

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

Office of Dispute Resolution  
810 First Street, N.E., 2<sup>nd</sup> Floor  
Washington, DC 20002

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STUDENT, <sup>1</sup>	)	
through the Parent,	)	
	)	Date Issued: June 17, 2015
Petitioner,	)	
	)	Hearing Officer: John Straus
v.	)	
	)	Case No: 2015-0120
District of Columbia Public Schools (“DCPS”)	)	
	)	Hearing Date: May 20, 2015
Respondent.	)	June 4, 2015
	)	

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**HEARING OFFICER DETERMINATION**

**Background**

The Petitioner, the Student’s mother, filed a due process complaint notice on April 3, 2015, alleging that Student had been denied a free appropriate public education (“FAPE”) under the Individuals with Disabilities Education Act (“IDEA”).

The Petitioner alleged that DCPS failed to conduct a triennial Occupational Therapy (“OT”) assessment. The Petitioner also alleged that DCPS reduced the OT service hours inappropriately on November 18, 2014 and failed to implement the Student’s November 18, 2014 IEP by failing to provide OT services from December 17, 2013 to present. The Petitioner further alleged DCPS developed an Individualized Education Program (“IEP”) with inappropriate Math and Reading goals for the Student’s level of achievement and not measurable. The Petitioner alleged that DCPS failed to provide the Parent meaningful participation regarding DCPS’ decision to transfer the Student from middle school to high school and skip two grades. Finally, the Petitioner alleged DCPS failed to provide an appropriate placement in October 2014 in a nonpublic special school.

The Petitioner requested 1) the Hearing Officer order DCPS to fund an independent OT assessment 2) the Hearing Officer order DCPS to convene an IEP team meeting within 10 days of receipt of the independent assessment to review the assessments, review and revise the Student’s IEP; 3) DCPS to place the Student at Nonpublic School, including transportation, for the remainder of the 2014-2015 school year and 2015-2016 school year; and 4) the Hearing

Officer to order DCPS to provide compensatory services to redress the lack of special education and related services as a result of DCPS' failure to place the Student in an appropriate placement.

DCPS asserts the November 18, 2014 IEP indicates the student's difficulties, needs, strengths, and evaluation information and the November 18, 2014 IEP team determined the IEP was implemented and continues to be implemented. DCPS states the Student was moved from Middle School to High School due to her age and that move does not require prior written notice and it provided an appropriate school location for the Student.

### **Subject Matter Jurisdiction**

Subject matter jurisdiction is conferred pursuant to the Individuals with Disabilities Education Act ("IDEA"), as modified by the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. Section 1400 et. seq.; the implementing regulations for the IDEA, 34 Code of Federal Regulations ("C.F.R.") Part 300; and Title V, Chapter E-30, of the District of Columbia Municipal Regulations ("D.C.M.R."); and 38 D.C. Code 2561.02.

### **Procedural History**

Neither Petitioner nor Respondent waived the resolution meeting. The resolution meeting took place on April 21, 2015. At the resolution meeting, DCPS did not agree to waive the 30-day resolution period. The 30-day resolution period ended on May 3, 2015, the 45-day timeline to issue a final decision began on May 4, 2015 and the final decision is due by June 17, 2015.

The due process hearing took place on May 20, 2015 and June 4, 2015 in Room 2006 at the Office of Dispute Resolution. The due process hearing was a closed hearing. The Petitioner was represented by Carolyn Houck, Esq. and Steven Nabors, Esq. and DCPS was represented by Tanya Chor, Esq. Neither party objected to the testimony of witnesses by telephone. The Petitioner participated in person on May 20, 2015.

The Petitioner presented five witnesses: an Occupational Therapist ("OTR"), the Student, a Clinical Psychologist, the Nonpublic School Representative, and Educational Advocate. DCPS presented three witnesses: General Education Teacher, Special Education Teacher ("SET") and Social Worker.

The Petitioner's Disclosure Statement, filed and served on May 13, 2015, consisted of a witness list of seven (7) witnesses and documents P-01 through P-36. The Petitioner's documents were admitted into evidence without objection. The Respondent's Disclosure Statement, filed and served on May 13, 2015, consisted of a witness list of six (6) witnesses and documents R-1 through R-7. The Respondent's documents were admitted into evidence without objection.

