OSSE
Student Hearing Office
December 19, 2013

DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

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

PARENT, on behalf of
STUDENT,

Petitioner,

Hearing Officer: Michael Lazan

V

DISTRICT OF COLUMBIA PUBLIC SCHOOLS,

Respondent.

HEARING OFFICER DETERMINATION

INTRODUCTION

This is a case involving a student who has been determined to be eligible for services as a Student with a Specific Learning Disability.

A Due Process Complaint ("Complaint") was received by District of Columbia Public Schools ("DCPS" or "Respondent") pursuant to the Individuals with Disabilities Education Act ("IDEA") on August 16, 2013 in regard to the Student. This Hearing Officer was appointed to preside over this case on August 19, 2013.

A Response was filed by the District denying this contention on August 26, 2013. This Response was timely filed. A resolution meeting was held on September 11, 2013. This meeting was not timely pursuant to the applicable regulations. The resolution period ended on September 15, 2013.

On September 19, 2013, this Hearing Officer held a prehearing conference. Miguel Hull, Esq., counsel for Petitioner, appeared. Justin Douds, Esq., counsel for Respondent, appeared. A prehearing conference order issued on September 24, 2013, outlining the summarizing the rules to be applied in this hearing and identifying the issues in the case. On September 26, 2013, this order was amended at the request of Petitioner's counsel.

A hearing date followed on October 22, 2013. This was a closed proceeding. Petitioner was represented by Miguel Hull, Esq. Respondent was represented by Justin Douds, Esq. Petitioner entered into evidence exhibits 1-19; Respondent entered into evidence exhibits 1-12. Petitioner presented as witnesses: the Student; Petitioner; Witness a, School C. Respondent presented as witnesses: Witness B, Special Education Teacher, School A; Witness C, Special Education Coordinator, School B.

JURISDICTION

This due process hearing was held, and a decision in this matter is being rendered, pursuant to the Individuals with Disabilities Improvement Act ("IDEIA"), 20 U.S.C. Sect. 1400 et seq., its implementing regulations, 34 C.F.R. Sect. 300 et seq., Title 38 of the D.C. Code, Subtitle VII, Chapter 25, and the District of Columbia Municipal Regulations, Title 5-E, Chapter 30.

BACKGROUND

The Complaint involves claims implicating 34 CFR 300.507(a). The Complaint alleges that DCPS: 1) failed to provide the Student with an appropriate IEP and placement through the May, 2013 IEP; and 2) failed to complete an educational reevaluation of the Student and convene a follow up of the Student. As relief, Petitioner seeks an order determining the May, 2013 IEP to be invalid and either ordering placement at School C or directing this IHO to address

deficiencies in the IEP in connection to placement in a public school setting. Petitioner did not request compensatory education or funding for any assessments in her opening statement.

ISSUES

As identified in the Prehearing Conference Summary and Order, the issues to be determined are as follows:

1. In May, 2013, did the Student need an IEP that requires him to be in special education classes for the entire school day? If so, did DCPS deny the Student a FAPE by providing the Student with 17 hours of special education services inside the general education setting?

2. Did DCPS promise to conduct an educational assessment of the Student on or about February 22, 2013? Did DCPS then fail to conduct such assessment and then fail to meet to review such assessment? If so, did DCPS deny the Student a FAPE?

FINDINGS OF FACT

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

1. The Student is a sixteen year old who lives with his grandmother in Washington, D.C. (Testimony of Petitioner)

2. The Student is very motivated to succeed, especially in reading, math, and history. (P-7-13)

3. The Student does not have behavioral issues and is well liked and respected. (P-10-3)

4. The Student struggles with his foundational skills. (Testimony of Witness B)

5. The organizational "piece" is a great challenge for the Student. (Testimony of Witness B)

6. The Student needs supports to make sure he has organized binders and materials. (Testimony of Witness B)

7. The Student does not need specialized support in all classes; he can be co-taught. He does not need an environment where he is placed in special education classrooms all day. (Testimony of Witness C)

