DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

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

Student,

Petitioner,

v.

The District of Columbia Public Schools ("DCPS"),

Respondent.

Date Issued: May 5, 2011

Hearing Officer: Ramona M. Justice

Case Number:

2011 MAY 16 AM 9:43 OSSE STUDENT HEARING OFFICE

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[1]HEARING OFFICER DETERMINATION

I. JURISDICTION

This proceeding was invoked pursuant to the Individuals with Disabilities Act ("IDEA"), P.L. 101-476, as amended by P.L. 105-17; reauthorized as the Individuals with Disabilities Education Improvement Act of 2004 ("IDEIA"), Public Law 108-446 and 20 U.S.C. Sections 1400 et seq., Title 34 of the Code of Federal Regulations, Part 300; the Rules of the Board of Education of the District of Columbia; Title 38 of the D.C. Code, Subtitle VII, Chapter 25; and Chapter 30, Title 5-E of the District of Columbia Municipal Regulations ("DCMR").

II. PROCEDURAL HISTORY

On March 8, 2011, the student, through his Attorney, filed with the District of Columbia, Office of the State Superintendent of Education ("OSSE"), Student Hearing Office, an "Administrative Due Process Complaint Notice". On March 18, 2011 the Respondent filed a response to the student's due process complaint notice.

On March 11, 2011, the Student Hearing Office assigned the due process complaint to this Hearing Officer. On March 14, 2011, the Hearing Officer issued to the parties a "Notice of Prehearing Conference", scheduling the prehearing conference for March 23, 2011 at 4:00 p.m.; and an Order requiring the parties to notify the Hearing Officer of the date, time, and outcome of the resolution meeting.

The Respondent must convene a resolution meeting within fifteen (15) calendar days from the date of the complaint, expiring in this matter on March 23, 2011. The thirty (30) day resolution period expired on April 7, 2011.

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[1] This decision is amended to correct a typographical error on page 2, paragraph 5 of this decision to accurately reflect the disclosures of each party that were admitted into the record as evidence, by the Hearing Officer.

The resolution meeting convened on March 21, 2011, and the parties were unable to resolve the issues in the complaint. The 45 day timeline for convening a hearing and issuing a decision began on March 22, 2011, the day after the resolution meeting; and expires on May 5, 2011.

The prehearing conference was rescheduled and held on March 30, 2011 at 5:00 p.m., to accommodate the schedules of the parties. On this date, the Hearing Officer issued a prehearing order summarizing matters discussed during the prehearing conference, issues to be decided by the Hearing Officer, and confirming the due process hearing for April 21, 2011, at 9:00 a.m...

The due process hearing convened on April 21, 2011, at 9:00 a.m., as scheduled, at 810 First Street, N.E., 2nd Floor, Washington, D.C... The hearing was closed to the public, pursuant to the parents' request. Each party was represented by an Attorney; and each Attorney provided opening statements. There were no preliminary matters for the Hearing Officer to address, prior to proceeding with a hearing on the merits of the issues in the complaint.

The Respondent offered into evidence Respondent's exhibits 1-2; and the Petitioner offered into evidence Petitioner's exhibits1-21. Receiving no objections, the Hearing Officer admitted into the record as evidence Petitioner's exhibits 1-21, and Respondent's exhibits 1-2.

Petitioner's witnesses included: the student, parents of the student, and student's Education Advocate. The Respondent presented no witnesses, and concluded by resting on the record.

The due process hearing concluded with the Petitioner and Respondent providing closing statements; and requesting that the Hearing Officer find in each party's favor on the issues in the complaint.

III. BACKGROUND

The student is years of age; and resides in the District of Columbia with his parents. On February 28, 2011, the Respondent determined the student eligible for special education services, developed an IEP for the student, and issued to the student a Prior to Action Notice, notifying the student of his placement at a District of Columbia public high school's alternative educational program, for adult students.

On March 8, 2011, the Petitioner, through his Attorney, filed this due process complaint challenging the Respondent's development of an appropriate IEP for the student; and the appropriateness of the student's placement, during the 2010/11 school year.

IV. ISSUES

The issues before the Hearing Officer are as follows:

(1) Whether the District of Columbia Public Schools denied the student a free appropriate public education, by failing to develop an appropriate Individualized Education Program for the student on January 31, 2011, and February 28, 2011, because the ***level of specialized instruction services*** prescribed in the IEPs, is insufficient to provide the student access to the general education curriculum, and educational benefit, in violation of the IDEA, at 34 C.F.R. §§300.320 and 300.324?

(2) Whether the District of Columbia Public Schools denied the student a free appropriate public education, by failing to develop an appropriate Individualized Education Program for the student on January 31, 2011, and February 28, 2011, because the nature of the student's disability is such that education in a general ***education setting***, as recommended in the IEPs, cannot be accomplished satisfactorily, even with the use of supplementary aids and services; in violation of the IDEA, at 34 C.F.R. §300.320?

(3) Whether the District of Columbia Public Schools denied the student a free appropriate public education, by failing to provide the student an appropriate placement, because the nature of the student's disability is such that the student requires a full-time special education program, outside general education, and the ***location of services*** identified in the January 31, 2011, and February 28, 2011 IEPs, is unable to provide the student the program he requires to access the general education curriculum, and receive educational benefit, in violation of the IDEA, at 34 C.F.R. §§300.320 and 300.324?

V. RELIEF REQUESTED

The Petitioner requests that the Hearing Officer find in its favor as to each issue; and issue an Order requiring the Respondent to fund the student's placement at the Monroe School, a full-time special education school for learning disabled students; revise the student's February 28, 2011 IEP to reflect an increase in the level of specialized instruction services; and compensatory education services from October 10, 2010 through the date of the complaint.

VI. CREDIBILITY DETERMINATIONS

The Hearing Officer finds that the testimony of all witnesses at the hearing was credible. The Respondent presented no witnesses to refute the testimony of Petitioner's witnesses, or evidence presented by the Petitioner.

The testimony of the supervising Clinical Psychologist is given limited weight, due to the witness limited familiarity with the student. The supervising Psychologist had not met or evaluated the student, and was only familiar with the student from supervising the Psychologists' administration of the assessment, and completion of the evaluation report.

