

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

Student Hearing Office  
810 First Street, NE, 2nd Floor  
Washington, DC 20002

OSSE  
STUDENT HEARINGS OFFICE  
2011 DEC 15 AM 8:52

PETITIONER,  
on behalf of STUDENT,<sup>1</sup>

Date Issued: December 14, 2011

Petitioner,

Hearing Officer: Peter B. Vaden

v.

DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS,

Respondent.

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**HEARING OFFICER DETERMINATION**

**INTRODUCTION AND PROCEDURAL HISTORY**

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by PETITIONER (the "Petitioner"), under the Individuals with Disabilities Education Act, as amended (the "IDEA"), 20 U.S.C. § 1400, *et seq.*, and Title 5-E, Chapter 5-E30 of the District of Columbia Municipal Regulations ("D.C. Regs."). In her Due Process Complaint, Petitioner alleges that DCPS failed to provide a school placement for Student that was capable of

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<sup>1</sup> Personal identification information is provided in Appendix A.

implementing Student's Individualized Education Program ("IEP") requirement for full time services, outside of the general education setting, on a high school diploma track.

This due process complaint proceeds from a February 12, 2011 Hearing Officer Determination in Case No. 2010-1547 (the "February 12, 2011 HOD"). In that case, this Hearing Officer held that DCPS denied Student a free appropriate public education ("FAPE") by reducing Specialized Instruction Services, outside of general education, in Student's October 6, 2010 IEP, from full-time to 19.5 hours per week. After the February 12, 2011 HOD was issued, DCPS increased Student's Specialized Instruction Services to 26 hours per week. However, Petitioner disputes that DCPS can implement the revised IEP at CITY HIGH SCHOOL, the only placement offered by DCPS.

Student, an AGE young woman, is a resident of the District of Columbia. Petitioner's Due Process Complaint, filed on October 14, 2011, named DCPS as respondent. The undersigned Hearing Officer was appointed on October 17, 2011. The parties met for a resolution session on October 28, 2011 but did not come to an agreement. The 45-day time line for issuance of this HOD began on November 13, 2011. On November 10, 2011, the Hearing Officer convened a prehearing telephone conference with counsel to discuss the hearing date, issues to be determined and other matters. In the prehearing conference, counsel stipulated that findings of fact made in the February 12, 2011 HOD (Exhibit P-21) would be adopted as findings of fact in the present case, to the extent deemed relevant by the Hearing Officer.

On October 28, 2011, Petitioner filed a motion to strike DCPS' response to the due process complaint as "non-responsive." In the November 10, 2011 Prehearing Order, the Hearing Officer ordered DCPS to file an amended response to clarify the reasons why DCPS refused to take the action requested in the due process complaint.

The due process hearing was held before the undersigned Impartial Hearing Officer on December 7, 2011 at the Student Hearing Office in Washington, D.C. The hearing, which was closed to the public, was recorded on an electronic audio recording device. The Petitioner and Student appeared in person and were represented by PETITIONER'S COUNSEL. Respondent DCPS was represented by DCPS COUNSEL.

The Petitioner testified and called as witnesses, Student, EDUCATIONAL ADVOCATE 1, EDUCATIONAL ADVOCATE 2, CHS PRINCIPAL, PRIVATE SCHOOL ADMISSIONS DIRECTOR, Private School MATH TEACHER, and CHS SPED COORDINATOR. DCPS called no witnesses. Petitioner's Exhibits P-1 through P-36 and DCPS Exhibits R-1 through R-9 were admitted into evidence without objection. Upon request of DCPS, the parties were granted leave to file post-hearing memoranda by December 12, 2011. Both parties filed post-hearing memoranda.

### **JURISDICTION**

The Hearing Officer has jurisdiction under 20 U.S.C. § 1415(f) and D.C. Regs. tit. 5-E, § 3029.

