

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

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

OSSE
Student Hearing Office
January 01, 2014

PETITIONER,
on behalf of STUDENT,¹

Date Issued: December 31, 2013

Petitioner,

Hearing Officer: Peter B. Vaden

v.

DISTRICT OF COLUMBIA
PUBLIC SCHOOLS,

Student Hearing Office,
Washington, D.C.

Respondent.

HEARING OFFICER DETERMINATION

INTRODUCTION AND PROCEDURAL HISTORY

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by Petitioner (the Petitioner or MOTHER), under the Individuals with Disabilities Education Act, as amended (the IDEA), 20 U.S.C. § 1400, *et seq.*, and Title 5-E, Chapter 5-E30 of the District of Columbia Municipal Regulations (DCMR). In her Due Process Complaint, Petitioner alleges that Respondent District of Columbia Public Schools (DCPS) denied Student a free appropriate public education (FAPE) by insisting that he enroll in a DCPS public school in order to receive an Individualized Education Plan (IEP) for the 2013-2014 school year.

¹ Personal identification information is provided in Appendix A.

Student, an AGE boy, is a resident of the District of Columbia. Petitioner's Due Process Complaint, filed on October 8, 2013, named DCPS as respondent. The parties met for a resolution session on October 18, 2013 and were unable to reach an agreement. The 45-day time limit for issuance of the Hearing Officer Determination in this case started on November 8, 2013. On November 14, 2013, I convened a telephone prehearing conference with counsel to discuss the hearing date, issues to be determined and other matters. On December 13, 2013, I granted Petitioner's unopposed motion for a 10-day continuance. My Hearing Officer Determination must be issued by January 1, 2014.

On October 31, 2013, Petitioner made a motion for partial summary decision which I denied by Order issued November 12, 2013. On November 14, 2013, DCPS filed a motion to dismiss which I denied by Order issued December 6, 2013.

The due process hearing was convened before the undersigned Impartial Hearing Officer on December 19, 2013 at the Student Hearing Office in Washington, D.C. The hearing, which was closed to the public, was recorded on an electronic audio recording device. The Petitioner appeared in person, and was represented by PETITIONER'S COUNSEL. DCPS was represented by DCPS SOCIAL WORKER and by DCPS' COUNSEL.

Petitioner testified and called as witnesses, NONPUBLIC SCHOOL ASSOCIATE HEAD OF SCHOOL. DCPS called as witnesses SCHOOL PSYCHOLOGIST and DCPS Social Worker. Petitioner's Exhibits P-1 through P-37 were admitted into evidence without objection, with the exception of Exhibits P-3, P-5, P-6 and P-12, which were admitted over DCPS' objections. DCPS' Exhibits R-1 through R-6 were admitted into evidence without objection. At the close of Petitioner's case in chief, DCPS' Counsel

made an oral motion for a directed finding in DCPS' favor on the asserted grounds that Petitioner's claims were barred by a settlement agreement between these parties in Case No. 2013-0158; because Mother's testimony was inconsistent with the allegations in her complaint; because there was no evidence that Petitioner had a financial obligation to Nonpublic School and because Nonpublic School was not an appropriate placement for Student and was not in compliance with its Certificate of Approval issued by the D.C. Office of the State Superintendent of Education (OSSE). I denied the motion. Petitioner's Counsel filed a prehearing memorandum of law. Counsel for both parties made opening and closing statements. Neither party requested leave to file a post-hearing memorandum.

JURISDICTION

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

ISSUE AND RELIEF SOUGHT

This issues to be determined in this case are:

- Whether DCPS denied Student a free appropriate public education by failing to propose an appropriate program and placement, after receiving a request from the parent, for the 2013-2014 school year;
- Whether DCPS denied Student a FAPE by failing to have an Individualized Education Plan (“IEP”) in place at the start of the 2013-2014 school year.

For relief, Petitioner seeks an order for DCPS to fund Student's private placement at Nonpublic School, retroactive to the start of the 2013-2014 school year.

FINDINGS OF FACT

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

1. Student, an AGE boy, resides with Mother in the District of Columbia.

Testimony of Mother.