VII. STATEMENT OF FACTS

After considering all the evidence, as well as the arguments of both counsel, this Hearing Officer's Statement of Facts are as follows:

1. The student is years of age and resides in the District of Columbia with his parents.[2] On February 28, 2011, the student was determined disabled and eligible to receive special education services, under the Individuals with Disabilities Education Act (IDEA).[3] The student's disability classification is Specific Learning Disability.[4]

[2] Testimony of parent.
[3] Petitioner's Exhibit 1.
[4] Id.

2. The student attended numerous elementary schools including , and School, a District of Columbia public school. The student attended School, a District of Columbia public middle school, during the and grades; and during the 9th grade, the student attended the School, a District of Columbia Charter School.[6]

   During the 2007/08 school year, for approximately 4-6 months, the student was a 10th grade student at , a District of Columbia public high school, where the student was expected to receive a general education diploma (GED).[7] The student was administered the GED examination, however, failed the GED program and examination.[8] The student was subsequently expelled from the school, due to chronic truancy, tardiness, and wandering the halls.[9]

   During the 2008/09 school year, the student participated in the a program for at risk youth, where the student was expected to receive a high school diploma. The student completed the program on June 13, 2010, however, failed to receive a high school diploma, because his writing skills were deemed insufficient.[10] The student returned home and began seeking employment.[11]

   Thereafter, the student participated in Pre-GED preparation classes offered by Catholic Charities, twice.[12] The program was relatively unstructured and required a great deal of individual motivation and self-sufficiency.[13] The student was informed on several occasions that "he was not ready", and was unsuccessful in completing the preparation classes.[14]

3. Throughout the student's education, the student progressed through the school systems with academic deficits that were not fully addressed.[15] The student failed to acquire a high school diploma; and attempts to secure a General Equivalent Diploma were unsuccessful, due to the student's academic deficits.[16]

   Throughout the student's education, the student's mother was proactive, and although she expressed concern to the student's teachers regarding the student's lack of academic progress, the student was advanced in grade; and concerns regarding the student's lack of progress were not appropriately addressed.[17]

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[5] Petitioner's Exhibit 8-4.
[6] Petitioner's Exhibit 8-5.
[7] Testimony of parent.
[8] Petitioner's Exhibit 8, page 5.
[9] Petitioner's Exhibit 8, page 5.
[10] Id, testimony of parent, and Petitioner's Exhibit 8, page 6.
[11] Petitioner's Exhibit 8, page 6.
[12] Id.
[13] Id.
[14] Id.
[15] Petitioner's Exhibit 8-12.
[16] Id.
[17] Petitioner's Exhibit 8-5 and testimony of parent.

During the 8th grade, while attending School, the student failed all classes except Algebra, where he earned .5 credit hours; however, the student requires an additional 23.5 credits to receive a high school diploma.[18] The student can earn 6 credit hours per year at the alternative school, however, would have to attend school for nearly four (4) years to graduate; and the student would earn 7-7.5 credit hours at the private school proposed by the Petitioner.[19]

4. The student's home school is School, a District of Columbia public high school, located in close proximity to the student's residence.[20] The student is currently enrolled at a District of Columbia public high school for adult students, located in Washington, DC…

   The school offers an evening alternative education program for adult students interested in obtaining a high school diploma, pursuing a G.E.D., or advancing their careers. The school is not a special education school, however, offers specialized instruction in the general education setting; and the school is not in close proximity to the student's residence.[21]

   The student attended the alternative school for a brief period in the year 2008, and after one month, discontinued the program because the evening classes interfered with the student's work schedule.[22]

5. In ***June, 2010***, the student attempted to enroll at School, the student's neighborhood high school, however was denied admission, because the student exceeded the age requirement.[23]

6. At the beginning of the 2010/11 school year, the student was employed during the day, and in October, 2010 reenrolled at the alternative school, and began attending the school, however, the student's attendance was curtailed because in an effort to enter the school, the student was accosted by individuals at or near the school, and gun shots fired at the student, causing the student to flee from the school for his safety.[24]

   The parent and student decided that due to safety concerns, the student would not return to the evening school, and promptly informed the student's school of the same.[25] The Respondent failed to initiate a safety transfer for the student, address parent and student concerns, or discuss with the student and parent alternative placement options.[26]

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[18] Testimony of Education Advocate and student.
[19] Testimony of Education Advocate and Principal at private school.
[20] Testimony of parent and Education Advocate.
[21] Respondent's Exhibit 2.
[22] Petitioner's Exhibit 8-5.
[23] Id.
[24] Testimony of parent and student.
[25] Testimony of parent.
[26] Testimony of student and parents, and Education Advocate.

7. On ***November 20, 2010***, an independent Comprehensive Psychological Evaluation was completed by Compass Mental Health Consultants, LLC.[27] The student has a reading, mathematics, and written expression disorder; and satisfies the eligibility criteria as a student with a Specific Learning Disability (SLD), in these areas.[28]

8. According to the student's ***January 21, 2011*** report card, the student received the following grades: "D" in Algebra, "F" in Ecology, "F" in Organic Chemistry, "F" in Computer Applications I, and no grade in Biology I.

9. On ***January 31, 2011***, pursuant to an October 27, 2010 Settlement Agreement,[29]the Respondent convened an IEP team meeting to review the student's independent Comprehensive Psychological Evaluation, discuss and determine the student's eligibility for special education services, discuss the student's IEP, if necessary, site location, and compensatory education, if warranted.[30]

   The team discussed the student's IEP, site location, compensatory education services, and the Respondent's Psychologist reviewed with the team findings and recommendations in the Comprehensive Psychological Evaluation.[31] The Respondent expressed no objections or concerns regarding evaluation findings and recommendations in the independent Comprehensive Psychological Evaluation.