### **ISSUES AND RELIEF SOUGHT**

- WHETHER DCPS DENIED STUDENT A FREE APPROPRIATE PUBLIC EDUCATION ("FAPE") BY NOT PROVIDING A PLACEMENT LOCATION AT A FEBRUARY 2011 IEP MEETING, OR THEREAFTER, CAPABLE OF FULFILLING STUDENT'S IEP NEEDS FOR FULL-TIME SPECIALIZED INSTRUCTION OUTSIDE OF GENERAL EDUCATION; and
- WHETHER PETITIONER IS ENTITLED TO REIMBURSEMENT FOR STUDENT'S PRIVATE PLACEMENT TUITION BECAUSE DCPS' PROPOSED PUBLIC SCHOOL PLACEMENT VIOLATED THE IDEA AND THE PRIVATE SCHOOL PLACEMENT WAS PROPER UNDER THE ACT.

Petitioner seeks reimbursement for expenses of Student's unilateral placement at Private School and an order that DCPS fund Student's ongoing placement at, and transportation to, Private School.

### **FINDINGS OF FACT**

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

1. Student is an AGE resident of the District of Columbia. Testimony of Mother.
2. Student last attended CHS in the fall of 2010 when she was enrolled in the GRADE. Exhibit P-28. She is currently enrolled in Private High School under a unilateral placement made by Petitioner. Exhibit P-5, Testimony of Admissions Director.
3. Student was identified in 2002 as a child with a disability requiring special education services under the classification Mental Retardation ("MR"). February 12, 2011 HOD.<sup>2</sup>
4. At the beginning of the 2009-2010 school year, Student matriculated to CHS from DC MIDDLE SCHOOL ("DCMS"). February 12, 2011 HOD.
5. Student's February 5, 2009 IEP was revised on February 1, 2010 at CHS. Her disability was classified as Intellectual Disability (also known as Mental Retardation). The February 1, 2010 IEP specified that from October 8, 2009 to October 8, 2010, Student was to receive 26 hours per week of Specialized Instruction and 1 hour per week of Behavioral Support Services, all outside of the general education setting. February 12, 2011 HOD.
6. Student's IEP was amended on October 6, 2010 at CHS. Under the new IEP, Student was to receive 19.5 hours per week of Specialized Instruction and 30 minutes per week

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<sup>2</sup> Pursuant to stipulation of counsel, relevant Findings of Fact are adopted from February 12, 2011 HOD (Exhibit P-21). See Prehearing Order, Nov. 10, 2011.

of Behavioral Support Services, all outside of the general education setting. February 12, 2011 HOD.

7. Student's IEP was amended again on December 7, 2010. No change was made in the hours of Specialized Instruction and Behavioral Support Services provided. February 12, 2011 HOD.

8. In the February 12, 2011 HOD, this Hearing Officer found that in Student's February 1, 2010 IEP, her IEP team at CHS determined that a "self contained or a smaller setting [was] recommended for this student;" that Student's educators reported in the IEP that "she would have a great difficulty in coping in the regular education classroom" and that she "requires intensive small group instruction if not a self contained class;" that the February 12, 2010 IEP Team agreed that Student required full time specialized instruction outside of general education; and that the Student's October 6, 2010 IEP team also agreed that a self contained or a smaller setting was recommended. The Hearing Officer held that, having determined that Student would have difficulty in coping in a regular education classroom and that a smaller setting was recommended, DCPS' failure, in the October 6, 2010 and December 7, 2010 IEPs, to provide Student a full time special education program, outside of the regular education setting, was a denial of FAPE. February 12, 2011 HOD at 8-9. The Hearing Officer ordered, *inter alia*, that DCPS convene Student's IEP Team to develop an IEP which specifically provides for full time Specialized Instruction outside the general education setting. February 12, 2011 HOD at 16.

9. Following issuance of the February 12, 2011 HOD, Student's IEP Team convened on February 28, 2011 at CHS. The DCPS Compliance Case Manager's meeting notes reflect that the team convened to develop an IEP for full-time Specialized Instruction outside the

general education setting. Exhibit R-2. The IEP team agreed to provide Student 26 hours per week of Specialized Instruction outside general education. The IEP team reported that Student's "Projected Exit Category" was a high school diploma. Exhibit R-1. The IEP team determined that Student would have to be taken out of all inclusion classes and placed in dedicated resource room classes outside of the general education setting. Testimony of SPED Coordinator.