The issues to be determined in this Hearing Officer Determination are as follows:

Hearing Officer Determination

1. Whether DCPS denied the Student a FAPE by failing to conduct triennial evaluations to determine the Student's special education and related services needs; specifically, the Student required an occupational therapy assessment by April 17, 2012.
2. Whether DCPS denied the Student a FAPE by failing to develop an Individualized Education Program ("IEP") on November 18, 2014 that was reasonably calculated to enable the student to receive educational benefit because the Occupational Therapy ("OT") service hours were reduced inappropriately and the Math and Reading goals are not appropriate for her level of achievement and not measurable.
3. Whether DCPS denied the Student a FAPE by failing to provide the Parent meaningful participation regarding DCPS' decision to transfer the Student from middle school to high school and skip two grades.
4. Whether DCPS denied the Student a FAPE by failing to provide a placement on October 2014 that is reasonably calculated to enable the Student to make progress in the general education curriculum; specifically the Student requires a placement in a nonpublic special school.

A fifth issue, whether DCPS denied the Student a FAPE by failing to implement the Student's November 18, 2014 IEP by failing to provide OT services from December 17, 2013 to present, was withdrawn by the Petitioner at the outset of the hearing. The Petitioner stated she wanted to amend the first issue to state the OT assessment was to be completed by October 11, 2014; however, she retracted her request on the record.

For relief, the Petitioner requested the Hearing Officer order DCPS to fund an independent OT assessment; within 10 days of receipt of the independent assessment DCPS to convene an IEP team meeting to review the assessments, review and revise the Student's IEP; DCPS to place the Student at Nonpublic School, including transportation, for the remainder of the 2014-2015 school year and 2015-2016 school year; and the Hearing Officer to order DCPS to provide compensatory services to redress the lack of special education and related services as a result of DCPS' failure to place the Student in an appropriate placement.

**Findings of Fact**<sup>2</sup>

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

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<sup>2</sup> Footnotes in these Findings of Fact refer to the sworn testimony of the witness indicated or to an exhibit admitted into evidence. To the extent that the Hearing Officer has declined to base a finding of fact on a witness's testimony that goes to the heart of the issue(s) under consideration, or has chosen to base a finding of fact on the testimony of one witness when another witness gave contradictory testimony on the same issue, the Hearing Officer has taken such action based on the Hearing Officer's determinations of the credibility and/or lack of credibility of the witness(es) involved.

Hearing Officer Determination

1. The Student is a resident of the District of Columbia who is a ninth grader at High School. She was retained twice in the sixth and seven grade. She attended Middle School at the beginning of the 2014-2015 school year.<sup>3</sup>
2. On October 14, 2011, the Student received an OT assessment. The assessment yielded deficits in fine motor proficiency, visual motor integration, handwriting skills, visual perception, organizational skills, and sensory processing. The evaluator recommended the Student receive 45 minutes of direct individual OT services per week.<sup>4</sup>
3. On October 8, 2013, the IEP team conducted a triennial evaluation of the Student. The team determined the Student required a Functional Behavioral Assessment to determine whether the Student is demonstrating behavior that interferes with her school functioning and an educational assessment of the Student's current academic performance. The team did not consider whether the Student required an OT assessment.<sup>5</sup>
4. On December 17, 2013, the IEP team determined the Student requires 45 minutes of Mathematics per day outside the general education setting, 45 minutes of OT services per week outside the general education setting and 30 minutes of behavior support services per week outside the general education setting. The team developed the following Mathematics goals for the Student:
  1. [The Student] will be able to compute unit rates with ratios of fractions in order to compute the unit rate with 80% accuracy in 3 out of 4 trials and minimal prompts.
  2. [The Student] will be able to apply and extend prior knowledge of multiplication and division of fractions in order to divide rational numbers with 80% accuracy.
  3. [The Student] will be able to apply properties of operations in order to add, subtract and factor and expand linear expressions with 80% in 3 out 4 trials.<sup>6</sup>
5. On March 11 and 25, 2014, the Student received a Comprehensive Psychological assessment. The assessment yielded a low average range of cognitive functioning. The assessment included a Woodcock Johnson Test of Achievement III ("WJ-III") that indicated the Student was achieving on a 3.6 grade level to a 6.2 grade level in Math. The evaluator recommended the Student work in small group settings when possible to assist her with on-on one assistance in a structured classroom environment. The evaluator provided several classroom recommendations such as teach all new math concepts and processes through direct instruction.<sup>7</sup>
6. The Student was transferred from Middle School to High School in October 2014. Neither the Student nor her teachers were provided any advance notice of her transfer to High School. She was informed that she was transferred to High School because she was too old, too big and too mature to attend Middle School. Upon her arrival at High School, the