8. The Student finds it extremely difficult to perform in general education math. He needs a small, structured, well supported classroom in math with a modified approach to successfully access the grade level curriculum. He also needs explicit and systematic specialized instruction in math to make progress on his goals. (P-7-3)

9. In math, the Student struggles in calculation, math fluency, and math reading. (P-7-3)

10. Still, teacher reports from School B indicated that the Student is competent, "even at grade level," in math. (P-14-2)

11. In reading, he is able to decode multi-syllabic words with single or multiple prefixes/suffixes. His weak oral vocabulary hurts his ability to decode more advanced words. He makes errors while reading and "reads through" the errors. (P-7-4)

12. He is weak in vocabulary development, has limited background knowledge, needs to develop greater higher level comprehension, and has weak self-monitoring skills. (P-7-5)

13. With supports, he is at the eighth grade level in reading. Supports include step-by-step instruction and repetition. (P-14-2)

14. He benefits from explicit and systematic instruction in reading, in a structured group setting, along with minor modifications and accommodations. (P-7-5)

15. The Student does best with explicit questioning in regard to reading comprehension. He has some trouble if the text is overly wordy. (R-6-8)

16. He benefits from guided prompts and highlighting strategies and visual prompts. (R-6-8)

17. The Student needs guided notes, step by step instruction for projects and due dates for writing. The Student needs graphic organizers in writing. He is at the 5th grade independent level in writing. (P-8-2; P-13-1)

18. The Student's writing has been improving. He has difficulties in writing fluency. (P-7-6)

19. The Student benefits from context clue worksheets to determine the meaning of unknown words. He benefits from visual storybooks in order to summarize certain sections of text. He benefits from structured assignments in writing. He benefits from sentence starters. (R-6-3-4)

20. He would benefit from a word bank, from extra time in writing, from prewriting strategies, and use of graphic organizers. (P-10-12)

21. The Student needs to improve his approach to editing his work. (Testimony of Witness B)

22. For the Student to be maintained in a setting with general education students, he requires supports, including an educational check-in with a case manager weekly. (P-14-3; P-13-1)

23. He benefits from the Kurzweil technology in math, English and history, as well as storyboards, graphic organizers, outlines. (P-14-2)

24. The Student is very strong verbally and benefits from a multi-sensory style of teaching. (Testimony of Witness B)

25. The Student prefers a class size of 8-10. (Testimony of Student)

26. The Student went to School D in sixth grade, for the 2010-2011 school year. He did not do well in this school. (Testimony of Student, Petitioner)

27. Testing in October, 2011 on the Woodcock Johnson II Tests of Achievement found the Student to have a 73 standard score in broad reading, age equivalent of 9.2, 76 in broad math, age equivalent of 10.0, 64 in broad written language, age equivalent of 8.5. (P-10-9)

28. Student then went to School B, which offers small class sizes and a self-contained setting. (Student, Petitioner)

29. The Student had difficulty reading upon entering School B. (Testimony of Witness C)

30. At School B, for the first year, the Student had a rough transition. The other students were not up to his level. (Testimony of Student)

31. The teaching was "good" at the school, the Student got the support that he needed, but he was not comfortable at the school. (Testimony of Student)

32. The Student got A and B grades at School D. (Testimony of Student)

33. The Student progressed very well, learned to read, and got to about grade level with support. He improved in participation and became a leader at the school. (Testimony of Witness C)

34. Intensive reading instruction, 1:1, small group instruction and related interventions resulted in progress across all academic areas in School B. (P-10-4; Testimony of Witness C)

35. In the March, 2013 IEP, he was recommended for 30 hours of services outside of general education. (Testimony of Petitioner)

36. The IEP team did not want to interrupt him in the middle of a school year, so no changed placement was offered. (Testimony of Witness C)

