

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

Student Hearing Office
810 First Street, N.E., 2nd Floor
Washington, DC 20002

STUDENT, ¹)	
Adult Student,)	
)	
Petitioner,)	Date Issued: March 7, 2012
)	
v.)	Hearing Officer: Virginia A. Dietrich
)	
District of Columbia Public Schools)	
)	
Respondent.)	
)	

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STUDENT HEARING OFFICE
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HEARING OFFICER DETERMINATION

Background

Petitioner, year-old adult Student, filed a due process complaint notice on December 23, 2011 alleging that the District of Columbia Public Schools (“DCPS”) had denied Student a free appropriate public education (“FAPE”) in violation of the Individuals with Disabilities Education Act (“IDEA”).

Petitioner alleged that DCPS had failed to comply with a Hearing Officer Determination (“HOD”) that ordered DCPS to (1) convene a meeting with Petitioner to review evaluations and develop an Individualized Education Program (“IEP”) that included an appropriate amount of specialized instruction outside of general education and appropriate academic goals, and (2) discuss and determine educational placement and location of services. Petitioner also alleged that apart from failing to comply with the HOD, DCPS failed to (3) develop an IEP with appropriate goals and services and full-time specialized instruction that was based on a review of evaluations, and (4) DCPS failed to provide Student with an appropriate placement that could implement a full-time outside of general education IEP and DCPS failed to provide Student with a vocational program in barbering as was required by his IEP. For relief, Petitioner requested that Student’s IEP be revised to reflect full-time outside of general education services and appropriate academic goals, DCPS to fund placement at the private vocational school that Student had been attending since the beginning of the school year, and an award of compensatory education.

¹ Personal identification information is provided in Appendix A.

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DCPS asserted that the very issue of Student requiring a full-time IEP and placement at the private vocational school had been ruled on in a prior HOD, that DCPS had complied with the requirements of the HOD to convene a meeting and discuss and develop an IEP and discuss and determine placement that included discussion of a vocational program, and that the location of services provided by DCPS offered various vocational programs and could implement an IEP that required both part-time and full-time specialized instruction outside of general education. DCPS also argued that Petitioner had failed to participate in the IEP process and this should be factored into the determination of DCPS' culpability on the issues.

Subject Matter Jurisdiction

Subject matter jurisdiction is conferred pursuant to the Individuals with Disabilities Education Act ("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; and Title V, Chapter E-30, of the District of Columbia Municipal Regulations ("D.C.M.R.").

Procedural History

The due process complaint was filed on 12/23/11. This Hearing Officer was assigned to the case on 12/24/11.

Petitioner waived the resolution meeting, but DCPS did not. A resolution meeting took place on 01/24/12, which was after the 30-day resolution period ended. The 30-day resolution period ended on 01/22/12, the 45-day timeline to issue a decision began on 01/23/12 and the final decision was due by 03/07/12.

The due process hearing was a closed hearing that took place on 02/21/12. Petitioner was represented by Kiran Hassan, Esq. and DCPS was represented by Cherie Cooley, Esq. None of the parties objected to the testimony of witnesses by telephone. Petitioner participated in the hearing in person.

Petitioner presented seven witnesses: Petitioner; Petitioner's mother; educational advocate; a psychologist who qualified as an expert in conducting psychological assessments and Functional Behavioral Assessments and making educational recommendations based on the data in the assessments²; Director of Admissions at _____ social worker/Director of Academics at _____ and math teacher at _____

DCPS presented one witness: DCPS compliance case manager.

Petitioner's disclosures dated 02/13/12, containing a witness list and Exhibits P-1 through P-44, were admitted into evidence without objection.

² DCPS objected to the qualification of the witness as an expert in making educational recommendations based on the data in the assessments.

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DCPS' disclosures dated 02/13/12, containing a witness list and Exhibits R-01 through R-09, were admitted into evidence without objection.