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<sup>3</sup> Student

<sup>4</sup> R-2, OTR

<sup>5</sup> P-8, P-9

<sup>6</sup> P-16, P-17, SET

<sup>7</sup> P-21, Clinical Psychologist, SET

## Hearing Officer Determination

Student was provided with a schedule and was told to attend her classes. She was not provided any additional help from the teachers or administrators at High School. The Student has been teased and picked on by her peers in High School and was suspended from High School during the 2014-2015 school year.<sup>8</sup>

7. On November 18, 2014, the IEP team convened. The team noted the Student can be defensive while interacting with peers and displays difficulty controlling her anger when she becomes upset. She lacks effective coping strategies and tends to react to situations with poor emotional regulations. In the classroom, she avoids work that she dislikes by engaging in preferred activities such as reading or talking with peers, resulting in the Student not being able to complete the tasks in class. The team developed the following goals in Math:
  1. By November 17, 2015, when given (5) pairs of linear equations in slope-intercept form (e.g.  $y = 2x + 5$  and  $y = 3x + 2$  Answer:  $x = 3$ ,  $y = 11$ ), [the Student] will use substitution to create an equation (e.g.  $2x + 5 = 3x + 2$ ) that will help find the solution.
  2. By November 17, 2015, when given (5) one-variable linear equations with one solution in which all the numbers are whole numbers less than 10, [the Student] will solve for the value of the variable by using a problem-solving checklist for (4 out of 5) equations.
  3. By November 17, 2015, when given (5) relations in the form of a set of ordered pairs, table, or graph, [the Student] will correctly identify whether the relation is a function for (4 out of 5) problems.

The team determined the Student required 6.5 hours of specialized instruction per week outside the general education setting, 6.5 hours of specialized instruction per week in the general education setting, 60 minutes of OT services per month outside the general education setting and 120 minutes of behavioral support services per month outside the general education setting.<sup>9</sup>

8. On November 26, 2014, the Student was given another WJ-III which yielded grade equivalencies in the third and fourth grade levels in Mathematics with the exception of Math Fluency which was in the sixth grade level.<sup>10</sup>
9. The Student uses proper and hunt and peck keyboard techniques. She does not know the home row keys. She is not able to produce two out of three in class writing assignments in 10 minutes with less than 5 errors because she does not often have opportunities to type her assignments in class. The Student does not utilize her locker because she does not know how to use her locker lock. She has difficulty keeping her backpack organized. Her file folders are tattered with no labels for her school subjects. She does not organize her

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<sup>8</sup> Student

<sup>9</sup> P-23, R-4, OTR, Clinical Psychologist

<sup>10</sup> P-24, Educational Advocate

materials unless prompted by adults. The student gets lost walking from school to the library.<sup>11</sup>

10. The Student was evaluated by Nonpublic School. The assessment indicates the Student requires remedial intervention in math skills involving basic division and struggles with mathematical concepts higher than middle school level.<sup>12</sup>
11. The Petitioner requests 100 hours of independent Math Tutoring and placement at Nonpublic School as compensatory services.<sup>13</sup>

### **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:

“Based solely upon 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 that the action and/or inaction or proposed placement is inadequate or adequate to provide the student with a FAPE.” 5 D.C.M.R. E-3030.3. The burden of proof in an administrative hearing is properly placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49 (2005).

**1. DCPS did not deny the Student a FAPE by failing to conduct a triennial OT evaluation by April 17, 2012.**

A triennial assessment is required under 34 C.F.R. § 300.303(b). Pursuant to 34 C.F.R. § 300.303(b), a reevaluation must occur at least once every 3 years, unless the parent and DCPS agree that a reevaluation is unnecessary. Here, it is clear that the student did not receive a formal OT assessment since the October 14, 2011 evaluation. The Petitioner argues that a reevaluation must include a review of a formal assessment every three years unless the parent agrees the assessment is unnecessary.

A reevaluation is described under 34 C.F.R. § 300.305(a). Pursuant to 34 C.F.R. § 300.305(a), the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the child, including evaluations and information provided by the parents of the child; current classroom-based, local, or State assessments, and classroom-based observations; and observations by teachers and related services providers; and on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine whether the child continues to have such a disability, and the educational needs of the child; the present levels of academic achievement and related developmental needs of the child; whether the child continues to need special education and related services; and whether any additions or modifications to the special education and related services are needed to enable the

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<sup>11</sup> R-6, OTR

<sup>12</sup> P-31, Nonpublic School Representative

<sup>13</sup> P-29

child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.<sup>14</sup>

In this case, the Student was reevaluated by the IEP team as required under 34 C.F.R. § 300.305(a) on October 8, 2013 and the team did not consider whether the student required a formal OT assessment. Although the IDEA is silent with regard to formal evaluations, pursuant to D.C. MUN. REGS. Tit. 30, § 3005.7, DCPS shall ensure that “the evaluation is sufficiently comprehensive to identify all of the child’s special education and related services needs...” There is nothing under the IDEA that states that a formal assessment must be part of the triennial reevaluation.