   The team determined the student eligible for special education services, under the disability classification of specific learning disability.[32] The Respondent also completed an "Analysis of Existing Data" report, identifying the following areas of concern regarding the student's education: basic math skills, reading comprehension, and the ability to produce expressive writing consistent for the student's age level.[33]

   The Respondent proposed to place the student at his current placement, an alternative evening school, where the student can earn 6 credits a year towards graduation. In consideration of the student's age, current level of academic functioning, the student's need for intensive academic intervention to earn credits and develop basic academic skills, and the student's desire to attend school during the day, the family and advocate disagreed with the proposed placement; and requested a full-time IEP and placement at a day school.[34] The student's parent also objected to the student's placement in the general education setting.[35]

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[27] Petitioner's Exhibit 8.
[28] Id.
[29] Petitioner's Exhibit 15.
[30] Petitioner's Exhibit 7.
[31] Petitioner's Exhibit 7-2 and7-3.
[32] Petitioner's Exhibit 7-4, and Petitioner's Exhibit 3-1.
[33] Petitioner's Exhibit 3, pages 1-5.
[34] Id.
[35] Petitioner's Exhibit 7-1.

The Respondent informed the student, parent, and education advocate that the proposed placement at the alternative school is an appropriate placement for the student, and the school can implement the student's IEP.[36] The Respondent stated that it would explore other schools for students with specific learning disabilities; and that the team would reconvene on February 21, 2011, to develop the student's IEP.[37]

10. On ***February 28, 2011***, the IEP team reconvened to develop the student's IEP.[38] The Respondent developed an IEP for the student, prescribing 4 hours of specialized instruction, in the general education setting, and 2 hours of specialized instruction, outside the general education setting, weekly.[39] The student agreed with implementation of the IEP at that time, however, disagreed with the IEP content.[40]

    In discussing placement, the Respondent explored no alternative placements for students with specific learning disabilities as indicated during the January 31, 2011 IEP team meeting, and reiterated its proposed placement of the student at the alternative school.

    The student, parent, and Education Advocate disagreed with the Respondent's proposed placement of the student at the alternative school because the school can only provide the student 2 hours of specialized instruction, per week; the student can only earn 6 credits a year towards graduation; and the student and Advocate requested placement at the Monroe School, a full-time day special education program for learning disabled students.[41]

    The Respondent concluded that the student's current placement is appropriate, and issued to the student a Prior to Action Notice, informing the student of the Respondent's intent to place the student at the alternative school.[42]

    The student has not returned to the alternative night school since the October, 2010 incident, due to safety concerns; and the Respondent has not offered the student an alternative placement, or safety transfer.

VIII. FINDINGS OF FACT

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

1. Appropriateness of Student's IEP (Level of Services)

On December 1, 2010, an independent Comprehensive Psychological Evaluation was completed for the student; finding that the student satisfies the eligibility criteria as a student with a specific learning disability in reading, mathematics, and written expression, and requires a full-time special education program, in a therapeutic environment.[43]

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[36] Testimony of parent and student.
[37] Id.
[38] Petitioner's Exhibit 2.
[39] Petitioner's Exhibit 2-7
[40] Petitioner's Exhibit 2.
[41] Petitioner's Exhibit 1.
[42] Respondent's Exhibit 1.
[43] Petitioner's Exhibit 8-14.

On January 31, 2011, the IEP team reviewed findings and recommendations in the independent Comprehensive Psychological Evaluation, and agreed to reconvene to develop an IEP for the student.[44] An IEP was not developed for the student, until February 28, 2011.[45] On February 28, 2011, Respondent developed an IEP for the student, prescribing 6 hours of specialized instruction, weekly; which the student, parent, and education advocate disagreed.

Generally, the fact that the student has a learning disability is not a basis for concluding that a student requires a full-time special education program. However, in this instance, the evidence clearly supports a finding that the nature and severity of this student's learning disabilities are such that the student requires a significant level of academic and support services, to receive the "basic floor of opportunity", access the general education curriculum, and receive educational benefit.[46]

According to the recent Comprehensive Psychological Evaluation, the student received a FSIQ score of 88, deficits were noted in language development, verbal abstract reasoning, and fund of information.[47] The student's weakest performance was obtained on the vocabulary subtest.[48] Attention, concentration, and deficits in speed of processing routine information were also noted.[49]

Academically, all of the student's WJ-II scores were below age and grade expectation, rendering it difficult for the student to secure a high school or general equivalent diploma, absent intense academic tutoring and support.[50] For instance, the WJ-III test scores reveal that the student is performing at the following grade levels: 1.9 in writing fluency, 2.0 grade level in writing sample, 2.1 in passage comprehension, 2.4 in broad written language, 3.2 in broad reading, 3.4 in spelling, 3.8 in letter word identification, 4.2 in reading fluency, 5.1 in calculations, 5.3 in applied problems, and 6.6 in math fluency.[51] The student also exhibits significant difficulty decoding words, reading, and comprehending simple sentences and passages.

Additionally, according to the Respondent's February 1, 2011 eligibility report the student does not achieve adequately and/or does not make sufficient progress to meet age or state-approved grade level standards in written expression, basic reading, reading fluency, reading comprehension, mathematics calculation, and mathematics problem solving.[52]

The Hearing Officer finds that the District of Columbia Public Schools failed to develop an appropriate Individualized Education Program for the student on February 28, 2011, because the 6 hours of specialized instruction services per week, as prescribed in the student's IEP, is insufficient to provide the student access to the general education curriculum, and receive educational benefit.

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[44] Petitioner's Exhibit 7-1.
[45] Petitioner's Exhibit 6 and 7.
[46] Petitioner's Exhibit 8-14.
[47] Petitioner's Exhibit 8-12.
[48] Id.
[49] Id.
[50] Petitioner's Exhibit 8-13.
[51] Petitioner's Exhibit 8-11.
[52] Petitioner's Exhibit 3, page 2.