10. On February 18, 2011, Petitioner's counsel wrote DEPUTY CHANCELLOR that Petitioner intended to remove Student from DCPS and unilaterally place Student at CLOSED PRIVATE SCHOOL for the remainder of the 2010-2011 school year and would seek funding from DCPS for Student's Closed private school placement and for transportation costs. The justification asserted for the unilateral private placement were,

because DCPS has failed to provide the student with a free and appropriate public education. Specifically, DCPS has failed to provide the student an appropriate Individualized Education Program, has failed to provide the student with an appropriate placement, has failed to appropriate [*sic*] evaluate student, has failed to follow proper procedures with respect to ensuring parental participation in IEP meetings for this student, and failed to implement the student's IEP for at least one school year.

Exhibit P-20.

11. DCPS responded by letter of February 28, 2011 that DCPS did not agree to bear the cost of the private placement, stating that it was DCPS' position that CHS could meet Student's educational needs and provide a FAPE. Exhibit P-19.

12. Student began attending Closed Private School on February 22, 2011. A report from Closed Private School dated June 9, 2011 shows Student earned 4 Carnegie Unit credits toward a high school diploma. However, I discount the credibility of this report because it indicates credits for English 9, Algebra 1, Health & PE, Introduction to Algebra and Life Skills. This report appears to be inconsistent with the Closed Private School's April 2011 Advisory

Grade report, which indicates that Student was taking World HG, Digital Media, English 9/10, Health PE, Geometry and Biology, but not Algebra or Life Skills. Exhibit P-14.

13. On March 8, 2011, an educational advocate from the office of Petitioner's Counsel wrote DCPS that it was their position that CHS cannot meet Student's educational needs and that DCPS' refusal to fund Closed Private School was inappropriate. Exhibit P-16.

14. On April 27, 2011, the Office of the State Superintendent of Education ("OSSE") gave notice of its intent to revoke its certificate of approval for Closed Private School, citing a long list of the school's alleged violations of D.C. Official Code § 38-2561.11(a). Exhibit R-9. Closed Private School closed in August 2011. (Notice taken by Hearing Officer.)

15. On June 24, 2011, Petitioner's Counsel wrote DCPS by email that DCPS had failed to provide proof that CHS was able to implement a full time IEP for Student and that Petitioner had no choice but to find a unilateral placement. Exhibit P-13.

16. On August 22, 2011, Petitioner's counsel wrote DEPUTY CHANCELLOR 2 that Petitioner intended to remove Student from DCPS and unilaterally place Student at PRIVATE SCHOOL for the remainder of the 2011-2012 school year and would seek funding from DCPS for Student's Closed private school placement and for transportation costs. The justifications asserted for the unilateral private placement were,

DCPS has failed to provide the student with a placement that can implement the full time IEP that was ordered by Hearing Officer Vaden in case number 2010-1547 and has refused to provide any information to the parent to substantiate that [CHS] is able to implement a full time, 26 hour IEP, for a student that is on a diploma track such as [Student].

Exhibit P-12.

17. In a response dated August 23, 2011, PROJECT COORDINATOR wrote Petitioner's Counsel that DCPS would not agree to fund Student's placement at Private School

and that it was DCPS' position that CHS could meet Student's educational needs and provide a FAPE. Exhibit P-11.

18. To award Carnegie Unit credits toward graduation, a teacher must be certified in the content area for the subject he or she teaches. Special education classes could be co-taught by a special education teacher and a teacher certified in a subject content area. However, CHS does not currently offer co-taught classes for students in self-contained classrooms. At CHS, there are currently only two teachers who are dual-certified in both special education and particular subject content areas.<sup>3</sup> Consequently, it is not possible for a student with a disability, placed full-time in self-contained classrooms at CHS, to earn the Carnegie Unit credits she would need to earn a DCPS high school diploma. Testimony of SPED Coordinator.

19. As of August 2011, Student lacked 18.5 out of a total of 23.5 Carnegie Unit credits she would require to graduate with a DCPS high school diploma. Exhibit R-3. See D.C. Regs., tit. 5-E, § 2203.52. If Student had attended CHS under February 28, 2011 IEP, she would have been placed in only one Carnegie Unit credit class, a history class taught by a dual-certified teacher. Testimony of SPED Coordinator.

