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OSSE
Office of Dispute Resolution
January 05, 2015

Confidential

<p>Parent on Behalf of Student¹,</p> <p>Petitioner,</p> <p>v.</p> <p>District of Columbia Public Schools (“LEA”)</p> <p>Respondent.</p> <p>Date Issued: January 2, 2015</p>	<p>HEARING OFFICER’S DETERMINATION</p> <p>Hearing Date: December 17, 2014</p> <p><u>Hearing Officer:</u> <u>Coles B. Ruff, Esq.</u></p>
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¹ Personally identifiable information is attached as Appendices A & B to this decision and must be removed prior to public distribution.

JURISDICTION:

The hearing was conducted and this decision was written pursuant to the *Individuals with Disabilities Act* (“IDEA”), P.L. 101-476, as amended by P.L. 105-17 and the *Individuals with Disabilities Education Improvement Act of 2004*, the District of Columbia Code, Title 38 Subtitle VII, and the District of Columbia Municipal Regulations, Title 5 [Chapter E30](#). The Due Process Hearing was convened on December 17, 2014, at the District of Columbia Office of the State Superintendent of Education (“OSSE”) Office of Dispute Resolution 810 First Street, NE, Washington, DC 20003, in Hearing Room 2006.

BACKGROUND AND PROCEDURAL HISTORY:

The student receives special education and related services under the classification of multiple disabilities (“MD”) for intellectual disability (“ID”) and other health impairment (“OHI”). The student’s individualized educational program (“IEP”) prescribes a full time out general education program. The student attends a District of Columbia public school (“School A”) in a self-contained classroom. DCPS has assigned the student to School A’s self-contained program for ID students. However, Petitioner contends the student was previously assigned to School A’s program for students with specific learning disability (“SLD”) and the SLD is the program is appropriate for the student.

Petitioner filed a due process complaint on August 8, 2014,² and an amended complaint on September 22, 2014.³ In the amended complaint, Petitioner asserted that at a June 9, 2014, IEP meeting the team determined the student was in need of one to one support in the classroom. On June 16, 2014, the School A representative requested that a dedicated aide be provided to the student and DCPS responded to the request by stating that no more requests for dedicated aides would be considered by DCPS until after the start of school year (“SY”) 2014-2015. Thus, the student had no dedicated aide for extended school year (ESY) during summer 2014. Petitioner asserted the dedicated aide should have been added to the student’s IEP by the IEP team’s actions/decision and should have been available to the student during ESY and at the start of SY 2014-2015. In addition, Petitioner asserted DCPS failed to allow the parent the opportunity to participate in the process of determining the student’s need for a dedicated aide.

² A resolution meeting was convened on the initial complaint on August 29, 2014. The case was not resolved and the parties did not mutually agree to proceed to hearing. The 45-day period on the initial complaint began on September 8, 2014, and ended on October 22, 2014. On August 19, 2014, DCPS filed a motion to extend the deadline for the HOD from October 22, 2014, to November 1, 2014, to allow for the October 17, 2014, hearing date that met both parties’ schedules. However, with the filing of the amended complaint and the resulting restart of the decision timeline the motion to extend the deadline became moot and was, therefore, ultimately not granted despite the first pre-hearing order in this matter stating the motion was or would be granted.

³ The issues and claims in the amended complaint superseded the initial complaint filed and the timeline for the complaint was changed to measure the decision due date from the date the amended complaint was filed.

Petitioner also contends that School A's self-contained ID program is not appropriate for the student and the student should be placed in School A's self-contained SLD program. The student has remained in School A's SLD program pending the outcome of this proceeding. Petitioner seeks an order directing DCPS to amend the student's IEP to add the services of a dedicated aide for SY 2014-2015 and that the student be placed in a SLD program.

Petitioner requested an independent comprehensive psychological evaluation ("IEE") and DCPS granted the request. The IEE was conducted in October 2014. At a December 2014 IEP meeting the team reviewed the independent evaluation and determined the student should remain in the ID self-contained program. Petitioner continues to maintain the student is in need of dedicated aide and should be in the School A SLD program rather than its ID program.