2. Appropriateness of Student's IEP (Educational Setting)

At the time that the February 28, 2011 IEP was developed, the Respondent was aware of the following:

- Throughout the student's education, the student was placed in a general education setting with academic deficits that were unnoticed, and unaddressed, as a result, the student failed to progress, and regressed academically in the general education setting;

- Throughout the student's education, the parent raised concerns regarding the student's lack of academic progress, even during the period the student attended DCPS schools, however, the student was not evaluated, the student's academic deficits were not fully addressed, the student was advanced in grade, and parent's concerns were not addressed;

  It is now several years later that the parent, Student, and Advocate raise similar concerns regarding the student inability to progress in the general education setting, and concerns that if returned to the general education setting, once again, the student's academic deficits will remain unnoticed and unaddressed; and the student will not progress, however, will experience further regression;

- According to the recent Comprehensive Psychological Evaluation the nature and severity of the student's learning disabilities are such that education of the student in the general education setting cannot be achieved satisfactorily, even with the use of supplementary aids and services; and because of the nature and severity of the student's disabilities, the student requires education in a small structured therapeutic environment, with a small student to teacher ratio, where the student can receive 1:1 instruction;

- In the general education setting, at the alternative school, the student will receive 10th/11th grade level class assignments, however, the student is performing between a 1st and 6th grade level in all academic areas. The student lacks basic foundational skills in reading, math, and written expression, therefore, it is likely that the student will continue to regress and not progress academically, in the general education setting; and

- The student requires education outside the general education setting, to receive a "basic floor of opportunity", access the general education curriculum, and educational benefit.[53]

However, on ***February 28, 2011***, the Respondent disregarded the student's educational history, the student's academic, developmental, and functional needs, evaluation findings and recommendations, parent and advocate's concerns and input, and developed an IEP for the student, prescribing 4 hours of specialized instruction, in the general education setting.

[53] Testimony of parent, testimony of Admissions Director, of Washington, D.C., and Petitioner's Exhibits 6, 7-12, 14 and 15.

For these reasons, the Hearing Officer finds that the District of Columbia Public Schools failed to develop an appropriate Individualized Education Program for the student on February 28, 2011, because the nature and severity of the student's learning disabilities are such that education of the student in the general education setting cannot be achieved satisfactorily, even with the use of supplementary aids and services.[54]

3. Appropriate Placement (Location of Services)

The Hearing Officer finds that the District of Columbia Public Schools failed to provide the student an appropriate placement during the 2010/11 school year, because the location of services identified in the February 28, 2011 IEP, is unable to provide the student the full-time special education program, outside the general education setting, which the student requires to access the general education curriculum, and receive educational benefit.

The location of services identified in the student's February 28, 2011 IEP is an alternative education evening program that offers classes to adult students who would like to obtain their high school diploma, take the G.E.D., or advance their careers. The school offers a variety of courses for adults who wish to continue their education or participate in specialized job training programs.

As indicated supra, the nature and severity of the student's learning disabilities are such that the student requires a full-time special education program, outside the general education setting, which is not available at the alternative school.

The student lacks the basic fundamental skills necessary to access the general education curriculum and receive educational benefit, therefore, it is more likely than not that the student will regress academically, and not progress at the location of services identified in the student's IEP, absent an intensive specialized instruction program, remediation in reading, written expression, and mathematics, to acquire basic skills in these areas, and earn credits towards graduation; and interventions, accommodations, and supports.

The student also requires education in a therapeutic environment, with a high level of structure, low teacher to student ratio, an instructional learning environment utilizing multiple presentation formats to include visual, auditory, kinesthetic and tactile modalities; academic interventions, instructional modifications, testing accommodations, and assignment modifications, which is not available at the location of services identified in the student's IEP.[55]

The student requires a curriculum focused on increasing and improving the student's reading writing, and language based deficits; a well defined progress monitoring system in order to monitor the student's progress; a highly controlled, organized, therapeutic environment, devoid of excessive external stimuli; and intensive academic support and services, which is not available at the location of services identified in the February 28, 2011 IEP.[56]

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[54] Petitioner's Exhibit 8, Petitioner's Exhibit 3-1 and 2.
[55] Petitioner's Exhibit 8, pages 14-15.
[56] Id.

The Respondent presented no evidence regarding the appropriateness of the location of services identified in the February 28, 2011 IEP, its ability to implement the student's IEP, and provides the student educational benefit. There is also no evidence that the school can provide the student a full-time special education program outside the general education setting, which the student requires to access the general education curriculum and receive educational benefit.

IX. 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:

1. The burden of proof is properly placed on the Petitioner, the party seeking relief in this matter.[57] Petitioner must prove the allegations in the due process complaint, by a preponderance of the evidence.[58]

2. The Individuals with Disabilities Education Act ("IDEA")[59] is the federal statute governing the education of students with disabilities.[60] The IDEA requires that all children with disabilities have available to them a free appropriate public education ("FAPE"), that emphasizes special education and related services, specifically designed to meet their unique needs; and prepare them for further education, employment, and independent living. *See, 20 U.S.C. §1400(d)(I)(A)*.

   Specially designed instruction means adapting, as appropriate, to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—

   (i) To address the unique needs of the child that result from the child's disability; and
   (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.[61]

3. The IDEA defines a FAPE as special education and related services provided at public expense, under public supervision and direction, and without charge; meet the school standards of the State educational agency; includes an appropriate preschool, elementary school, or secondary school education in the State involved.

   The IDEA also provides that the special education and related services must be provided in conformity with an Individualized Education Program (IEP) that meets the requirements of §§300.321 through 300.324.[62]

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[57] *Shaffer v. Weast*, 546 U.S. 49, 56-057 (2005) and 5 D.C.M.R. §3030.3.
[58] 20 U.S.C. §14115(i)(2)(c). See also *Reid v. District of Columbia*, 401 F.3d 516, 521 (D.C. Cir.2005) (standard of review)
[59] The IDEA is reauthorized as the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA) Public Law 108-446 and 20 U.S.C. §1400 et seq..
[60] The Federal regulations promulgated under the IDEA, are codified at 34 C.F.R. Part 300.
[61] IDEA, 34 C.F.R. §300.39 (b)(3)(i)(ii).
[62] IDEA, 34 C.F.R. §300.17(d).

In the District of Columbia, the local education agency (LEA) must ensure that *all children with disabilities*, between the ages of 3 and 21, have available to them a free appropriate public education (FAPE); that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. This student is a child with disabilities entitled to receive special education services, under the IDEA; and District of Columbia Municipal Regulations.