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

Whether DCPS denied Student a FAPE by failing to comply with a 09/05/11 Hearing Officer Determination ("HOD") to review and revise Student's IEP; specifically, (a) by failing to review and revise Student's reading, writing and math goals at the 11/02/11 Multidisciplinary Team ("MDT") meeting, (b) by developing goals after the 11/02/11 meeting without the participation of Petitioner and that did not meet Student's needs, and (c) by failing to provide Student with specialized instruction outside of general education.

Whether DCPS denied Student a FAPE by failing to comply with a 09/05/11 HOD to discuss and determine an appropriate educational placement and location of services based on a revised IEP that should have conformed with the HOD, including the appropriateness of any proposed vocational training programs; specifically, DCPS issued a Prior Written Notice for Student to attend _____ School without any discussion about an appropriate program or placement.

Whether DCPS denied Student a FAPE beginning on 09/05/11 by failing to provide Student with an appropriate IEP at the MDT meeting on 11/02/11; specifically, (a) by failing to provide Student with full-time specialized instruction outside of general education, and (b) by failing to provide math, reading, writing, speech-language and social/emotional goals that reflected Student's intensive needs.

Whether DCPS denied Student a FAPE by failing to provide Student with an appropriate placement; specifically, the placement offered by DCPS at _____ School (a) couldn't provide Student with the full-time specialized instruction outside of general education that he needed; and (b) couldn't implement the services and vocational goals in Student's IEP that required that Student be provided with a barbering program.

For relief, Petitioner requested a finding that Student was denied a FAPE on each of the issues presented; DCPS to convene a meeting to review and revise the IEP academic goals and add full-time specialized instruction outside of general education to Student's IEP; DCPS to fund private placement at _____ retroactive to the beginning of the 2011-2012 school year; and an award of compensatory education comprised of funding for placement at _____ and funding for a credit recovery program.

Footnotes hereinafter refer to the testimony of a witness or an exhibit admitted into evidence.

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:

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#1. Petitioner, age 18, is a resident of the District of Columbia and has received special education services since 02/10/11.³ During the previous academic year, Student attended a public high school, where his academic performance was poor and he had excessive absences.⁴ Although Student's 03/11/11 IEP prescribed that all of Student's specialized instruction was to be provided inside general education, during the 2010-2011 school year, Student received specialized instruction in a small group of 8-10 students with a special education teacher in math and language arts.⁵ In those two classes, Student received passing final grades. In classes where Student received instruction in large classes, he failed.⁶ Student's failures were also tied to his truancy of 115 out of 180 days for the school year, which adversely impacted Student's grades and academic performance.⁷ Student also had a dislike for _____ School and his dislike affected his ability to attend regularly.⁸ (Student).

#2. In June 2011, Petitioner filed a complaint alleging that in March 2011, DCPS had failed to provide Student with an IEP with full-time specialized instruction outside of general education and DCPS had failed to provide Student with an appropriate educational placement. A hearing was held on 08/25/11 and a Hearing Officer Determination ("HOD") was issued on 09/05/11 that concluded that Student did not require full-time specialized instruction outside of general education, but that Student did require *some* specialized instruction outside of general education and that amount was to be determined by an IEP Team. The HOD also determined that Student was not entitled to a private placement at _____ a private vocational school that provides full-time specialized instruction to disabled students only. The HOD determined that (1) Student's Least Restrictive Environment ("LRE") was somewhere between 100% specialized instruction inside general education and 100% specialized instruction outside of general education, (2) the academic goals in Student's IEP were insufficient, and (3) the IEP failed to address Student's attendance problems through a Behavior Intervention Plan ("BIP").⁹ The Hearing Officer's conclusions were based on review of a comprehensive psychological evaluation, a Vocational II Assessment, and a speech-language assessment, among other things.