DCPS filed a timely response to the amended complaint on September 24, 2014, in which it denied that it failed to provide the student with a free appropriate public education ("FAPE").⁴ DCPS asserted it can implement the student's IEP and the student's current location of services and the least restrictive environment ("LRE") prescribed for the student at School A are appropriate. DCPS further asserted the parent signed the standard IEP form that reflects the fact that DCPS only agreed to add ESY to the student's IEP at the June 9, 2014, meeting and that it has included Petitioner in all meetings. DCPS also claimed that IDEA does not require a school district to provide a child with a particular placement or a dedicated aide simply because a parent requests it.

A resolution meeting was convened on the amended complaint on October 1, 2014. The case was not resolved and the parties did not mutually agree to proceed to hearing. The 45-day period for the amended complaint began on October 22, 2014, and originally ended on December 7, 2014.

A hearing was initially scheduled for November 21, 2014. However, the parties had scheduled the December 2014 IEP meeting at which the IEE was to be reviewed by the IEP team. DCPS requested a continuance of the hearing and extension of the Hearing Officer Determination ("HOD") due date so that the IEP meeting could be held. The motion was not opposed and was granted. The hearing date was rescheduled to December 17, 2014, and the HOD due date was extended to January 2, 2015.

The Hearing Officer convened a pre-hearing conference ("PHC") on October 7, 2014, on the amended complaint and issued a pre-hearing order on October 21, 2014, outlining, inter alia, the issues to be adjudicated.⁵

⁴ DCPS filed a timely response to the initial complaint on August 13, 2014.

⁵ The Hearing Officer convened the first PHC on September 3, 2014, and issued a pre-hearing conference order on September 8, 2014.

ISSUES: ⁶

The issues adjudicated are:

1. Whether DCPS denied the student a FAPE by failing to develop an appropriate IEP because the June 9, 2014, IEP does not provide the student with a dedicated aide.
2. Whether DCPS denied the student a FAPE by failing to allow the parent to participate in the determination of whether the student would have a dedicated aide pursuant to 34 CFR §300.501(c).
3. Whether DCPS denied the student a FAPE by failing to place the student in his LRE⁷ as required pursuant to 34 C.F.R. 300.114(a)(2)(ii).

RELEVANT EVIDENCE CONSIDERED:

This Hearing Officer considered the testimony of the witnesses and the documents submitted in the parties' disclosures (Petitioner's Exhibits 1 through 17 and Respondent's Exhibits 1 through 14) that were all admitted into the record and are listed in Appendix A.⁸ Witnesses are listed in Appendix B.

FINDINGS OF FACT: ⁹

1. The student _____ receives special education and related services under a MD disability classification for ID and OHI. (Petitioner's Exhibit 1-1)
2. The student's IEP prescribes a full-time out general education program. (Petitioner's Exhibit 1-11)
3. The student is currently in a self-contained SLD program at School A. Prior to attending School A the student attended a private full time special education day school for

⁶ The alleged violation(s) and/or issue(s) listed in the complaint or in the pre-hearing order may not directly correspond to the issues outlined here. The Hearing Officer restated the issue(s) at the outset of the hearing and the parties agreed that these were the issue(s) to be adjudicated.

⁸ Any items disclosed and not admitted or admitted for limited purposes was noted on the record and summarized in Appendix A.

⁹ The evidence that is the source of the Finding of Fact ("FOF") is noted within a parenthesis following the finding. The second number following the exhibit number denotes the page of the exhibit from which the fact was extracted. When citing an exhibit that has been submitted by more than one party separately the Hearing Officer may only cite one party's exhibit.

students with emotional disability (“ED”). The student began attending School A at the start of SY 2013-2014 in its ED program. Because the student did not actually have behavioral difficulties he was reassigned in the middle of SY 2013-2014 to School A’s SLD program for the remainder of SY 2013-2014. (Parent’s testimony, Witness 3’s testimony, Respondent’s Exhibit 12-1)