2. On August 11, 2010, DCPS developed an initial IEP for Student. His Primary Disability classification then was Developmental Delay. Exhibit R-4. On May 9, 2013, the DCPS eligibility team determined that Student is eligible for special education and related services under the primary disability classification, Multiple Disabilities (MD), based upon a combination of Emotional Disturbance (ED) and Other Health Impairment (OHI) occurring together. Exhibit P-22.

3. Student was placed by Mother at Nonpublic School at the beginning of the 2011-2012 school year. Testimony of Associate Head of School, Exhibit P-4. On June 12, 2012, counsel for Petitioner provided notice to DCPS that Petitioner intended to seek DCPS public funding for Student's private placement at Nonpublic School for the 2011-2012 and 2012-2013 school years. Exhibit P-4.

4. On March 18, 2013, Petitioner, by counsel, filed a Due Process Complaint Notice on behalf of Student (Case No. 2013-0158). That case was resolved by a May 16, 2013 Settlement Agreement (the Settlement Agreement) between the parties. The Settlement Agreement provided, *inter alia*, that in exchange for the consideration to Petitioner (defined to include Student), she agreed to waive all claims "the Petitioner now asserts or could assert in the future for a Free and Appropriate Public Education (FAPE) for Petitioner up to the start of the DCPS 2013-2014 school year. The Petitioner further provides DCPS a full release from liability for any and all claims, both known and unknown, related in any manner to Petitioner's education in DCPS, up to the start of the DCPS 2013-2014 school year." Exhibit P-26. Upon request of Petitioner, the Hearing Officer dismissed Case No. 2013-0158 with prejudice. Exhibit R-6.

5. In March 2013, Petitioner asked to meet with DCPS about Student's eligibility for special education services. At a meeting on March 7, 2013 at NEIGHBORHOOD ELEMENTARY SCHOOL convened by DCPS' Private and Religious Office (PRO), Mother told DCPS that she wanted to have an IEP developed for Student. Testimony of Mother, Testimony of Associate Head of School. Mother was informed that "the student would need to enroll and attend a D.C. Public School in order for an IEP to be written." DCPS agreed to conduct updated special education evaluations of Student. Exhibit P-13.

6. In a May 6, 2013 psychological reevaluation report, School Psychologist reported that Student has been diagnosed with ADHD, cognitive delays, fine motor delays, and academic delays as well as speech and language delays. Of greatest concern at that time were his behavioral outbursts resulting in suicidal ideation and self-harm attempts. On cognitive testing, Student's overall cognitive skills fell in the Below Average range at the 9th percentile. His verbal cognitive score of 74 fell in the Moderately Below Average range, while his nonverbal cognitive score of 89 fell in the Below Average range. Academically, Student was working on mastering basic academic concepts in the areas of math, reading, decoding, and written expression. With adult support and prompting, Student was able to complete tasks targeted on his Individual Learning Plan. Student demonstrated variable participation and attention to tasks and can be non-responsive at times. Teacher and documented reports indicated difficulties with interpersonal relationships, emotional lability and control, variable attention, suicidal ideation and self-harm attempts. Teacher ratings on the Conners 3rd Edition (Conners-3) and Behavior Rating Inventory of Executive Function (BRIEF) scales indicated elevated scores suggestive of ADHD symptoms and possible executive

dysregulation. Results of the Children's Depression Inventory - 2nd Edition (CDI-2) were suggestive of depressive symptoms. Results of the Scales for Assessing Emotional Disturbance - 2nd Edition (SAED-2) were suggestive of Emotional Disturbance. School Psychologist concluded that Student meets IDEA eligibility criteria as a student with an Emotional Disturbance. Exhibit P-21, Testimony of School Psychologist.

7. A second meeting with PRO was held on May 9, 2013. Between the March 7, 2013 meeting and the May 9, 2013 meeting, the psychological reevaluation and assessments in the areas of Occupational Therapy (OT), Social Work, and Speech-Language, were conducted. At the May 9, 2013 meeting, the eligibility team found that Student continued to be eligible for special education services as a child with Multiple Disabilities (ED and OHI). Student was also found eligible speech and language services. The PRO Case Manager advised Mother that if she wanted services for Student, Student could receive them in the form of an Individual Service Plan (ISP) and could have the services delivered at Student's neighborhood elementary school or the school closest to Nonpublic School. Petitioner's attorney stated that Petitioner was seeking an IEP, not an ISP. Exhibit P-23.