#3. The HOD dated 09/05/11 ordered DCPS to convene a meeting with all necessary team members including Petitioner, after receiving the results of an independent Functional Behavioral Assessment ("FBA") to (1) review the FBA, (2) revise Student's IEP to add more specificity to the math and reading academic goals to address Student's need for intensive remediation, and to add specific social/emotional/behavioral goals to address behavioral concerns, (3) clarify the exact nature and setting of all specialized instruction provided to Student, consistent with Student's overall need for intensive remediation, (4) adopt and implement a formal Behavior Intervention Plan ("BIP") based on the results of the FBA, and (5) discuss and determine an appropriate educational placement and location of services for the revised IEP, including, but not limited to, the appropriateness of a proposed vocational program. The HOD denied Petitioner's request for private placement at _____

³ P-6.

⁴ P-7, P-26.

⁵ P-7, Petitioner.

⁶ P-26, Petitioner.

⁷ P-22, psychologist expert, Petitioner.

⁸ Petitioner.

⁹ P-1.

¹⁰ P-1.

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#4. Student began attending _____ at the start of the 2011-2012 school year, having been unilaterally placed there by his parent.¹¹ At _____ Student did not exhibit any behavior problems that warranted staff intervention and Student had excellent attendance. Student received instruction in a small classroom setting with a 7:1 student/teacher ratio and did well in this small setting.¹² Although Student was highly distractible in class, he was easily redirected. At _____ Student performed well in class; he was a middle “B” and “C” student.¹³

#5. DCPS convened a meeting on 11/02/11, pursuant to the order of the HOD. Petitioner and Petitioner’s advocate were present at the meeting. The IEP team went through the 09/05/11 HOD line by line in an effort to comply with what was required by the HOD.¹⁴ The 11/02/11 IEP classified Student with a Specific Learning Disability and prescribed 25.5 hours/week of specialized instruction inside of general education. The amount and type of services was identical to what was contained in the previous 03/11/11 IEP.¹⁵ The needs of the Student were accurately reflected in the newly developed 11/02/11 IEP.¹⁶ The academic goals were an exact duplicate of those found in the 03/11/11 IEP; however, the goals were not inappropriate because they reasonably could be achieved if the work was presented to Student at his level of functioning. Moreover, Petitioner’s advocate offered no input on the revision of the goals,¹⁷ thereby assenting to the appropriateness of the goals.

#6. The same comprehensive psychological evaluation, Vocational II Assessment, and speech-language assessment that were reviewed by a former Hearing Officer and upon which the 09/05/11 HOD was based, were the same assessments reviewed by the MDT on 11/02/11. The Functional Behavioral Assessment (“FBA”) that was created on 09/15/11 while Student attended _____ was the only new assessment the IEP Team considered that was not considered by the prior Hearing Officer. On 11/02/11, the IEP Team did not err in failing to provide Student with social/emotional/behavioral IEP goals because Student was not having any behavioral problems or attendance issues at the school he was attending.¹⁸ The IEP Team agreed that no behavioral goals were necessary at that time.¹⁹

#7. During the 11/02/11 meeting, there was a full discussion about Student’s needs, the goals in the IEP, the type of instruction that Student needed, placement and location of services. A representative from _____ School participated in the meeting by telephone and talked at length about the program available at the school.²⁰ Neither Petitioner nor Petitioner’s representatives expressed any disagreement with the IEP goals at the meeting.²¹ Neither Petitioner nor Petitioner’s representatives expressed any disagreement with the amount and type

¹¹ Director of Admissions at _____

¹² Director of Academics at _____ math teacher at _____

¹³ Director of Academics at _____

¹⁴ DCPS compliance case manager.

¹⁵ P-7, P-8.

¹⁶ Educational advocate.

¹⁷ Educational advocate.

¹⁸ Director of Admissions, Petitioner, math teacher at _____

¹⁹ R-03.

²⁰ R-03, DCPS compliance case manager.

²¹ Educational advocate, DCPS compliance case manager.