4. The student’s parent believes the student performed well in the SLD program during SY 2013-2014. The student earned passing grades and was promoted from sixth to seventh grade. (Parent’s testimony, Petitioner’s Exhibit 12)
5. In December 2013 DCPS conducted a psychological reevaluation of the student. The evaluator determined the student’s cognitive and academic functioning was significantly below average and he was functioning academically at second grade level or below. The evaluator recommended the student be considered for a multiple disability classification including ID and OHI for Attention Deficit Hyperactivity Disorder (“ADHD”). The student’s prior disability classification had included SLD and his prior Full Scale IQ score was 72 in 2009. The evaluator reasoned that the student’s cognitive functioning was not likely to have changed but his recent low scores might be the result of him being tested with more complex materials than when he was evaluated in 2009. (Respondent’s Exhibit 12-1, 12-7, 12-11)
6. DCPS conducted an adaptive behavior assessment in June 2014 that consisted of a survey of the student’s adaptive behavior by his parent and his teacher. The student had an adaptive composite score of 68 according to the teacher survey and a score of 72 according to the parent. (Respondent’s Exhibit 10-1, 10-2)
7. On June 9, 2014, DCPS convened an IEP meeting for the team to review the adaptive behavior assessment. The team agreed the student has an intellectual disability and is in need of intensive reading intervention. The team concluded the student would remain eligible as a student with MD classification. The student’s parent requested that the student be provided a dedicated aide to assist him in instruction in the SLD classroom. (Parent’s testimony, Petitioner’s Exhibit 3-1)
8. At the June 9, 2014, meeting the IEP team determined the student needed one to one instructional assistance and that DCPS procedures for requesting a dedicated aide would be initiated. The DCPS members of the IEP team did not consider that student qualified for a dedicated aide unless and until the DCPS process for requesting the aide was completed and a determination made as to whether the student would be provided a dedicated. The student currently has one to one support from the instructional aide in the SLD classroom. (Witness 3’s testimony)
9. The meeting notes indicate that “[School A LEA representative] will put in a request for a dedicated aide to central office because the team feels that [the student] needs one-one-one support when he is in the classroom.” The notes further state in the section entitled “Next Steps” that “[School A LEA representative] will complete a dedicated aide

request” and amend the IEP to include ESY. (Witness 3’s testimony, Petitioner’s Exhibit 3-1, 3-2)

10. The School A representative sent the dedicated aide request to DCPS central office on June 16, 2014. That same day the representative received a return email stating that no more requests for dedicated aides would be considered by DCPS until after the start of SY 2014-2015. Thus, the student had no dedicated aide for ESY during summer 2014. (Petitioner’s Exhibit 4)
11. On July 15, 2014, Petitioner’s counsel corresponded with DCPS regarding the dedicated aide asserting that the student’s IEP team had already determined the student was in need of a dedicated aide. (Petitioner’s Exhibits 5, 6, 7)
12. At the start of SY 2014-2015 the student was moved to the School A self-contained ID program. After Petitioner filed the due process complaint the student was moved to School A’s SLD program during the pendency of this proceeding. The student’s parent wants the student to stay in the School A SLD program with the assistance of a dedicated aide to support his academic instruction so he will eventually be able to obtain a high school diploma. (Parent’s testimony)
13. On October 7, 2014, DCPS conducted a classroom observation of the student and concluded the student did not need the constant support of a dedicated aide but he did need scheduled one to one assistance with either a teacher or an instructional aide in an appropriate setting. (Petitioner’s Exhibit 14-6)
14. Petitioner requested an independent comprehensive psychological evaluation (“IEE”) and DCPS granted the request. (Petitioner’s Exhibit 8)
15. In October 2014 the independent comprehensive psychological evaluation was conducted of the student. The evaluator administered the WISC-IV and the WIAT-III.¹⁰ The student had a Full Scale IQ score of 68 and the student’s overall level of cognitive functioning was determined to be in the extremely low range at the 2nd percentile. (Petitioner’s Exhibit 8-1, 8-3)
16. The student’s academic functioning in reading, math and written language were all in the extremely low range which evaluator considered was commensurate with what was expected given the student’s cognitive functioning. (Petitioner’s Exhibit 8-5)
17. The evaluator diagnosed the student with Anxiety Disorder, Dysthymic Disorder-Early Onset, Reading, Math and Written Language Disorders, Expressive and Receptive Language Disorder and Mild Mental Retardation. (Petitioner’s Exhibit 8-6)
18. In November 2014 DCPS conducted a review of the IEE. (Respondent’s Exhibit 14)

¹⁰ Wechsler Intelligence Scale for Children – Fourth Edition (WISC-IV), Wechsler Individual Achievement Test – Third Edition (WIAT-III)