8. On May 23, 2013, DCPS' COMPLIANCE MANAGER sent an email to Petitioner's attorney asking if Petitioner was interested in re-enrolling Student in DCPS for the 2013-2014 school year. The attorney for Petitioner responded by email of May 24, 2013 that Petitioner was very interested in learning "what special education services and placement would be proposed for [Student] through an IEP" but that until an IEP was proposed, Petitioner was unable to make a decision as to whether she would have Student attend a DCPS school. Exhibit P-28.

9. On July 25, 2013, Compliance Manager informed Petitioner's attorney by

email that she had offered Neighborhood Elementary School to Petitioner as a placement for Student, but that Petitioner had rejected that school and had requested ELEMENTARY SCHOOL 2. Compliance Case Manager advised that there was no available space at Elementary School 2. She advised that Petitioner had left her a voicemail message stating that Elementary School 2 was her preferred choice in transitioning Student back to DCPS and that Student would be remaining at Nonpublic School. Exhibit P-30. Mother did not want Student to go to Neighborhood Elementary School because, in her view, there were too many children at the school and the school was not structured. Because Elementary School 2 was not available, Mother decided to keep Student at Nonpublic School. Mother testified that, at that point in time, she was open to looking at other DCPS options if DCPS had offered them. Testimony of Mother.

10. By email of July 25, 2013, Petitioner's attorney informed Compliance Case Manager that Petitioner could not make a decision about transitioning Student back to DCPS without a proposed IEP so that she could have an understanding of services which would be provided. Exhibit P-31. DCPS never provided an IEP for Student for the 2013-2014 school year. Testimony of Mother.

11. On August 5, 2013, Petitioner's attorney sent, by email and first class mail, a notice to Compliance Manager that Student would attend Nonpublic School for the 2013-2014 school year and Petitioner would seek public funding from DCPS for the private placement. Exhibit P-32.

12. Nonpublic School is a full-time special education day school located in the District of Columbia. It serves Students from pre-Kindergarten through 12th grade. It has a current certificate of approval issued by OSSE and has been authorized to issue

DCPS high school diplomas. The annual tuition charged at Nonpublic School is about \$39,000 per year. Testimony of Associate Head of School.

13. Nonpublic School offers special education services to children with IDEA defined disabilities, including OHI, SLD, LD, MD and Autism Spectrum Disorder. All students at Nonpublic School are in a full-time, outside General Education, setting. Testimony of Associate Head of School.

14. Nonpublic School is a good fit for Student. Student requires a great deal of adult support. He is in a very small class of six students, staffed by a full-time teacher, an assistant teacher, and a dedicated aide. The dedicated aide is assigned to another child, but she is also able to assist with the other children in the classroom. Testimony of Associate Head of School.

15. Behaviorally, in the current school year, Student is better able to utilize strategies that ensure that his frustrations do not escalate to self-harming behaviors. He is more able to utilize beaks. He has a strong relationship with his classroom teacher. Nonpublic School has implemented a “safety contract” with Student employing strategies for Student to use to refrain from hurting himself physically. Testimony of Associate Head of School.

16. Due to his reading weakness, Student experiences a great deal of difficulty in reading, math, and written expression. Writing is his most challenging academic area. At Nonpublic School this school year, he is making progress in those areas. Testimony of Associate Head of School.

17. Student receives an outside scholarship to attend Nonpublic School in the amount \$4,000 per half school year. Testimony of Mother.

18. Mother never completed pre-enrollment registration of Student in a DCPS school for the 2013-2014 school year and she did not enroll Student in a DCPS school.

Testimony of Mother.

CONCLUSIONS OF LAW

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

Burden of Proof

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

Analysis

- DID DCPS DENY STUDENT A FAPE BY FAILING TO PROPOSE AN APPROPRIATE PROGRAM AND PLACEMENT FOR HIM, AFTER RECEIVING A REQUEST FROM THE PARENT FOR THE 2013-2014 SCHOOL YEAR?
- DID DCPS DENY STUDENT A FAPE BY FAILING TO HAVE AN INDIVIDUALIZED EDUCATION PLAN IN PLACE AT THE START OF THE 2013-2014 SCHOOL YEAR?