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of specialized instruction until DCPS chose Ballou High School, a public high school, as the location of services that could implement the 11/02/11 IEP and provide Student with a choice of vocational programs. At that point in time, Petitioner disagreed with the location of services and the fact that the IEP did not provide full-time specialized instruction outside of general education. At the meeting, Petitioner sought funding at _____ the school that Student had been attending since the beginning of the school year and the school that the prior Hearing Officer had denied funding for in the 09/05/11 HOD, and DCPS refused.²²

#8. On 11/02/11, the IEP Team erred by not providing Student with *any* full-time specialized instruction outside of general education because Student was doing well in his small sized classes at _____ with specialized instruction outside of general education and he had passed two courses the previous year at the public high school where he received specialized instruction in a small group of 8-10 students with a special education teacher.²³ However, at the time the 11/02/11 IEP was developed, no one, including Petitioner and Petitioner's representatives, objected to the absence of *any* specialized instruction outside of general education in Student's IEP.²⁴ Petitioner and Petitioner's representatives only objected to the absence of *full-time* specialized instruction because that educational prescription was necessary for placement at the private vocational school.

#9. After the 11/02/11 meeting, Petitioner, via written correspondence, accused DCPS of not complying with the 09/05/11 HOD. Immediately after receipt of the correspondence, DCPS scheduled a meeting with Petitioner for 12/15/11, at which time DCPS' intention was to address Petitioner's concerns and revise the IEP to comply with HOD, if necessary.²⁵ DCPS sent a draft IEP to Petitioner dated 12/15/11 as a working template for the team to use when they reconvened. DCPS arranged for a full IEP Team to be present at the 12/15/11 meeting; however, Petitioner's Attorney cancelled the meeting on 12/14/11 indicating that she would withdraw the complaint and re-file it.²⁶ The re-filed complaint is the subject of this due process hearing. After the present due process complaint was filed, DCPS held a resolution meeting in an effort to resolve the issues in the complaint; however, DCPS was unable to have a full IEP Team available at that time due to administrative reasons, but DCPS was willing to schedule another meeting to address Student's IEP.²⁷

#10. Student's 11/02/11 IEP does not require DCPS to provide Student with any specific type of vocational program.²⁸ The Secondary Transition Plan in Student's IEP can implemented at _____ School.

11. _____ School is a public high school that can provide 100% specialized instruction inside of general education (inclusion), 100% specialized instruction outside of general education (resource room), and any combination of inclusion and resource room

²² R-03, DCPS compliance case manager.

²³ P-26, Petitioner.

²⁴ DCPS compliance case manager.

²⁵ DCPS compliance case manager.

²⁶ R-06, DCPS compliance case manager.

²⁷ R-08.

²⁸ P-7.

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instruction for students with learning disabilities.²⁹ School also offers vocational programs in automotive, barbering, radio broadcasting and computer classes.³⁰ School can implement Student's 11/02/11 IEP or any IEP developed for Student that prescribes some specialized instruction outside of general education.³¹

Conclusions of Law

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

The overall purpose of the IDEA is to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education 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.

"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 first issue to be determined is whether DCPS denied Student a FAPE by failing to comply with a 09/05/11 Hearing Officer Determination ("HOD") to review and revise Student's IEP; specifically, (a) by failing to review and revise Student's reading, writing and math goals at the 11/02/11 MDT meeting, (b) by developing goals after the 11/02/11 meeting without the participation of Petitioner and that did not meet Student's needs, and (c) by failing to provide Student with specialized instruction outside of general education.

The Blackman/Jones Consent Decree establishes a rebuttable presumption of harm for students who fail to receive timely implementation of Hearing Officer Determinations and Settlement Agreements. *Mikeisha Blackman, et al., Plaintiffs, v. District of Columbia, et al., Defendants, Civil Action No. 97-1629 (PLF) Consolidated with Civil Action No. 97-2402 (PLF) Consent Decree dated June 30, 2006, page 41.*

²⁹ DCPS compliance case manager.

³⁰ R-03, DCPS compliance case manager.

³¹ R-04, R-08, DCPS compliance case manager.