4. The U.S. Supreme Court has held that the FAPE required by the IDEA consists of an educational program specifically tailored to address the unique needs of the student by means of an 'individualized education program' (IEP).[63]

   According to *Board of Education of the Hendrick Hudson Central School District, Westchester County, et. al. v. Rowley, 458 U.S. 176 (1982),* in order for FAPE to be offered a student, the school district must show it complied with the statutory elements of an IEP, and the goals and objectives in the IEP are reasonable, realistic and attainable. The FAPE requirement is satisfied when the State provided personalized instruction that is reasonably calculated to enable the child to benefit educationally; and is likely to produce progression, not regression.[64]

5. When parents challenge the appropriateness of a program or placement offered to their disabled child by a school district under the IDEA, a Hearing Officers must undertake the following two-fold inquiry: 1) procedural compliance; and 2) substantive compliance.

   (1) Procedural FAPE (Procedural Compliance)

   First, the Hearing Officer must determine whether the State complied with the *procedural requirements* of the IDEIA, in creating and implementing the student's IEP, or rendering the placement decision. However, the 2004 amendments to IDEA, at Section 615(f) (ii) specifically limit the jurisdiction of administrative hearing officers to make findings that a child failed to receive a FAPE due to procedural violations, unless it can be determined that the procedural violations:

   (I) impeded the child's right to a free and appropriate public education;
   (II) significantly impeded the parent's opportunity to participate in the decision making process regarding the provisions of a FAPE to the parent's child; or
   (III) caused a deprivation of educational benefit to the student.

   (2) Substantive FAPE (Conferral of Educational Benefit)

   Second, once the Hearing Officer addresses the first criteria, it must determine whether the State complied with the *substantive requirements* of the IDEA, by developing an IEP for the student that is ***reasonably calculated to enable the student to receive educational benefit***[65].

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[63] Id.

[64] Board of Education of the Hendrick Hudson Central School District, Westchester County, et. al. v. Rowley, 458 U.S. 176 (1982).

[65] According to *Rowley v. Board of Education*, at 458 U.S. at 200-01 (1982), school districts are only required to provide students a "basic floor of opportunity"; and although an "appropriate' public education does not mean the absolutely best or potential maximizing education for the individual child; the educational benefit received by the student must be more than trivial.[65]

The IEP must also be ***appropriately designed and implemented***, emphasizing special education and related services specifically designed to meet the student's unique needs, supported by such services, as are necessary to provide the student 'meaningful', benefit. If these two (2) requirements are satisfied, the State has complied with the obligation imposed by Congress, and the courts can require no more.

6. **Appropriateness of Student's IEP (Level of Services)**

It is the Hearing Officer's decision that the Petitioner satisfied its burden by proving that the District of Columbia Public Schools failed to develop an appropriate IEP for the student on February 28, 2011, because the level of specialized instruction services prescribed in the IEP, is insufficient to provide the student access the general education curriculum, and educational benefit, in violation of the IDEA, at 34 C.F.R. §§300.320 and 300.324.

First, the Respondent failed to comply with the substantive requirements of the IDEA, by ensuring that the student's IEP includes a statement of *special education and related services and supplementary aids and services, based on peer reviewed research to the extent practicable*, to be provided to the child, or on behalf of the child, and a statement of the program modifications and supports for school personnel that will be provided to enable the child—

(i) Advance appropriately toward attaining the annual goals;
(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities;
(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section…

Second, the Respondent failed to comply with the procedural and substantive requirements of the IDEA, by ensuring that in developing the February 28, 2011 IEP, the IEP team carefully considered:

1) the strengths of the child;
2) concerns of the student, parents, and student's Education Advocate, for enhancing the education of their child;
3) results of the recent independent Comprehensive Psychological Evaluation;
4) the academic, developmental, and functional needs of the child; and

5) the potential harm on the student and on the quality of services the student requires, should the student fail to receive the level of specialized instruction necessary to access the general education curriculum, and receive educational benefit.[66]

Third, the Respondent failed to comply with the substantive requirements of the IDEA by ensuring that the February 28, 2011 IEP is reasonably calculated to enable the child to benefit educationally; and is likely to produce progression, not regression. Absent a sufficient level of specialized instruction, it is likely the student will regress and not progress academically.

[66] IDEA, at 34 C.F.R. §300.324(a)(1)(iv).

Fourth, in developing the February 28, 2011 IEP the Respondent failed to ensure that the IEP is appropriately designed, emphasizing special education services specifically designed to meet this student's unique needs, supported by such services, as are necessary to provide the student 'meaningful', educational benefit, access the general education curriculum, and a "basic floor of opportunity".

Finally, the Respondent failed to comply with the procedural and substantive requirements of the IDEA; and failed to fulfill its obligations to the student, under the IDEA.

7. **Appropriateness of Student's IEP (Educational Setting)**

It is the Hearing Officer's decision that the Petitioner satisfied its burden by proving that the District of Columbia Public Schools failed to develop an appropriate Individualized Education Program for the student on February 28, 2011, because the nature of the student's disability is such that education of the student in the general ***education setting***, as recommended in the IEP, cannot be achieved satisfactorily, even with the use of supplementary aids and services; in violation of the IDEA, at 34 C.F.R. §300.320.

In determining the educational setting for a student, the public agency must consider the academic, developmental, and functional needs of the student, which failed to occur in this matter. The Respondent must also identify an educational setting most likely to enable the student to access the general education curriculum, receive 'meaningful' educational benefit, and where the student is likely to progress and not regress academically, which was not considered in this matter.

The District of Columbia Public Schools failed to comply with the substantive requirements of the IDEA, by failing to develop an IEP for the student that is reasonably calculated to enable the student to receive educational benefit, because the educational setting prescribed in the student's February 28, 2011 IEP, is inappropriate.

8. **Appropriate Placement (Location of Services)**

It is the Hearing Officer's decision that the Petitioner satisfied its burden of proof by proving that the District of Columbia Public Schools failed to provide the student an appropriate placement, because the nature of the student's disability is such that the student requires a full-time special education program, outside general education, and the ***location of services*** identified in the February 28, 2011 IEPs, is unable to provide the student the program the student requires to access the general education curriculum, and receive educational benefit; in violation of the IDEA, at 34 C.F.R. §300.320 and 300.324.