In this case, since March 2013, Mother has requested DCPS to develop an IEP for Student for the 2013-2014 school year. DCPS informed Mother that her child would need to enroll and attend a D.C. public school in order for an IEP to be written. Mother contends this was a denial of FAPE. I agree. DCPS has never disputed that Student is a “child with a disability” in need of special education and related services, as defined by the IDEA. *See* 34 CFR § 300.8. DCPS developed an initial IEP for Student in August 2010. Since the beginning of the 2011-2012 school year, Student has attended

Nonpublic School, initially enrolled as a parentally-placed private school student. On May 13, 2013, a DCPS eligibility team confirmed Student's continued eligibility for special education services under the classification Multiple Disabilities (ED and OHI). After the May 2013 eligibility committee meeting, Mother, through her attorney, continued to request an IEP for Student. Her attorney insisted that the parent could not make a decision about transitioning Student back to public school without a proposed IEP to consider, so that she would have an understanding of what services DCPS would provide her child. DCPS has declined to develop the requested IEP.

As Petitioner's Counsel argued on brief and at the hearing, the decision in *District of Columbia v. Vinyard*, 2013 WL 5302674 (D.D.C. Sep. 22, 2013), *appeal dismissed*, 2013 WL 6818236 (D.C.Cir. Dec 26, 2013), is, factually, on all fours with this case. In *Vinyard*, the parents had enrolled their child in private schools since he was a toddler. In 2010, the District determined that the child was a student with a disability as defined by the IDEA. However, the District took the position that, in light of the child's placement in private school, he was only eligible for equitable services through an Individualized Service Plan (ISP) – but that if the parents were to enroll him in a DCPS public school, the District would create an IEP for him within the first 30 days of his enrollment. Following a due process hearing requested by the Parents, the Impartial Hearing Officer disagreed with the District's position that the child was not entitled to an IEP unless and until the parents enrolled him in a public school, and held that the District had defaulted on its obligations under IDEA. On appeal to the U.S. District Court, DCPS argued that it was not required to offer a parentally-placed private school student a FAPE until the student enrolled in public school. Citing *Moorestown Township Board of Education v. S.D.*, 811 F.Supp.2d 1057 (D.N.J.2011) and other

decisions, U.S. District Judge Kollar–Kotelly rejected DCPS’ position. The Court held that, “the relevant inquiry is whether the parents expressed their intent to maintain the child’s private school enrollment after the school district offers a FAPE. . . .The District of Columbia was obligated to offer [student] a new IEP when his parents made the request before the 2011–2012 school year. The District admittedly failed to do so, and thus denied [student] a free appropriate public education for the 2011–2012 school year.” *Vinyard, supra* at 10.

In the present case, beginning in March 2013, Mother, in person and through her attorneys, requested DCPS to develop an IEP for Student for the 2013-2014 school year. DCPS did offer to place Student at his neighborhood elementary school but insisted that Student would have to enroll in and attend a DCPS public school in order for an IEP to be written. Like the case in *Vinyard*, DCPS was obligated to provide Student an IEP following Mother’s March 2013 request. As the Sixth Circuit Court of Appeals wrote in *James v. Upper Arlington School District*, 228 F.3d 764 (6th Cir.2000), *cert. den’d*, 532 U.S. 995, 121 S.Ct. 1655, 149 L.Ed.2d 637 (2001),

To hold otherwise would allow the school to slough off any response to its duty until the parents either performed the futile act of enrolling their son for one day and then withdrawing him as soon as the IEP was complete, or, worse, leaving the child in an arguably inadequate program for a year just to re-establish his legal rights. Neither action seems to be compelled by the statutory scheme or the case law.

Id. at 766. I conclude that DCPS’ failure to develop an IEP for Student upon Mother’s repeated requests has denied Student a FAPE for the 2013-2014 school year.