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Petitioner failed to meet his burden of proof on the entirety of this issue. At a previous due process hearing on 08/25/11, Petitioner argued that the academic goals in Student's IEP were insufficient to meet Student's needs at that time and the prior Hearing Officer agreed with Petitioner. When the team met on 11/02/11 to revise the goals, pursuant to the HOD, Petitioner's advocate did not offer any input on how to make the goals more specific for Student's needs nor did the advocate express any dissatisfaction with any of the finalized goals in the IEP, even though the goals were an exact duplicate of the goals that Petitioner disagreed with in the prior due process hearing. It wasn't until after the meeting was concluded that Petitioner began to voice a concern about the insufficiency of the goals and it was Petitioner's dissatisfaction with DCPS' refusal to fund a private vocational school that fueled Petitioner's IEP insufficiency concerns. And, after the meeting, even when DCPS made an effort to reconvene to address Petitioner's concerns about the insufficiency of the goals, Petitioner failed to participate and cooperate with the IEP development process. In view of the factual history of this case, it was disingenuous for Petitioner to make the claim that DCPS failed to review and revise Student's academic goals at the 11/02/11 meeting.

At the 11/02/11 meeting, Petitioner failed to express dissatisfaction with the type of specialized instruction until it became clear that DCPS would not fund Student at a private vocational school. After the meeting, DCPS attempted to reconvene to discuss and revise the IEP, but Petitioner failed to cooperate or participate in the process. There was insufficient testimony in the record to determine why the IEP did not provide Student with any specialized instruction outside of general education, when the HOD expressly indicated that it was likely that Student needed some intensive remediation. However, at the 11/02/11 meeting, Petitioner did not voice any objection to the lack of specialized instruction outside of general education until funding and placement at New Beginnings was denied by DCPS.

The Hearing Officer determines that the goals developed by DCPS after the 11/02/11 meeting, were to be used as a template for revision when the IEP team, that included Petitioner, met again; they were not goals designed with the express intention of excluding Petitioner from the IEP development process. Petitioner failed to participate in a meeting scheduled for 12/15/11 for the very purpose of revising the IEP. It was Petitioner who failed to cooperate and who frustrated the IEP development process.

The 11/02/11 IEP failed to provide Student with *any* specialized instruction outside of general education; however, the amount of specialized instruction outside of general education that was to be added to Student's IEP was left to the discretion of the IEP team. At the meeting, Petitioner only objected to the absence of *full-time* specialized instruction after private placement at _____ was denied by DCPS. Petitioner did not advocate for and made no effort to develop an IEP with *some* specialized instruction outside of general education, although the record is clear that Student needed it. Even though the 11/02/11 IEP should have included some specialized instruction outside of general education, Petitioner failed to show any harm from this omission. DCPS immediately tried to rectify the situation by scheduling a meeting that was cancelled by Petitioner. Moreover, Student was in a placement at a private vocational school where he was actually received specialized instruction outside of the general education setting. No circumstance occurred under 34 C.F.R. 300.513(a) that led to a denial of a FAPE.

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The second issue to be determined is whether DCPS denied Student a FAPE by failing to comply with a 09/05/11 HOD to discuss and determine an appropriate educational placement and location of services based on a revised IEP that should have conformed with the HOD, including the appropriateness of any proposed vocational training programs; specifically, DCPS issued a Prior Written Notice for Student to attend School without any discussion about an appropriate program or placement.

Petitioner failed to meet his burden of proof on this issue. There was credible testimony in the record from the DCPS compliance case manager who attended the meeting, that the educational placement and location of services was amply discussed at the meeting. A representative from School participated in the meeting by telephone and talked at length about the program available at the school. The 11/02/11 MDT Notes taken by DCPS also reflect a healthy discussion about School as an appropriate placement and location of services. The evidence revealed that School could not only implement the 11/02/11 IEP that prescribed 100% specialized instruction within the general education setting, the school could also implement the IEP that Petitioner was seeking; i.e., 100% specialized instruction outside of general education.