20. Private School, an OSSE approved nonpublic school, is a therapeutic vocational high school. Students at Private School take traditional academic courses as well as vocational programs such as cosmetology. Private School follows DCPS curriculum standards and offers a District of Columbia high school diploma. All teachers at Private School are certified by OSSE in content area or in special education. Private School currently has 26 students enrolled in 9<sup>th</sup> through 12<sup>th</sup> grades. All students at Private School have special education disabilities. Private School has small class sizes with no more than 10 students in a class. Private School has a

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<sup>3</sup> To address this issue, CHS is trying to hire more dual-certified teachers. Testimony of SPED Coordinator.

clinical therapist and a behavioral team on staff. A DCPS program monitor follows children with disabilities placed by DCPS at Private School. Tuition at Private School is        per day.

Testimony of Admissions Director.

21. Student has been attending Private School since approximately August 25, 2011. She is on a high school diploma track. She is also enrolled in a daily cosmetology class, which will enable Student to sit for the cosmetology license exam upon graduation. Testimony of Admissions Director.

22. Student is doing very well in her classes at Private School. On her first quarter progress report for the 2011-2012 school year, Student received a C+ in Algebra II, a C+ in U.S. History, a B- in Cosmetology, a B in Chemistry, a B in Spanish, and an A- in English III.

Exhibit P-5.

**CONCLUSIONS OF LAW**

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

**DISCUSSION**

In this case, Petitioner seeks reimbursement for Student's tuition at Private School, incurred prior to the due process hearing, and an order for DCPS to pay for Student's ongoing enrollment at Private School.<sup>4</sup> "Where a public school system has defaulted on its obligations under the IDEA, a private school placement is 'proper under the Act' if the education by said school is 'reasonably calculated to enable the child to receive educational benefits.'" *Wirta v. District of Columbia*, 859 F. Supp. 1, 5 (D.D.C. 1994) (quoting *Board of Education of the*

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<sup>4</sup> Petitioner has not requested reimbursement for Student's tuition and expenses for attendance at Closed Private School.

*Hendrick Hudson Central District v. Rowley*, 458 U.S. at 207). “Under IDEA, parents who unilaterally place their child at a private school without the consent of school officials do so at their own financial risk. *Florence County Sch. Dist. 4 v. Carter*, 510 U.S. 7, 15, 114 S.Ct. 361, 126 L.Ed.2d 284 (1993) (citing *Sch. Comm. v. Dep’t of Educ.*, 471 U.S. 359, 369, 105 S.Ct. 1996, 85 L.Ed.2d 385 (1985)); *Schoenbach v. Dist. of Columbia*, 309 F.Supp.2d 71, 76-77 (D.D.C.2004). Such parents may be reimbursed only if (1) the school officials’ public placement violated IDEA and (2) the private-school placement was proper under IDEA. *Florence County*, 510 U.S. at 15, 114 S.Ct. 361; *Holland v. Dist. of Columbia*, 71 F.3d 417, 420 n. 3 (D.C.Cir.1995) (noting that this circuit has ordered reimbursement ‘where the public agency violated [IDEA] and the parents made an appropriate placement’)” *Alfono v. District of Columbia*, 422 F.Supp.2d 1, 5 (D.D.C. 2006). The first factor is a threshold question: if the public school placement would have been appropriate, the hearing officer's analysis ends, and the student is not entitled to reimbursement. *See N.S. v. District of Columbia*, 709 F.Supp.2d 57, 67 (D.D.C. 2010).

#### Burden of Proof

The burden of proof in a due process hearing is the responsibility of the party seeking relief – the Petitioner in this case. *See* D.C. Regs. tit. 5-E, § 3030.3. *See, also, Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62, 126 S.Ct. 528, 536, 163 L.Ed.2d 387 (2005); *Hester v. District of Columbia*, 433 F.Supp.2d 71, 76 (D.D.C. 2006).

### Analysis

1. DID DCPS' ASSIGNMENT OF STUDENT TO CHS VIOLATE THE IDEA BECAUSE CHS DID NOT OFFER A FULL TIME, OUT OF GENERAL EDUCATION, DIPLOMA TRACK PLACEMENT?