37. Testing was conducted in May, 2013. Analytical Reading Inventory testing levels went from 5th grade level in comprehension and decoding (independent levels) in September, 2010 on Form C to 7th grade level by May, 2013. (P-16-2, 18-2)

38. Gates-MacGinitie Testing went from 4.8 in comprehension on Form T in September, 2011 to 5.9 in comprehension on Form S in May, 2013. (P-17-2, 18-2)

39. An IEP meeting was held on May 29, 2013. During this meeting, Petitioner got upset and left the meeting. Petitioner felt surprised because DCPS had changed representatives for this meeting. The meeting took place very quickly so that the Petitioner had difficulty understanding the proceedings. (Testimony of Petitioner)

40. The IEP dated May 29, 2013 recommended 17 hours of specialized instruction for the Student within general education, with 60 minutes per week of behavioral support services. Classroom accommodations include reading of test questions, repetition of directions simplification of oral directions, calculators, location with minimal distractions, and small group setting, testing accommodations. (P-7-9-11)

41. The IEP indicates that the Student needs a small, structured, well supported classroom in math with a modified approach to successfully access the grade level curriculum.

He also needs explicit and systematic specialized instruction in math to make progress on his goals. It indicates that he needs explicit and systematic instruction in reading, in a structured group setting, along with minor modifications and accommodations (P-7-3, 5,)

42. Petitioner did not agree to the cut in hours and did not understand the concept of LRE at the IEP meeting. (Testimony of Petitioner)

42. There was discussion of School E at the IEP meeting. Ms. C of DCPS told the parent that she could get the Student into the School E, a public school. (Testimony of Petitioner)

43. There was discussion of School F at the IEP meeting. Ms. C of DCPS told her that the Student was not going to go to School F, indicating that School F was an inappropriate school setting for the Student. (Testimony of Petitioner)

44. There was discussion of School C at the IEP meeting. Ms. C of DCPS said that the reason he cannot go to School C is that the Mayor wants children out of private schools. (Testimony of Petitioner)

45. The parent was "okay" with the co-teaching model in May but was concerned about the location of services. (Testimony of Witness C)

46. The Student was recommended to attend School F by letter dated July 12, 2013. (R-7-1)

47. Thereafter, the bus came to take him to School F. (Testimony of Petitioner)

48. The parent then enrolled the Student at School A, a public charter school. (Testimony of Petitioner)

49. The Student has not had transportation to School A all year. (Testimony of Petitioner)

50. At School A, there are 6 special education students in his classes. There are 15-22 students per class, and "maybe" 22, 23 students in math. (Testimony of Witness B, Student)

51. The functional levels in the classroom at School A 3rd grade level to grade level. (Testimony of Witness B)

52. About 375 children are enrolled in the school. It is an open enrollment public charter school. Entry is on a first come first serve basis. (Testimony of Witness B)

53. There are about 100 students in the 10th grade at School A. (Testimony of Witness B)

54. DCPS is the LEA for School A. (Testimony of Witness B)

55. On entry to the school, school staff determined that the Student needed additional instruction. (Testimony of Witness B)

56. As a result, 4 hours of resource room instruction were recommended. The four hours were selected because that is what was available. (Testimony of Witness B)

57. An IEP meeting on September 20, 2013 therefore resulted in the 13 hours of instruction inside of general education and 4 hours of pull-out resource workshop, with occupational therapy removed from the IEP. Counseling would continue for the Student at 240 minutes a month. (P-5-3, P-6-1-13)

58. Witness B is the Student's current special education teacher at School A. She teaches him in resource workshop, with 9 students, where they may go over tests, prep for tests and do content review. (Testimony of Witness B)

59. Witness B also pushes into biology, math, history and English full time. She pushes into other classes part time. (Testimony of Witness B)