19. At a December 2014, IEP meeting an IEP team reviewed the IEE and determined the student should remain in School A's ID program. (Witness 3's testimony)
20. The SLD program that the student is currently attending has one teacher, 11 students and one teacher's aide. The students in this program are in 6th, 7th and 8th grades and are all operating significantly below grade level. Their academic abilities in math are at approximately 3rd to 4th grade and the average reading level is 2nd grade. The content from general education curriculum is used but adapted to the students' academic abilities and there is reading remediation program used in the classroom. The student has been in this program since the end of September 2014. The student struggles academically and functionally more than other students in the program and needs someone to assist him one to one in all academic instruction activities. The majority of the time the instructional aide works with him. His academic gains even with one to one assistance have been minimal. The classroom teacher for the SLD program believes the curriculum is too advanced for the student and he is aware of his low abilities relative to his classroom peers and is self-conscious about it. The classroom teacher believes the student is below first grade instructional level in reading. He is the only student in the program who does not have a SLD classification. (Witness 2's testimony, Respondent's Exhibit 13)
21. Because the student does all his homework and all his classwork he has been given passing grades and is rated as progressing relative to his IEP goals even though he is struggling in the SLD classroom. The SLD classroom teacher believes the student would benefit more from the reading intervention program that is being used in the School A's ID program rather than the program used in the SLD program. The classroom teacher believes the student is capable of progressing and would benefit from intensive reading remediation and one to one instruction. However, given the level and pace of work in the SLD classroom in her opinion the SLD program is inappropriate for the student and the curriculum is above his cognitive abilities. (Witness 2's testimony, Petitioner's Exhibits 13, 17)
22. The School A ID program is for students with mild to moderate ID. There are no profoundly intellectually disabled students in the program. The program uses a functional reading program and the students read text that is modified to their instructional level. There is one full time nurse in the classroom for a student who is in a wheel chair. The class focuses on functional skills with some functional academics and learning to navigate the community. (Witness 3's testimony)
23. The student's parent is concerned that the student would be only be provided functional skill training in the School A ID program rather than academic focused instruction that would lead to a high school diploma. (Parent's testimony)
24. The parent's educational consultant participated along with the parent in the student's December 2014 IEP meeting. The consultant offered her opinion that student needs one to one academic support and intense individualized instruction to build his skills. The consultant pointed out that the student has functional skills and can already navigate his community and the ID program which is not focused on academics would be

inappropriate for him because in her opinion the student has enough cognitive skills to progress academically if he is provided one to one instruction. The consultant also opined that because the student's November 2014 progress report indicated average to above average grades in the SLD program and the student is progressing relative to his IEP goals this is clear indication that the SLD program is appropriate for the student. The consultant, however, has never met or observed the student. (Witness 1's testimony, Petitioner's Exhibit 13, 17-1, 17-3)

CONCLUSIONS OF LAW:

Pursuant to IDEA §1415 (f)(3)(E)(i) a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education ("FAPE").

Pursuant to IDEA §1415 (f)(3)(E)(ii) in matters alleging a procedural violation a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies impeded the child's right to FAPE, significantly impeded the parent's opportunity to participate in the decision making process regarding provision of FAPE, or caused the child a deprivation of educational benefits. An IDEA claim is viable only if [DCPS'] procedural violations affected the student's substantive rights." *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006)

34 C.F.R. § 300.17 provides:

A free appropriate public education or FAPE means special education and related services that--
(a) Are provided at public expense, under public supervision and direction, and without charge;
(b) Meet the standards of the SEA, including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Sec. 300.320 through 300.324

Pursuant to 5E DCMR 3030.14 the burden of proof is the responsibility of the party seeking relief. ¹¹ *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528 (2005). In this case the student/parent is seeking relief and has the burden of proof that the action and/or inaction or proposed placement is inadequate or adequate to provide the student with FAPE.

Based solely upon the evidence presented at the due process hearing, an impartial hearing officer must determine whether the party seeking relief presented sufficient evidence to prevail. See DCMR 5-3030.34. The normal standard is preponderance of the evidence. See, e.g. *N.G. V. District of Columbia* 556 f. Sup. 2d (D.D.C. 2008) se also 20 U.S.C. §1451 (i)(2)(C)(iii).

¹¹ The burden of proof shall be the responsibility of the party seeking relief. Based solely upon the evidence presented at the hearing, an impartial hearing officer shall determine whether the party seeking relief presented sufficient evidence to meet the burden of proof.