Petitioner contends that DCPS' continued placement of Student at CHS, after the February 28, 2011 IEP was adopted, violated the IDEA because CHS does not offer a high school diploma track curriculum to students placed in self-contained classrooms. DCPS is obliged to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children. *See* 34 C.F.R. § 300.110. This obligation includes enabling the child "[t]o be involved in and make progress in the general education curriculum" in accordance with "the child's present levels of academic achievement and functional performance." *See* 34 C.F.R. § 300.321(a)(4)(ii).

To determine whether the CHS placement was appropriate for Student, one must refer to her IEP. *See Roark ex rel. Roark v. District of Columbia*, 460 F.Supp.2d 32, 44 (D.D.C. 2006). "Designing an appropriate IEP is necessary but not sufficient. DCPS must also implement the IEP, which includes offering placement in a school that can fulfill the requirements set forth in the IEP. 20 U.S.C. § 1401(9)." *O.O. ex rel. Pabo v. District of Columbia*, 573 F.Supp.2d 41, 53 (D.D.C. 2008). Student's February 28, 2011 IEP provided that Student would receive 26 hours per week of Specialized Instruction in an outside general education setting and that Student's projected "Exit Category" was to be a high school diploma. At CHS, Student could receive full-time special education in dedicated resource rooms that are staffed by special education teachers. However, in that setting, Student could earn only one Carnegie Unit per year toward graduation. As of August 2011, Student lacked 18.5 out of a total of 23.5 in Carnegie Unit credits she needs

to graduate with a DCPS high school diploma. It is evident, therefore, that CHS could only implement the full time outside-of-general-education services, specified in Student's February 28, 2011 IEP, if Student goes off the high school diploma track.

A material failure to implement an IEP violates the IDEA. *See S.S. ex rel. Shank v. Howard Road Academy*, 585 F.Supp.2d 56, 67-68 (D.D.C.2008). A material failure to implement an IEP occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and those required by the IEP. *Id.* DCPS's placement of Student in a program at CHS, where she could not make suitable progress toward a high school diploma, was more than a minor discrepancy. I find that this was a material failure to implement the February 28, 2011 IEP and a violation of the IDEA.

2. WAS STUDENT'S UNILATERAL PRIVATE SCHOOL PLACEMENT PROPER UNDER THE IDEA?

Following the February 28, 2011 IEP meeting, Petitioner removed Student from CHS and unilaterally placed her at private schools – first at Closed Private School and, since August 25, 2011, at Private School. Having found that DCPS violated the IDEA and denied Student a FAPE by its material failure to implement Student's February 28, 2011 IEP, I next address the second inquiry from *Florence County, supra*: Was Student's placement at Private School proper under the IDEA? Parents who place their children in private schools without the consent of local school officials are entitled to reimbursement only if a federal court finds that the public agency violated the IDEA, that the private school was an appropriate placement, and that cost of the private education was reasonable. *See Holland v. District of Columbia*, 71 F.3d 417, 425 (D.C. Cir. 1995) (*citing Florence County, supra*, 510 U.S. at 15 (1993)). “[A] private school placement is ‘proper under the Act’ if the education provided by said school is ‘reasonably calculated to enable the child to receive educational benefits.’” *Wirta v. District of Columbia*,

859 F.Supp. 1 (D.D.C. 1994) citing *Board of Education of Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982).

I find that the evidence established that Private School is an appropriate placement for Student. Private School is able to meet the requirements of Student's IEP that she receive 26 hours per week of Specialized Instruction outside of the general education setting and that she be afforded the opportunity to graduate with a high school diploma. Since matriculating to Private School in August 2011, Student has made educational progress. On her first quarter progress report for the 2011-2012 school year, Student earned good grades in all of her core classes. The tuition cost at Private School is reasonable, set at the OSSE-established nonpublic tuition rate of \$212 per day.