The IDEA provides that each public agency must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, 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 accomplished satisfactorily.[67] This requirement also applies to non-academic and extracurricular services and activities such as recess, meals, athletics, counseling, groups, and clubs.[68]

[67]IDEA, at 34 C.F.R. §30.114(a)(2)(ii).
[68] IDEA, at 34 C.F.R. §300.117.

The IDEA also provides that the placement decision must be made by an IEP team, including the parent; is made in conformity with the least restrictive environment (LRE) provisions; is determined at least annually; is based on the child's IEP; is as close as possible to the child's home; and unless the student's IEP requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled.[69]

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 student's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.[70] Consideration must also be given to any potential harmful effect on the child or on the quality of services the student requires.[71]

In the District of Columbia, special education placements shall be made in the following order of priority, provided, that the placement is appropriate for the student and made in accordance with the IDEA:

(1) DCPS schools, or District of Columbia public charter Schools pursuant to an agreement between the DCPS and the public charter school;
(2) Private or residential District of Columbia facilities; and
(3) Facilities outside of the District of Columbia.[72]

An "appropriate' public education does not mean the absolutely best or potentially maximizing education for the individual child. *Gregory K. v. Longview Sch. Dist., 811 F.2d 1307, 1314 (1987)*. Rather, the public agency only has to provide the student a "basic floor of opportunity"; and according to Rowley, in providing the student the basic floor of opportunity, the educational benefit received by the student must be 'meaningful' and cannot be trivial.[73]

It is the Hearing Officer's decision that in developing the student's February 28, 2011 IEP, the Respondent failed to comply with the substantive least restrictive environment (LRE) requirements of the IDEA, in determining the location of services for this student; and defaulted on its obligations under the IDEA, to ensure that this student received the "basic floor of opportunity" required under the law, and the opportunity to receive 'meaningful' educational benefit.

[69] IDEA, at 34 C.R. §300.116(a)(2) (b)(2).
[70] IDEA, 34 C.F.R. §300.114 (a)(1)(2)(ii).
[71] IDEA, 34 C.F.R. §300.116 (d).
[72] D.C. Code §38-2561.02.
[73] *Rowley v. Board of Education*, 458 U.S. 176, at 177 206-207 (1982).

X. Free Appropriate Public Education

It is the Hearing Officer's decision that the procedural and substantive violations in this matter, occurred from January 31, 2011, through the date of this decision, which in most circumstances represents a brief period of time in which the student may have suffered harm as a result of the violations; however, the violations in this matter are to such an extent that the violations seriously impede upon the student's right to a FAPE; causing a deprivation of educational benefit to the student, for the following reasons:

First, the student attended District of Columbia Public schools during elementary, middle, and high school years; and during this period the student presented with academic deficits impacting his learning and educational performance and the parent consistently expressed concern regarding the student's lack of academic progress to the student's teachers; however, the parent's concerns were not addressed, the student's academic deficits were not addressed; and the student was repeatedly advanced in grade.

Of particular note, is that during the period the student attended the District of Columbia Public Schools and parent repeatedly made the schools aware of concerns regarding the student's lack of academic progress and the impact on the student's learning and educational performance, the District of Columbia Public Schools should have addressed the parent's concerns and the student's lack of academic progress at that time, however, failed.

The District of Columbia Public Schools should have addressed parents' concerns and student's lack of progress by identifying, locating, and evaluating the student to determine the student's eligibility for special education services; and should have determined the student eligible for special education services as a student with a specific learning disability during the student's formative years. It is now, many years later, at the age of 20 and after attending various schools because of the student's academic deficits, that through the assistance of counsel, the District of Columbia Public Schools has identified, located, evaluated, and determined this student eligible for special education services.

Second, at the beginning of the 2010/11 school year, the student attempted to enroll at his neighborhood school, however, the student was denied admission because the student's exceeds the school's age limit; and Dunbar SHS refers the student to the alternative night school.

Third, in October, 2010, the student enrolls and begins attending the alternative night school, however, on one occasions as the student attempts to enter the school, he and his brother are accosted and their lives threatened by unknown assailants at or near the school, firing gun shots in their direction, causing them to flee the area and contact their parents to secure their safe return home.

Thereafter, the student and student's parents decided that due to concerns regarding the student's safety in attending the school in the area where the school is located, and in the evening, the student would not return to the school. The student's mother promptly notified the DCPS of the incident at the school and concerns regarding the student's safety in attending the school in the area in which the school is located and in the evening. The DCPS failed to address parent's concerns, failed to initiate a safety transfer for the student to attend an alternate school, and on February 28, 2011, issued to the parent a Prior to Action Notice informing the student and parent that the student would remain at the school.

As of the date of this decision the DCPS failed to ensure a continuum of alternative placement and educational services for the student; and since October, 2010, the student has not received specialized instruction services. As of the date of this decision, the Respondent made no efforts to provide the student a safety transfer to an alternate day school.

Fourth, a recent Comprehensive Psychological Evaluation reveals that academically, the student is below age and grade expectation, rendering it difficult for the student to secure a high school or general equivalent diploma, absent intense academic tutoring and support.[74] The student is performing at the following grade level equivalencies: 1.9 in writing fluency, 2.0 in writing sample, 2.1 in passage comprehension, 2.4 in broad written language, 3.2 in broad reading, 3.4 in spelling, 3.8 in letter word identification, 4.2 in reading fluency, 5.1 in calculations, 5.3 in applied problems, and 6.6 in math fluency.

The evaluator determined that the nature and severity of the student's learning disabilities are such that the student requires a full-time special education program, outside general education, in a therapeutic environment, with a small student to teacher ratio, where the student can receive 1:1 support, and remediation in reading, written expression, and mathematics. The DCPS disregarded the findings and recommendations in the evaluation and developed an IEP for the student, prescribing 4 hours of specialized instruction in the general education setting, 2 hours outside general education, and issued to the student a Prior to Action Notice maintaining the student's placement at his current school.