ISSUE 1: Whether DCPS denied the student a FAPE by failing to develop an appropriate IEP because the June 9, 2014, IEP does not provide the student with a dedicated aide.

Conclusion: Petitioner sustained the burden of proof by a preponderance of the evidence that the student was denied a FAPE by DCPS failing to provide an appropriate IEP, due to the fact that the June 9, 2014, IEP does not provide the student with a dedicated instructional aide.

“The IEP is the “centerpiece” of the IDEA’s system for delivering education to disabled children,” *D.S. v. Bayonne Bd. of Educ.*, 54 IDELR 141 (2010) (quoting *Polk v. Cent. Susquehanna Intermediate Unit 16*, 853 F.2d 171, 173 (3d Cir. 1988), and the centerpiece for the implementation of FAPE is the IEP. *S.H. v. State-Operated Sch. Dist. of the City of Newark*, 336 F.3d 260, 264 (3d Cir. 2003).

In *Board of Education v. Rowley* the United States Supreme Court set forth a two-part inquiry for determining whether a school district has satisfied the FAPE requirement. First, the state must have "complied with the procedures set forth in the Act." *Rowley*, 458 U.S. at 206. Second, the IEP that is developed must be "reasonably calculated to enable the child to receive educational benefits." *Rowley*, 458 U.S. at 206-07.

Pursuant to *Schaefer v. Weast*, 554 F.3d 470 (U.S. App. 2009), the Hearing Officer must “focus on the adequacy of the IEP at the time it was created, and ask if it was reasonably calculated at that time to enable the student to receive educational benefits.” *Schaefer v. Weast*, 554 F.3d 470 (U.S. App. 2009).

The evidence in this case clearly indicates that the student requires one to one instructional support in order to complete his academic classwork and make progress academically and relative to his IEP goals. On June 9, 2014, an IEP team determined that the student was in need of one-to-one instructional support in the classroom. DCPS, however, did not agree that the student would automatically be provided a dedicated aide. In inquiring of several DCPS witnesses during the hearing of their understanding of a dedicated aide the responses indicated that a dedicated aide is an individual who would assist the student throughout the school day in all activities. However, what the evidence demonstrates that the student’s IEP team agreed to was not that a dedicated aide would be provided, rather the team agreed the student needs one-to-one instructional assistance. The evidence demonstrates that the student is currently being provided this instructional assistance in the School A SLD classroom from the classroom instructional aide working with the student almost exclusively. However, this assistance is not on the student’s IEP and the instructional aide is apparently less available to the other students in the classroom because he or she spends most of the time with the student.¹²

Based upon the evidence the Hearing Officer concludes that at the June 9, 2014, meeting the IEP determined that student required one-to-one instructional assistance and in the SLD classroom this has been provided. Consequently, the Hearing Officer will direct in the order below that the

¹² Although DCPS made a request of DCPS central office for a dedicated aide and a classroom observation was made the Hearing Officer concludes that this request did not supersede or negate the decision that has already been made by the IEP team as to the student’s needs.

student's IEP is amended to provide him a one-to-one instructional aide during classroom instruction only.

ISSUE 2: Whether DCPS denied the student a FAPE by failing to allow the parent to participate in the determination of whether the student would have a dedicated aide pursuant to 34 C.F.R. §300.501(c)

Conclusion: Petitioner did not sustain the burden of proof by a preponderance of the evidence that DCPS failed to allow the parent to participate in the decision as to whether the student's needed an instructional aide.

34 C.F.R. §300.501(c) states: Parent involvement in placement decisions. (1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child. (2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in § 300.322(a) through (b)(1). (3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing. (4) A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement.

The evidence demonstrates that the parent fully participated in the decision making at the June 9, 2014, meeting that the student was in need of one-to-one instructional assistance. Consequently, the Hearing Officer concludes Petitioner did not sustain the burden of proof on this issue.

ISSUE 3: Whether DCPS denied the student a FAPE by failing to place the student in his LRE¹³ as required pursuant to 34 C.F.R. 300.114(a)(2)(ii).

Conclusion: Petitioner did not sustain the burden of proof by a preponderance of the evidence that DCPS denied the student a FAPE by failing to place the student in his LRE.