60. Witness B works to help the student with reviewing content and with organizational issues. (Testimony of Witness B)

61. The Student has been struggling at School A since the start of the school year. (Testimony of Petitioner)

62. The school's second progress report for Quarter 1 (through October 4, 2013) indicated that the Student was failing Spanish 1, Biology, Geometry, World History, and Academic Workshop. In World History, the Student showed good effort but was still failing. Teachers commented on how the Student should attend "office hours" after school. The Student's only passing grades were in English II: World Literature, where he was at a C level, and Resource Workshop, where he was at a C- level. (P-3-1)

63. In Spanish, the Student was not completing homework as much as he needed to. He needed to check in with the teacher more. (P-4-2, P-5-2)

64. In Geometry, he was having difficulty with the vocabulary and how to apply definitions of terms to set up algebra problems. He had trouble going back and reading his own notecards. He had trouble concentrating because the class was moving at too fast a pace. He has been failing quizzes. (Testimony of Student, P-4-3-4)

65. In Academic Workshop, he struggled with the material though he did a good job working in class. (P-4-5-6)

66. In English, he was a leader, and was very good at answering questions. (P-5-2)

67. In World History, he was considered a leader. (P-5-2)

68. The Student has expressed struggles with staying after school and attending morning office hours. (P-5-2)

69. In Spanish, his grades were in the low 60s as of the date of testimony. (Testimony of Witness B)

70. In Academic Workshop, his grade was 68 as of the date of testimony. (Testimony of Witness B)

71. Often he does not get help from Witness B quickly enough. He raises his hand for help but so do others. (Testimony of Student)

72. Extra support is needed for this Student for him to be able to succeed in a general education setting. (Testimony of Witness B)

73. School C is located in Hyattsville, Maryland, and is for students with language based learning disabilities. (Testimony of Witness A)

74. There are 61 students in School C, in grades 5-12. (Testimony of Witness A)

75. The school follows the DC curriculum. The maximum amount of Students in the class is 8 with one teacher. (Testimony of Witness A)

76. The school uses a multi-sensory approach, with visual, hands-on learning techniques, auditory techniques, and provides remediation for reading. (Testimony of Witness A)

77. The reading remediation program is with 3-5 students, for a 45 minute period per day. (Testimony of Witness A)

78. The school day runs from 8:30am to 3:30pm except Friday 8:30am-1pm. (Testimony of Witness A)

79. All teachers in the school are certified except three of them. All teachers are certified in Maryland. (Testimony of Witness A)

80. The school is certified by OSSE. (Testimony of Witness A)

81. The school is similar to School B except that it has students on the autism spectrum. (Testimony of Witness A)

82. The Student is now accepted into this school. (Testimony of Witness A)

83. The classes include an advisory period wherein there is work on executive functioning and organizational skills. (Testimony of Witness A)

84. The school offers counseling to students. (Testimony of Witness A)

85. The school offers extracurricular activities to students. (Testimony of Witness A)

86. There are 61 children in the school. (Testimony of Witness A)

87. Students are grouped according to their functional level, not their age. (Testimony of Witness A)

88. Special education accommodations at the school include text to speech software, a program that turns dictation into written language, reading programs for encoding, decoding, comprehension, and oral reading. (Testimony of Witness A)

89. The Student was tested on the Woodcock Johnson III Normative Tests of Achievement on October 10, 2013. The Student's broad reading score was an 84, which is a 5.9 grade level equivalent. The Student's broad math score was a 60, which is a 4.0 grade level equivalent. The Student's broad written language score was a 78, which is a 5.8 grade level equivalent. (P-2-2)

90. The Student was particularly weak in math calculation, where he scored a 47, a 2.7 grade level equivalent. (P-2-2)

91. I found all the witnesses credible in this proceeding.

CONCLUSIONS OF LAW

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

The burden of proof in a special education due process hearing lies with the party seeking relief. 5 DCMR 3030.3; Schaffer v. Weast, 546 U.S. 49 (2005).