Fifth, The student has progressed through the school systems with academic deficits, which were never fully addressed, and despite the student's placement history, the student failed to acquire a high school diploma, and attempts to secure a General Equivalent Diploma have been unsuccessful. Furthermore, because the student's academic deficits were not addressed at any time throughout his education, the student only earned .5 credits towards graduation; and requires an additional 23.5 credits to graduate.

Finally, the District of Columbia Public Schools failed in its obligation under the IDEA, to provide this student a FAPE. This student should not be penalized because of the District of Columbia Public School's (DCPS) disregard of parent concerns regarding the student's education during the student's formative years and thereafter; failure to address the student's lack of progress while attending DCPS schools; failure to identify, locate, and evaluate the student to determine the student's eligibility for special education services under the IDEA, until the student reached the age of 20; and failure to address parent and the student's recent concerns regarding the appropriateness of the student's IEP and placement, during the 2010/11 school year.

For these reasons, it is the decision of the Hearing Officer that the student was denied a FAPE; and is entitled to compensatory education services for violations occurring during the 2010/11 school year.

Private School Placement

When a public school system has defaulted on its obligations under the IDEA, a private school placement is "proper under the Act" if the education provided by the private school is "reasonably calculated to enable the child to receive educational benefit."[75]

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[74] Petitioner's Exhibit 8-13.

[75] Florence County School District Four, et al. v. Shannon Carter, 510 U.S. 7 (1993).

Special classes, separate schooling or other removal of children with disabilities from the regular education environment should occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, as in this case.[76]

In this matter, the Respondent defaulted on its obligations under the IDEA, to ensure that this student received an appropriate IEP and placement, during the 2010/11 school years. The Respondent presented no evidence that the student's current placement is appropriate, proposed no alternative placement for the student; and presented no evidence refuting any of the allegations in the complaint regarding the appropriateness of the student's IEP and placement.
The Petitioner proposes placement of the student at the School, located in Washington, D.C ...

School is a private, non-public, self contained day high school, predominantly for learning disabled students. School serves a total of 35 students, grades 9-12; including 30 high school students and the school offers a 1:5 student teacher ratio.

The school has two (2) teachers certified in special education and the content areas of science and math. The school offers an intensive instructional and reading program. The school offers vocational transition assistance, college access, college transition, rehabilitation services, community resources, assistance in identifying vocational employment; and has an individual graduate proposal program. A student may earn 7-7.5 credits a year based on class weight.

The school serves student with similar disabilities as this student. The school can provide the student a small structured therapeutic environment, where the student can receive 1:1 academic support. The school established community based relationships with businesses to facilitate student participation in apprenticeship programs.

The school offers a Transition/College Preparatory class, and assistance with transition, SAT preparation, etc... The school offers a two (2) year vocational program. The student was accepted at the school, and the school commits to providing the student educational benefit.[77] The parent and student visited the school, and the parent's requests that the Hearing Officer place the student at the school. The student can earn Carnegie units and obtain a high school diploma.

The Hearing Officer finds that the student's current placement is inappropriate; and the Monroe School is an appropriate alternative placement for the student. [78] School can provide the student education in a therapeutic environment, with a high level of structure, low teacher to student ratio, an instructional learning environment utilizing multiple presentation formats to include visual, auditory, kinesthetic and tactile modalities; academic interventions, instructional modifications, testing accommodations, and assignment modifications, which is not available at the location of services identified in the student's February 28, 2011 IEP.[79]

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[76] Letter to Tom Trigg.
[77] Id.
[78] Testimony of parents, student, and Admissions Director, School.
[79] Petitioner's Exhibit 8, pages 14-15.

School can provide the student a curriculum focused on increasing and improving the student's reading writing, and language based deficits; a well defined progress monitoring system in order to monitor the student's progress; a highly controlled, organized, therapeutic environment, devoid of excessive external stimuli; intensive academic support and services, and 'meaningful' educational benefit, which is not available at the location of services identified in the February 28, 2011 IEP.[80]

XI. COMPENSATORY EDUCATION SERVICES

The Petitioner satisfied its burden by proving that the District of Columbia Public Schools denied the student a free appropriate public education, by failing to provide the student an appropriate IEP and placement during the 2010/11 school year, entitling the student to compensatory education services from the beginning of the school year through the date of this decision.

Compensatory education is an appropriate remedy where a school district knows, or should know, that a child's educational program is not appropriate or that the student is receiving only a de minimis benefit and fails to correct the situation, as in this case. *M.C. on behalf of J.C. v. Cent. Reg'l Sch. Dist., 81 F.3d 389, 397 (3d. Cir. 1996).*

According to *Mary McLeod Bethune Day Academy PCS v. Terri Bland, Civil Action No. 07-1223 (2008)*, 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.

Compensatory education is also part of the court's resources in crafting appropriate relief." *See, Reid v. District of Columbia, 401 F.3d 516, 523 (D.C. Cir. 2005)*. Its purpose is to help the child make the progress that he/she would have made if an appropriate program had been available. The specific services provided the student must be tailored to the student's needs.

Under the theory of compensatory education, courts and hearing officers may award "educational services...to be provided prospectively to compensate for a past deficient program." *See G. ex rel. RG v. Fort Bragg Dependent Schs. 343 F.3d 295, 308 (4th Cir. 2003)*.

The IDEA empowers Hearing Officers with considerable discretion when fashioning a remedy. *See, 20 U.S.C. § 1415(i) (2) (C) (iii)* (the Hearing Officer "shall grant such relief as the Hearing Officer determines is appropriate.") However, a Hearing Officer cannot determine the amount of compensatory education that a student requires unless the record provides him with "insight about the precise types of education services [the student] needs to progress." *Branham, 427 F.3d at 12 (2005)*.

Relevant evidence includes "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 private school, the placement's cost, and the extent to which the placement represents the least restrictive environment." Id. In *Nesbitt,* the Court found that an "award was not adequately individualized or supported by the record", when the Hearing Officer was not provided with any information regarding the student's current grade level of functioning.

[80] Id.

According to *Reid* 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 place." Reid, 401 F. 3d at 524. *(D.C. Cir. 2005)*. This standard "carries a qualitative rather than quantitative focus," and must be applied with "[f]lexibility rather than rigidity."