The third issue to be determined is whether DCPS denied Student a FAPE beginning on 09/05/11 by failing to provide Student with an appropriate IEP at the MDT meeting on 11/02/11; specifically, (a) by failing to provide Student with full-time specialized instruction outside of general education, and (b) by failing to provide math, reading, writing, speech-language and social/emotional goals that reflected Student's intensive needs.

In developing each child's IEP, the IEP Team must consider the academic, developmental and functional needs of the child. 34 C.F.R. 300.324(a)(1)(iv). The IEP must contain a statement of measureable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum. 34 C.F.R. 300.320(a).

Petitioner failed to meet his burden of proof on this issue. The 09/05/11 HOD found that Student did not need full-time specialized instruction outside of general education. The assessments reviewed by the Hearing Officer who made that determination were the same assessments reviewed by the MDT on 11/02/11. The only new assessment reviewed by the MDT was a Functional Behavioral Assessment that led the team to conclude that Student was adjusting favorably and did not require any social/emotional/behavioral goals in his IEP. Based on the assessments before the team, there was no factual basis for the team to conclude that Student required full-time specialized instruction outside of general education. This claim was a disingenuous attempt to re-litigate a claim that had just been previously decided in the 09/05/11 HOD.

At the MDT meeting on 11/02/11, the team decided that social/emotional/behavioral goals were not necessary. Based on Student's favorable adjustment at that included regular attendance, the decision not to include any social/emotional/behavioral goals in Student's IEP was justified. The behavior that warranted the addition of the

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social/emotional/behavioral goals per the 09/05/11 HOD was extremely poor attendance. At attendance issues had disappeared.

Petitioner's witness, the educational advocate, was not credible in his testimony that the academic goals did not reflect Student's educational needs. The advocate was unable to articulate with logic how the goals were insufficient. Thus, Petitioner failed to meet his burden of proof. The Hearing Officer determines that the goals in the 11/02/11 IEP were sufficient, even though they replicated the goals in the 03/11/11 IEP. The goals are ends to be achieved through the use of instruction that is modified or scaffolded so that Student is presented with work at his level of functioning.

The fourth issue to be determined is whether DCPS denied Student a FAPE by failing to provide Student with an appropriate placement; specifically, the placement offered by DCPS at School (a) couldn't provide Student with the full-time specialized instruction outside of general education that he needed; and (b) couldn't implement the services and vocational goals in Student's IEP that required that Student be provided with a barbering program.³²

Each public agency must insure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled; and 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. 34 C.F.R. 300.114(a). In determining the educational placement of a child with a disability, each public agency must ensure that the placement decision...is made in conformity with the least restrictive environment provisions of the IDEA...and is based on the child's IEP. 34 C.F.R. 300.116(a).

Petitioner failed to meet his burden of proof on the entirety of this issue. Petitioner failed to prove that Student required full time specialized instruction outside of general education. The 09/05/11 HOD found that Student did not need full-time specialized instruction outside of general education and Petitioner presented no evidence to show otherwise. And, even if Petitioner had proven that Student required full-time specialized instruction outside of general education, Petitioner failed to prove that appropriate educational services could not be provided in the public placement at School. There was credible evidence in the record from the DCPS case compliance manager that School could implement an IEP of full-time specialized instruction outside of general education.

The testimony of the educational advocate was suspect to this Hearing Officer. It was clear that the advocate and Student went to School and toured the program for inclusion services only, and the advocate conveniently failed to inquire whether or not School could provide *any* specialized instruction outside of general education.

³² Petitioner was not challenging the appropriateness of the vocational goals and services in the 11/02/11 IEP.

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Petitioner failed to meet his burden of proof that School could not provide Student with full-time specialized instruction outside of general education. Furthermore, Student's IEP did not require him to be placed in a barbering program, and if it did, a barbering program was available at School.

ORDER

Petitioner failed to meet his burden of proof on any of the issues that Student had been denied a FAPE.

The complaint is **DISMISSED** with prejudice.

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

Date: March 7, 2012

/s/ Virginia A. Dietrich
Hearing Officer