The central purpose of the IDEA is to ensure that all children with disabilities have available to them special education and related services designed to meet their unique needs and provided in conformance with a written IEP (i.e., free and appropriate public education, or "FAPE"). 20 U.S.C. Sects. 1400(d)(1(A), 1401(9)(D), 1414(d); 34 C.F.R. Sects. 300.17(d), 300.320; Shaffer v. Weast, 546 U.S. 49, 51 (2005). Pursuant to the Supreme Court's decision in Board of Education of the Hendrick Hudson Central School District, Westchester County v. Rowley, 458 U.S. 176, (1982), the IEP must, at a minimum, "provid[e] personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." Branham v. District of Columbia, 427 F.3d 7 (D.C. Cir. 2005). The standard set out by the Supreme Court in determining whether a child is receiving a FAPE, or the "basic floor of opportunity," is whether the child has "access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child." Rowley, 458 U.S. at 201. The IDEA, according to Rowley, imposes "no additional requirement that the services so provided be sufficient to maximize each child's potential commensurate with the opportunity provided other children." Id. at 198; A.I. ex rel. Iapalucci v. Dist. of Columbia, 402 F. Supp. 2d 152, 167 (D.D.C. 2005)

In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies: (i) Impeded the child's right to a FAPE; (ii) Significantly impeded the parent's opportunity to participate in the decision-making process

regarding the provision of a FAPE to the parent's child; or (iii) Caused a deprivation of educational benefit. 34 CFR Sect. 300.513(a).

1. Insufficient Special Education Services in May 29, 2013 IEP.

Petitioner contends that Respondent improperly shifted the Student's program from a full-time special education program with 30 hours of instruction outside general education to a program of 17 hours of special education within the general education setting.

The testimony and evidence supports Petitioner's view. The IEP team recommended that the Student receive 30 hours of special education outside the general education setting just two months prior to this review. The IEP team in May, 2013 recommended all general education classes, and did not recommend many supplemental aids and supports that helped the Student at School B. For instance, the IEP does not provide that the Student benefit from text to speech technology, which was clearly of help to him at School B. The IEP also does not provide for small group instruction. There was really nothing before the team to indicate that the Student would be able to manage in such a different program.

In fact, the IEP itself supports Petitioner's view. The IEP indicates that the Student requires a small, self-contained setting in math. The IEP states that the Student "needs a small, structured, and well supported classroom with a modified approach to successfully access the grade level curriculum." No such classroom was recommended for the Student, who is now failing in a general education math classroom. This classroom is not small, is not structured, and the curriculum in this classroom is not modified.

Similarly, the IEP indicates that the Student would benefit from "explicit and systematic instruction in a structured group setting, along with minor modifications and accommodations" in both reading and writing. However, the IEP does not specifically recommend any such

modifications to the Student's English classes. Accordingly, the Student is in a general education classroom that is not structured and is not taught with necessary modifications.

Respondent's position is premised on the presence of a special education teacher in the classrooms, who is Witness B. However, the Student credibly testified that that the presence of Witness B was not enough support for him. The Student indicated that lessons would frequently pass by him without him grasping the content. The Student also indicated that assistance was frequently unavailable because Witness B was attending to responsibilities with other students. I will note that I found this Student quite credible in this proceeding, consistent with reports in the record that this is a Student who is very interested in succeeding at school.

The inadequacy of the program is underscored by the Student's poor grades at School A. Though the Student was trying to make the program at School A work, the Student's Quarter 1 Progress Report 2 shows 5 F grades out of 7 classes. The Student was at an F level in Spanish, Biology, Geometry, World History, and Academic Workshop.