DCPS’ Counsel argues that Petitioner’s claims in this case are barred by the May 17, 2013 Settlement Agreement between these parties. In that agreement, Petitioner waived, and released DCPS from, all claims under the IDEA for a FAPE for Student “up

to the start of the DCPS 2013-2014 school year.” A parent can waive her child’s right to a FAPE. *See, e.g., Ballard ex rel. Ballard v. Philadelphia School Dist.*, 273 Fed.Appx. 184, 188, 2008 WL 1708937, 4 (3rd Cir. 2008). However, it appears that in the Settlement Agreement, Parent only waived Student’s rights up to the start of the current school year and it is for the current school that Petitioner has requested an IEP. In any event, DCPS is, in effect, asking me to enforce the terms of the Settlement Agreement. Numerous courts have held that special education hearing officers lack jurisdiction under the IDEA to enforce Settlement Agreements. *See, e.g., J.K. v. Council Rock School Dist.*, 833 F.Supp.2d 436, 448 (E.D.Pa.2011); *H.C. v. Colton–Pierrepont Cent. Sch. Dist.*, 341 Fed.Appx. 687, 689 (2d Cir.2009); *Justin R. v. Matayoshi*, 2011 WL 2470624, at 13 (D.Haw.2011); *D.B.A. ex rel. Snerlling v. Special School Dist. No. 1, Minneapolis, Minn.*, 2010 WL 5300946, 3 -4 (D.Minn.2010). The May 17, 2013 Settlement Agreement is “essentially a contract between the parties,” *H.C. ex rel. L.C. v. Colton-Pierrepont Cent. School Dist.*, *supra*, which I conclude I have no authority to enforce.

Reimbursement Remedy

For her remedy in this case, Petitioner seeks reimbursement for Student’s private school tuition, incurred since the beginning of the 2013-2014 school year, and an order for DCPS to pay for Student’s attendance at Nonpublic School for the remainder of the school year. Under the IDEA, parents who unilaterally decide to place their disabled child in a private school, without obtaining the consent of local school officials, “do so at their own financial risk.” *Florence County Sch. Dist. Four v. Carter*, 510 U.S. 7, 15, 114 S.Ct. 361, 126 L.Ed.2d 284 (1993) (quoting *Sch. Comm. of the Town of Burlington v. Dep’t of Educ.*, 471 U.S. 359, 374, 105 S.Ct. 1996, 85 L.Ed.2d 385 (1985)). Parents may

receive tuition reimbursement only upon a finding that the LEA “violated the IDEA, that the private school placement was an appropriate placement, and that [the] cost of the private education was reasonable[.]” *Holland v. District of Columbia*, 71 F.3d 417, 425 (D.C.Cir.1995) (citing *Carter, supra*, 510 U.S. at 15, 114 S.Ct. 361). I have found that DCPS violated the IDEA and Student was denied a FAPE by the District’s failure to develop an IEP for him after receiving Mother’s March 2013 request. Under *Holland, supra*, Mother’s right to reimbursement now turns on whether Student’s placement at Nonpublic School was appropriate and whether the tuition cost is reasonable.

I find that Petitioner has established that Student’s placement at Nonpublic School was appropriate. In the May 6, 2013 DCPS psychological reevaluation, School Psychologist reported that Student has been diagnosed with ADHD, cognitive delays, fine motor delays, academic delays as well as speech and language delays. Of greatest concern were his behavioral outbursts resulting in suicidal ideation and self-harm attempts. School Psychologist reported that Student demonstrated variable participation and attention to tasks and could be non-responsive at times, that Student showed difficulties with interpersonal relationships, emotional lability and control, variable attention, suicidal ideation and self-harm attempts. In her hearing testimony, Associate Head of School opined that Student needed a structured learning experience, and a great deal of adult support to assist with attentional and executive functioning skills and his emotional issues. Associate Head of School testified that at Nonpublic School, Student fits like “a hand in a glove.” He is assigned to a very small class with a low student-to-teacher ratio. He has a good relationship with his teacher. He is making academic progress and, this year, is better able to manage his emotional-behavioral issues. I find that the evidence establishes Nonpublic School is a good fit for Student

and he is making educational progress there. The evidence also establishes that the tuition fee at Nonpublic School is set at the OSSE-approved rate. I find that the cost is reasonable. I conclude, therefore, that Student's placement at Nonpublic School is proper and appropriate under the U.S. Supreme Court's *Burlington-Carter* criteria and that Student's covered tuition expenses should be reimbursed by DCPS.