DCPS contends that Student's placement at Private School is inappropriate because Private School has no current certificate of approval from OSSE. However, Admissions Director testified that Private School is on OSSE's approved school list and that Private School has applied for renewal of its 2009-2011 certificate of approval, However, OSSE has yet to issue new certificates of approval for any private schools. DCPS also generally criticizes the rigor of Private School's grading system. However DCPS offered no evidence that Private School does not meet all operating requirements established by the OSSE. *See* D.C. Mun. Code § 38-2561.07. Lastly DCPS suggests that Private School is unable to meet Student's socio-emotional needs. The evidence establishes to the contrary that Private School has a clinical therapist and a behavioral team on staff. Moreover, Student's Math Teacher testified that Student has good attendance and never has behavior issues. In sum, I find that the education provided by Private School is reasonably calculated to enable Student to receive educational benefits and that her placement there is "proper" under the IDEA. Petitioner is entitled to

reimbursement.<sup>5</sup>

The cost of private school reimbursement may be reduced or denied if,

(i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph (d)(1)(i) of this section.

34 C.F.R. § 300-148(d)(1). No reduction is warranted in this case, because Petitioner's counsel gave written notice to DCPS on March 8, 2011 of Petitioner's position that CHS could not meet Student's educational needs and that OSSE's refusal to fund a private placement was inappropriate. Petitioner's counsel sent DCPS follow-up communications on June 24, 2011 (email) and August 22, 2011 (letter). In the last letter, Petitioner's counsel confirmed that Petitioner would seek DCPS funding for Student's unilateral placement at Private School. Therefore, since soon after the February 28, 2011 IEP meeting, DCPS has been on notice that Petitioner rejected the CHS placement and that she intended to enroll Student in a private school

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<sup>5</sup> No evidence was offered that Petitioner has paid for Student's costs at Private School. On brief, Petitioner's counsel represents that Private School accepted Student, who could not afford to pay tuition, while her due process request was being litigated. Petitioner cites *Mr. And Mrs. A v. N.Y. City Dep't Of Educ.*, Case No. 09 Civ. 5097 (PGG) (S.D.N.Y. 2011), where the court held that where parents "lack the financial resources to 'front' the costs of private school tuition, and in the rare instance where a private school is willing to enroll the student and take the risk that the parents will not be able to pay tuition costs-or will take years to do so--parents who satisfy the *Burlington* factors have a right to retroactive direct tuition payment relief." *Id.* In this case, DCPS has not argued that Student's Private School fees should not be paid retroactively because Petitioner did not front the costs. Were that argument made, I believe it likely that the reviewing courts would adopt the reasoning from *Mr. And Mrs. A. Cf. Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 523 (D.C.Cir. 2005) (For children's access to appropriate education to depend on their parents' capacity to front its costs would be a result manifestly incompatible with IDEA's purpose of "ensur[ing] that all children with disabilities have available to them a free appropriate public education.")

at DCPS' expense.

I find that DCPS must pay Student's tuition and school costs at Private School retroactive to August 25, 2011 and must fund Student's ongoing enrollment at Private School until such time as the Student is provided with an appropriate placement. *See District of Columbia v. Abramson*, 493 F.Supp.2d 80, 87 (D.D.C. 2007).

#### SUMMARY

In summary, I have found that DCPS has denied Student a FAPE for the 2011-2012 school year by offering her a placement only at CHS, which is unable to implement Student's February 28, 2011 IEP. Private School is a proper placement for Student under the *Florence County* and *Holland v. District of Columbia* decisions criteria. I will order DCPS to pay the cost of Student's enrollment at Private School retroactive to August 25, 2011 and to fund her ongoing enrollment there, and provide school transportation, until DCPS provides Student with an appropriate placement.

#### ORDER

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

1. That DCPS shall pay the costs of Student's enrollment at Private School retroactive to August 25, 2011;
2. That DCPS shall fund Student's ongoing enrollment at Private School for the remainder of the 2011-2012 school year and until such time as Student is provided with an appropriate placement;
3. That DCPS shall provide Student's transportation to and from Private School in accordance with DCPS' special education transportation regulations; and
4. That within 10 business days of this order, DCPS shall convene Student's MDT/IEP team to effect her change of placement/location to Private School pursuant to the requirements of 34 C.F.R. § 300.325. A representative of Private School must attend the IEP meeting; and

Further ORDERED that all other relief requested by Petitioner herein is denied.

Date: December 14, 2011

s/ Peter B. Vaden  
Peter B. Vaden, Hearing Officer

**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).