Pursuant to 34 C.F.R. § 300.115: (a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. (b) The continuum required in paragraph (a) of this section must— (1) Include the alternative placements listed in the definition of special education under § 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class

¹³ Petitioner asserts the student's LRE is the LD program at School A rather than the ID program.

The “educational placement” consists of: (1) the education program set out in the student’s IEP, (2) the option on the continuum in which the student’s IEP is to be implemented, and (3) the school or facility selected to implement the student’s IEP. *Letter to Fisher*, 21 IDELR 992 (1994).

In this jurisdiction, the educational placement is based upon the child’s IEP, and the school designated by the public agency to implement the child’s IEP is the location of services. *Johnson v. District of Columbia*, 2012 L 883125 (D.C.C., March 16, 2012). The school district is not required to maximize or provide the best program; rather, it need only be an education that is specifically designed to meet the child’s unique needs, supported by services that will permit the child to benefit from the instruction. *Board of Education of Hendrick Hudson Central School District, Westchester County, et. al. vs. Rowley*, 458 U.S. 176 (1982).

In determining the educational placement of a child with a disability, each public agency must ensure that the placement decision (1) is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; (2) is made in conformity with the Least Restrictive Environment (“LRE”) provisions of the IDEA that mandate that to the maximum extent possible, disabled children are to be educated with their nondisabled peers and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; (3) is determined annually; (4) is based on the child’s IEP; and (5) is as close as possible to the child’s home. 34 C.F.R. 300.114, 34 C.F.R. 300.116.

The IDEA only mandates a “basic floor of opportunity.” *Id.*; *Carlisle Area Sch. Dist. v. Scott P.*, 62 F.3d 520, 534 (3d Cir. 1995). To accomplish this, an IEP must only “be reasonably calculated to enable the child to receive meaningful educational benefits in light of the student’s intellectual potential.” *Chambers v. Sch. Dist. of Philadelphia Bd. of Educ.*, 587 F.3d 176, 182 (3d Cir. 2009) (quoting *Shore Reg’l High Sch. Bd. of Educ. v. P.S.*, 381 F.3d 194, 198 (3d Cir. 2004)).

The evidence demonstrates that the student has an IEP that currently prescribes that he be provided all services outside general education. Although Petitioner has sought to have the student remain in the School A SLD program rather than its ID program, the evidence is the student has remained in the SLD pending the outcome of this hearing. The Hearing Officer concludes that although DCPS has prescribed a different program for the student than Petitioner believes is appropriate the student has continued in the desired program and has thus not been denied a FAPE.

However, the Hearing Officer concludes that given the decision herein that the student is to be provided a dedicated instructional aide it is prudent for the student to remain in his current SLD program for a reasonable time with the assistance of the instructional aide until an IEP team can review the effectiveness of the instructional aide and then make a determination as to the student’s appropriate educational program. In addition, based on the evidence presented that the student requires significant reading remediation, the Hearing Officer also directs that an IEP

team review and determine the most appropriate reading remediation program for the student of those available at his current school.

ORDER:

1. The student's IEP is hereby amended to include a dedicated one-to-one instructional aide to be provided for classroom instructional time only to assist the student with classroom assignments and activities delivered by his classroom teacher and DCPS shall within fifteen (15) school days of the issuance of this order provide the student the dedicated one-to-one instructional aide.
2. Also, within fifteen (15) school days of the issuance of this order DCPS shall convene an IEP team meeting to determine the most appropriate reading remediation program that should be provided to the student of the programs available at School A and ensure that the remediation program is provided to the student either during classroom instruction or some other time during the school day or week.
3. The student shall remain with the assistance of the instructional aide in the School A SLD program for the next ninety (90) calendar days, after which DCPS shall convene an IEP meeting to determine the student's progress in that program with the assistance of the dedicated instructional aide and make a determination of the appropriate academic setting and program for the student for the remainder of SY 2014-2015.

APPEAL PROCESS:

The decision issued by the Hearing Officer is final, except that any party aggrieved by the findings and decision of the Hearing Officer shall have 90 days from the date of the decision of the Hearing Officer to file a civil action with respect to the issues presented at the due process hearing in a District Court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. §1415(i)(2).

/S/ Coles B. Ruff

Coles B. Ruff, Esq.
Hearing Officer
Date: January 2, 2014