Indeed, it was immediately evident from the staff at School A that the Student was not going to succeed with the recommended program. The staff quickly recommended that the Student's program be changed from 17 hours of special education services inside the classroom to 13 hours of special education services inside the classroom with 4 hours of pull-out instruction. An IEP was written memorializing this change on September 25, 2013. Still, the record shows that even this change was not likely to create a program that would adequately service the Student. The record shows that the staff provided the Student with 4 hours of pull-put services only because that was the amount of time that could possibly be devoted to the Student given the school's resources. Moreover, there are no reports of improvement in the

Student's performance as a result of this modification, which provides the Student with extra instruction in a group of 9.

It is worth noting that the record establishes that the Student made excellent progress in his prior school, School B. Testimony from Witness C of School B indicated that this progress is attributable to intensive individualized instruction, small group instruction and special education interventions such as the Kurzweil text to speech assistive technology. No such instruction is on this Student's IEP, and no such instruction has been provided to the Student at School A.

As a result of the foregoing, I find that Respondent denied the Student a FAPE through its May 29, 2013 IEP.

2. Failure to Conduct Educational Assessment on February 22, 2013.

Petitioner contends that Respondent promised to conduct an educational assessment of the Student on February 22, 2013. Petitioner contends that Respondent then did not conduct this assessment, and that such failure denied the Student a FAPE.

An LEA has an obligation to reevaluate a Student every three years. 20 U.S.C. Sect. 1414(b)(1)-(3); 1412(a)(6)(b); 34 CFR Sect. 303(b)(2). Reevaluations should occur sooner if conditions warrant or if parents or a teacher requests a reevaluation. 34 CFR Sect. 300.303(a). IDEA requires an LEA conducting an evaluation of a child to use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child that may assist in determining whether the child is a child with a disability. 34 C.F.R. Sect. 300.304(b)(1)(i). In conducting a reevaluation, the LEA must ensure that the child is assessed in all areas related to the suspected disability. 34 C.F.R. Sect. 300.304(c)(4). DCMR 5-3005.9, indicates that an LEA should ensure that "a variety of assessment tools and strategies" are used to gather relevant functional and developmental information about the child.

An IDEA claim is viable only if violations of procedural deadlines affected the student's substantive rights. Lesesne ex rel. B.F. v. District of Columbia, 447 F.3d 828, 834 (D.C.Cir.2006); Smith v. District of Columbia, 2010 WL 4861757 (D.D.C. 2010); Holdzclaw v. District of Columbia, 524 F.Supp.2d 43, 48 (D.D.C.2007); Kruvant v. District of Columbia, 99 Fed. Appx. 232, 233 (D.C.Cir.2004).

Petitioner's testimony did not establish that Respondent promised her an educational assessment in February, 2013. There is no evidence in the record to support the contention that the Respondent made such a promise. Moreover, the record does not establish that the lack of such an assessment resulted in any harm to the Student. Finally, Petitioner did not argue this point in her closing statement. This claim is denied.

3. Relief.

Petitioner asserts that appropriate relief in this matter is to order placement of the Student at School C, a non-public school in Maryland.

In Branham v. District of Columbia, 427 F.3d 7 (D.C. Cir. 2005), the Circuit laid forth rules for determining when it is appropriate for IHOs to order funding of non-public placements. First, the court indicated that "(i)f no suitable public school is available, the [school system] must pay the costs of sending the child to an appropriate private school." Id. At 9 (citing Jenkins v. Squillacote, 935 F.2d 303, 305 (D.C.Cir.1991)). The Circuit then explained that such relief "must be tailored" to meet a student's "unique needs." Id. At 11-12 (citing to Florence County School Dist. v. Carter, 510 U.S. 7, 16 (1993)). To inform this individualized assessment, courts must consider "all relevant factors" including 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 educational environment. Id. at 12.

Witness C from School B testified in regard to the Student's needed to transition from School B to a less restrictive environment. Witness C indicated that the Student handled School B so well that it is time for him to have some exposure to general education peers. Moreover, the record suggests that the Student himself would like to be integrated into a school with general education peers. Petitioner did not call any expert witness to support her contention that this Student still requires such a restrictive environment as School B. Further, the "nature and severity" of the Student's disability suggests that the Student could be integrated into the general education environment to some extent. The Student presented as a well behaved, highly responsible, conscientious person. The Student has no behavioral problems, no particular attentional problems, and gets along with his peers.