In this case, Parent has not, herself, paid any of the cost of Student's enrollment at Nonpublic School. Student receives a \$4,000 per semester outside scholarship. Nonpublic School has deferred collection of the rest of Student's tuition costs. A number of court decisions hold the school district may be ordered to pay the private school directly and retroactively for expenses already incurred when Parents lack the financial resources to "front" the costs of private school tuition. As the U.S. District Court for the Southern District of New York explained,

Section 1415(i)(2)(C)(iii) [of the IDEA] authorizes a direct retroactive tuition remedy for the same reasons that the Burlington court found that the Act authorizes a tuition reimbursement remedy. Given the nature of the administrative and judicial review process, parents who request an impartial hearing will rarely, if ever, be able to obtain a ruling prior to the onset of the school year. Accordingly, denying parents the opportunity to seek retroactive relief is tantamount to denying them any relief at all under the Act. Where parents have the financial resources to enroll their child in an appropriate private school, they may do so and seek retroactive reimbursement in a due process hearing. Where, as here, parents lack the financial resources to "front" the costs of private school tuition, and in the rare instance where a private school is willing to enroll the student and take the risk that the parents will not be able to pay tuition costs—or will take years to do so—parents who satisfy the Burlington factors have a right to retroactive direct tuition payment relief.

Mr. and Mrs. A. ex rel. D.A. v. New York City Department of Educ., 769 F.Supp.2d 403, 427-428 (S.D.N.Y.2011).

While it has not been established that Mother is obligated to pay Nonpublic School the difference between the school's regular tuition charge and Student's

scholarship grant, the absence of such an agreement does not change the fact that DCPS denied Student a FAPE, that Nonpublic School was an appropriate placement, that the equities favor payment of tuition, and that § 1415(i)(2)(C)(iii) is sufficiently broad to encompass the retroactive direct tuition payment relief to Nonpublic School.

Accordingly I will order DCPS to reimburse Student's tuition costs for enrollment at Nonpublic School retroactive to the beginning of the 2013-2014 school year, less the amount of any outside scholarship grants for this period.

Parent also seeks DCPS public funding for Student's ongoing enrollment at Nonpublic School for the remainder of the 2013-2014 school year. For the same reasons that Student's placement at Nonpublic School was proper for reimbursement in this case, Student's continued placement at Nonpublic School is appropriate under the factors for prospective placement set forth in *Branham v. District of Columbia*, 427 F.3d 7, 12 (D.C.Cir.2005). The evidence establishes that Nonpublic School is a good fit for Student and he is making progress there. Associate Head of School expressed concerns about moving Student now to a different school. According to her un rebutted testimony, Student's self-esteem is very fragile and he depends on others to provide him solid support. He has a good relationship with his peers at Nonpublic School. Further, due to short-term memory issues, Student has difficulty with more than single-step directions and his strong relationship with his teacher helps him to navigate the classroom environment. I find the evidence establishes that in this case, to change Student's school in the middle of the school year would be inappropriate. *Cf. Holmes v. District of Columbia*, 1988 WL 21696, 1 (D.D.C.1988) (In light of student's complete adjustment to the environment of current school, to send him to different school to complete the last semester of his schooling would not only be inappropriate, but would

also be insensitive and indefensible.) Accordingly, although I will order DCPS to convene an IEP team to develop a new IEP for Student, DCPS must ensure that Nonpublic School remains Student's location of services for the rest of the 2013-2014 school year.

ORDER

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

1. DCPS shall promptly make direct payment to Nonpublic School for the costs of Student's enrollment there for the entire 2013-2014 regular school year, less \$4,000.00 per semester, or such other amount as may be documented, that Student receives from an outside scholarship grants;

2. Within 20 school days of the date of this Order, DCPS shall convene an IEP Team, as provided in 34 CFR § 300.324, *et seq.*, to develop an IEP for Student which conforms to this decision. Representatives of Nonpublic School shall be invited to attend the IEP meeting; and

3. All other relief requested by the parties herein is denied.

Date: December 31, 2013

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

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within ninety (90) days from the date of the Hearing Officer Determination in accordance with 20 U.S.C. §1415(i).