The crafting of an award of compensatory education under IDEA simply cannot be nebulous; and an arbitrary compensatory education award will never pass muster under the *Reid* standard. The Hearing Officer must engage in a fact intensive analysis that is qualitative rather than quantitative. *Branham v. D.C., 427 F.3d 7, 11 (D.C. Cir 2005); Reid, 401 F.4d at 524*.

The amount of compensatory education is calculated by finding the period of deprivation of special education services; and excluding the time reasonably required for the school district to rectify the problem. *M.C. v. Cent. Reg'l. Sch. Dist., 81 F.3d at 397 (3rd Cir. 1996).*

The Hearing Officer finds that the following compensatory education award is appropriately tailored to the student's unique needs; reasonably calculated to provide the student educational benefits that likely would have accrued had the violations not occurred; and is intended to mitigate any harm the student may have suffered as a result of the violations:

Compensatory Education Services Plan

(1) IEP

The student's February 28, 2011 IEP is revised to reflect that the student will receive 27.5 hours of specialized instruction, *outside* general education, weekly; extended school year services for the 2010/11 -2012/13 school years, and support services to include a reading remediation program to be provided at the School, and funded by the Respondent, if not included as part of the student's educational program.

Within fifteen (15) school days from the date of this decision and order, the Respondent shall convene an IEP team placement meeting with the parent and/or the parent's representative, for the purpose of revising the February 28, 2011 IEP to reflect that the student will receive 27.5 hours of specialized instruction, *outside* general education, weekly.

(2) Credit Recovery Program

The Respondent shall fund an online credit recovery program (such as the accredited Compu High online high school diploma program at www.compuhigh.com) allowing the student to recover at least a year's worth of credit hours towards a high school diploma, at a cost not to exceed The student has until the end of the 2012/13 school year to complete the credit recovery program.

(3) Independent Tutoring Services

The Respondent shall fund tutorial services for the student at the Lindamood-Bell Diagnostic Learning Evaluation, at a cost not to exceed to remediate the student's deficits in reading, mathematics, and written expression.

The tutorial services may be provided at the student's school, at the end of each school day; at a Center; and/or at a Summer Clinic; and the student has until the end of the 2012/13 school year, to utilize the tutorial services. The Respondent shall provide the student transportation for the student to attend the center, after school tutoring, and/or Summer clinic, if the tutoring is not provided at the student's school.

(4) Vocational Training

Upon receipt of the independent Vocational Assessment, the Respondent shall convene an IEP team meeting with the student within ten (10) school days of the date of the assessment, to review the evaluation, update and revise the student's IEP and Post-Secondary Transition Plan, based on findings and recommendations in the assessment.

XII. ORDER

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

1. **ORDERED**, that the student's February 28, 2011 IEP is revised to reflect that the student shall receive 27.5 hours of specialized instruction, *outside* the general education setting, weekly; extended school year services for the 2010/11 -2012/13 school years, and support services to include a reading remediation program to be provided at the to be funded by the Respondent, if not included as part of the student's educational program; and it is further

2. **ORDERED**, that within ten (10) school days from the date of this decision, the Respondent shall issue to the parent a Prior Notice of Placement, placing the student at the located in Washington, D.C... The Respondent shall fund the student's tuition and transportation for the student to attend the , for the remainder of the 2010/11 school year through the 2012/13 school year; and it is further

3. **ORDERED**, that the student's placement at the is subject to the following conditions: the student shall enroll at the within five (5) school days of issuance of the Prior Notice of Placement; and once enrolled, attend all assigned classes daily, fully, and completely, in a timely manner, absent documented excused absences; with no reports of leaving/skipping classes or leaving school; avails himself fully and completely of all behavioral classes and cooperates with the behavioral interventions and supports at the school, for thirty (30) consecutive school days; otherwise, on the 31st school day or whatever school day thereafter, the student becomes noncompliant; the student shall be returned to an alternate District of Columbia public high school, that can implement the student's IEP and provide the student educational benefit, and it is further

4. **ORDERED**, that if the student is not returned to his current DCPS placement at the end of the thirty (30) day period, as indicated in paragraph 3 of this order; within ninety (90) school days of the student's enrollment at the the Respondent shall convene a meeting at the Monroe School, with the student, to discuss the student's-

academic and behavioral progress at the school, and the educational benefit received by the student since attending the school; and if the student's progress reports, other written documentation, teacher and provider input indicates that the student has not made more than minimum academic and behavioral progress during this period, and/or the student failed to fully comply with the conditions set forth in paragraph 3 above during this 90 day period, the student shall be returned to an alternate District of Columbia public high school on the 91st calendar day, that can implement the student's IEP and provide the student educational benefit; and it is further

5. **ORDERED**, that should the student demonstrate academic and behavioral progress, and compliance with paragraph 3 of this order for the remainder of the 2010/11 school year, the Respondent shall fund the student's tuition and transportation for the student to attend the for the 2011/12 and 2012/13 school years, as long as the student continues to satisfy the conditions of his placement, as set forth in paragraph 3 of this order; otherwise the student shall be returned to an alternate District of Columbia public high school that can implement the student's IEP, and provide the student educational benefit; and it is further

6. **ORDERED**, that within five (5) school days of the student's return to his current placement, as referenced in paragraph 3 above, the Respondent shall convene an IEP team placement meeting to discuss and identify an appropriate placement for this student, offering a full-time special education program outside general education, in a highly structured therapeutic environment, for students with specific learning disabilities; and it is further

7. **ORDERED**, that within ten (10) calendar days of the IEP team placement meeting, the Respondent shall issue to the parent a Prior Notice of Placement, reflecting the student's placement; and the Respondent's funding of the student's tuition and transportation, for the student to attend the alternative placement, for the remainder of the 2010/11 -2012/13 school years; and it is further

8. **ORDERED,** that the Respondent shall fund the student's Compensatory Education Plan, provided on pages 20-21 of this decision.

XIII. 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 USC §1415(i).

Date: *May 19, 2011*

Ramona M. Justice

Attorney Ramona M. Justice, Hearing Officer