School C, the proposed school, has no typically developing peers. While School C would some of the Student's special education needs, in particular his need for small class size and his need for text to speech technology, I agree with Witness B that this Student should be integrated into a less restrictive environment at this time

Instead of ordering placement at School C, I will order that the District change its IEP to reflect the Student's special education needs. First, I will order that the Student receive instruction in a school that will provide access to typically developing peers. Second, I will order that the Student be provided with an "inclusion" classroom for English classes, ELA classes, History or Social Studies classes, and any other classes that involve a substantial amount of reading and/or writing. Such classes shall include a special education teacher and a general education teacher. These classes shall provide the Student with explicit and systematic

instruction in a structured group setting as per the May 29, 2013 IEP. Third, I will order that the Student be provided with a small, structured self-contained classroom for math consistent with the requirements of the May 29, 2013 IEP. Such classroom shall have a modified approach to instruction with explicit and systematic special education instruction. Fourth, in consideration of the Student's success with small class sizes at School B, I will order that there be no more than 12 students in any of the Student's academic classes. The Student shall have a special education teacher in every such academic classroom. Fifth, to preview and review the materials in classes, as suggested by staff at School A, the Student shall receive 6 hours per week of pull-out instruction in a group no larger than 3. This will allow the Student to prepare better for class and to review materials better after class. Seventh, to assist in the Student's organizational issues, the Student shall have access to an educational case manager to review his organization and self-advocacy for 1 period a week.

Eighth, the Student shall also have access to the following: guided prompts, highlighting strategies, context clue worksheets, visual storybooks, structured writing assignments, a word bank, extra time for assignments and tests, prewriting strategies, graphic organizers, outlines, text to speech software or equipment, and multi-sensory instruction.

Finally, the record establishes that School F is inappropriate for the Student. Respondent indicated as such to Petitioner at the May 29, 2013 IEP meeting. Indeed, Respondent's Ms. C represented to Petitioner at the meeting that the Student would not be attending School F for 2013-2014. Though Ms. C was on Respondent's witness list, she was not called as a witness to rebut Petitioner's credible testimony in this connection. As a result, I find it inappropriate for Respondent to place this Student at School F for the 2013-2014 school year.

ORDER

Based upon the above Findings of Fact and Conclusions of Law:

1. Respondent is adjudged to have denied the Student a FAPE by recommending insufficient services in its May 29, 2013 IEP;

2. The Student's IEP is hereby rewritten to provide for:

A. Instruction in a school that has access to typically developing peers;

B. An "inclusion" classroom for English classes, ELA classes, History Classes, Social Studies class, and other classes that require a substantial amount of reading and/or writing. Such classes shall be led by a special education teacher and a general education teacher. These classes must provide the Student with explicit and systematic instruction in a structured group setting;

C. A small, structured self-contained classroom for math. Such classroom shall have a modified approach to instruction, with explicit and systematic special education instruction;

D. No more than 12 students in any of the Student's academic classes;

E A special education teacher in every academic classroom;

F. 6 hours per week of pull-out instruction to preview and review coursework in a group no larger than 3;

G. Access to an educational case manager to review organization issues for one period a week;

H. The following special education interventions, on a regular and consistent basis: guided prompts, highlighting strategies, context clue worksheets,

visual storybooks, structured writing assignments, a word bank, extra time for assignments and tests, prewriting strategies, graphic organizers, outlines, text to speech software or equipment, and multi-sensory instruction.

3. School F shall not be designated as the Student's location of services for the 2013-2014 school year.

Dated: October 30, 2013

Michael Lazan
Impartial 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 USC §1415(i).

Date: October 30, 2013

Michael Lazan
Impartial Hearing Officer