419 (2d Cir. 2009) (citation omitted).
[229] *Id.*
[230] *Branham v. District of Columbia*, 427 F.3d 7, 12 (D.C. Cir. 2005) (citing *Rowley*, 458 U.S. at 202).
[231] 34 C.F.R. § 114 (a)(2)(i).
[232] *Id.* at 114 (a)(2)(ii).

pursuant to an agreement between DCPS and the public charter school; (2) private or residential District of Columbia facilities; and (3) facilities outside of the District of Columbia.[233]

Due to the Student's low cognitive functioning and academic performance, the general education setting is inappropriate for the Student. Instead, he requires a small, therapeutic, special education setting with a low student-teacher ratio in a separate special education school. He requires intensive, individualized special education instruction.

For the past three years, DCPS has failed to meet the Student's individualized needs in the public schools. DCPS has failed to provide the small, therapeutic setting and intensive specialized instruction that the Student requires to make academic progress.

The Non-Public School is a small, therapeutic, day program for students with emotional disturbance and learning disabilities. The Non-Public School can implement the goals on the Student's IEP. At the Non-Public School, the Student would be placed in a self-contained classroom with two teachers and no more than ten students.

Upon enrolling in the Non-Public School, the Student's IEP team would increase the hours of instruction and related services on his IEP to 27.5 hours per week, which would include one hour of behavioral support services. He would receive intensive specialized instruction, including one-on-one and multimodal instruction. He also would receive individual and group therapy. The school would develop a BIP for the Student to address his difficulties attending school regularly.

Thus, the Non-Public School can provide this instruction and the other services to meet the Student's individualized needs.

C. Petitioner Proved that the Student is Entitled to Compensatory Education in the Form of Wrap-Around Services.

Where a school system fails to provide special education or related services to a disabled student, the student is entitled to compensatory education, "i.e., replacement of educational services the child should have received in the first place."[234] Because compensatory education is a remedy for past deficiencies in a student's educational program, a finding as to whether a student was denied a FAPE in the relevant time period is a "necessary prerequisite to a compensatory education award."[235]

This inquiry is only the first step in determining whether the Student is entitled to compensatory education. A compensatory education award is an equitable remedy that "should aim to place disabled children in the same position they would have occupied but for the school district's violations of the IDEA." *Reid*, 401 F.3d at 518, 523. A compensatory education "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

[233] D.C. Code § 38-2561.02.
[234] *Reid v. District of Columbia*, 401 F.3d 516, 518 (D.C. Cir. 2005).
[235] *Peak v. District of Columbia*, 526 F. Supp. 2d 32, 36 (D.D.C. 2007).

place." *Reid*, 401 F.3d at 524. This standard "carries a qualitative rather than quantitative focus," and must be applied with "[f]lexibility rather than rigidity." *Id.* at 524.

Some students may require only short, intensive compensatory programs targeted at specific problems or deficiencies.[236] Others may need extended programs, perhaps even exceeding hour-for-hour replacement of time spent without FAPE.[237]

Here, DCPS denied the Student a FAPE for the past three years. As a result, the Student has earned only two credits toward graduation. He developed low self-esteem, stopped attending school and turned to marijuana to ease his depression. Thus, the Student is entitled to compensatory education.

Wraparound services would comprehensively address the Student's academic and social-emotional needs. They would help him to resolve the underlying issues that prevent him from attending school. Due to his low level of cognitive functioning and low academic performance, the Student also requires assistance with his homework.

Due to his history of educational neglect, the Student should receive twenty-five hours of wrap-around services per week. If the Student does not receive intensive support, he may drop out of school and become more involved in criminal activity and other activities that would reinforce his negative self-image and emotional state.

Therefore, Petitioner proved by a preponderance of the evidence that the Student is entitled to compensatory education, in the form of twenty-five hours per week of wrap-around services.

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[236] *Reid*, 401 F.3d at 524.

[237] *Id. See also Thomas v. District of Columbia*, 407 F.Supp.2d 102, 115 (D.D.C. 2005) (noting that it is conceivable that no compensatory education may be required for a denial of FAPE if, for example, the student would not benefit from the additional services).

ORDER

Based upon the Findings of Fact and Conclusions of Law herein, on this 21st day of February 2011, it is hereby:

ORDERED that, on or before March 7, 2011, DCPS shall revise the Student's IEP to provide him 27.5 hours of specialized instruction and related services, including behavioral support services, a BIP, and ESY, consistent with this decision;

IT IS FURTHER ORDERED that, on or before March 7, 2011, DCPS shall provide funding and transportation for the Student to attend the Non-Public School through December 31, 2011; and

IT IS FURTHER ORDERED that, on or before March 7, 2011, DCPS shall fund twenty-five hours of wrap-around services, to be provided by Independence & Dependence, through December 31, 2011.

By: /s/ *Frances Raskin*
Hearing Officer

NOTICE OF APPEAL RIGHTS

The decision issued by the Hearing Officer is final, except that any party aggrieved by the findings and decision of the Hearing Officer shall have 90 days from the date of the decision of the hearing officer to file a civil action with respect to the issues presented at the due process hearing in a district court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. § 415(i)(2).

Distributed to:

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Student Hearing Office
DCPS