The Petitioner alleged that DCPS was required to conduct the OT assessment by April 17, 2012 which was six months after the OT assessment on October 14, 2011.<sup>15</sup> 34 C.F.R. § 300.303 does not refer to a requirement that the team conduct formal assessments. Consequently, the Hearing Officer concludes Petitioner did not sustain the burden of proof on this issue.

**2. A. DCPS denied the Student a FAPE by failing to develop an IEP on November 18, 2014 that was reasonably calculated to enable the student to receive educational benefit because the OT service hours were reduced inappropriately.**

The Student began receiving 45 minutes of OT services per week outside the general education setting since at least January 10, 2013. Those services were reduced to 60 minutes of OT services per month, or 15 minutes of OT services per week, outside the general education on November 18, 2014. It appears that DCPS believed that the Student made significant progress in her OT therapy. However, the OTR credibly testified there is anecdotal evidence that the Student has significant OT needs such as using hunt and peck keyboard techniques instead of typing, inability to lock and unlock her locker at school, disorganized papers, and getting lost walking from school to the library. DCPS should have conducted a formal OT assessment to determine her OT services needs prior to reducing her OT therapy hours at school.

DCPS reduced the hours of OT without conducting an OT assessment. In light of the Student’s perceived OT services needs, the Hearing Officer finds that the November 18, 2015 IEP team should have conducted an OT assessment and that the Student was harmed by reducing the hours of OT service because she was not provided needed assistance to navigate in high school, type and organize her papers. Based upon the evidence, the Hearing Officer finds that the IEP team should have not made any changes to her IEP OT services prior to completing the OT assessment. Consequently, the Hearing Officer will direct in the order below that the Student receive an OT assessment and receive independent OT services.

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<sup>14</sup> In response to a detailed inquiry setting out various reevaluation scenarios, the Office of Special Education Programs, U.S. Department of Education (“OSEP”) provided some guidance on the actions a district must take with regard to the IDEA’s three-year reevaluation requirement. OSEP explained that the review of existing data is not an independent process in itself, but is part of the general reevaluation process. “The reevaluation commences with the review of existing data in accordance with 34 C.F.R. § 300.305(a),” Assistant Secretary John H. Hager wrote in 2007. Letter to Anonymous, 48 IDELR 136 (OSEP 2007).

<sup>15</sup> The Petitioner did retract her request to amend the issue at the beginning of the hearing to state the OT assessment should have been completed by October 11, 2014 which was three years after the Student received the OT assessment.

**B. DCPS denied the Student a FAPE by failing to develop an IEP on November 18, 2014 that was reasonably calculated to enable the student to receive educational benefit because the Math and Reading goals are not appropriate for her level of achievement and are not measurable.**

An IEP is the written document memorializing the collaborative effort between parents and district personnel to develop an educational plan for a student with a disability. The IEP describes the child's individual needs and proscribes the proper placement and services designed to meet those unique needs. *Schaffer*, 546 U.S. 49 (U.S. 2005); 34 C.F.R. § 300.320. Pursuant to *Schaffer v. Weast*, 554 F.3d 470 (4<sup>th</sup> Cir. 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. *Id.*, 554 F.3d 470 (4<sup>th</sup> Cir. 2009). Whether an IEP is reasonably calculated to provide educational benefit is determined prospectively. *Fuhrmann v. East Hanover Bd. of Educ.*, 19 IDELR 1065 (3d Cir. 1993); and *Adams v. State of Oregon*, 31 IDELR 130 (9th Cir. 1999).

The November 18, 2014 IEP team developed Math goals and no Reading goals. The Math goals are measurable with the exception of the first goal. It is not clear how many math problems the Student would have to successfully solve to achieve the first goal. The second and third goals, by contrast, clearly state that the Student must solve 4 out of 5 problems correctly to achieve those goals.

However, none of the goals are appropriate for her achievement level. The current academic achievement assessment indicated the Student was achieving at a 3.6 grade level in applied problems and a 6.2 grade level in math fluency. Her achievement in calculation was at a 5.5 grade level. Although the IDEA does not require that the student must achieve her goals, the IDEA does require that the IEP goals are achievable. It is clear that goals are not appropriate for the Student.

Based upon the evidence, the Hearing Officer concludes that the November 18, 2014, is not reasonably calculated to provide educational benefit. Consequently, the Hearing Officer will direct in the order below that the Student's IEP be amended to provide appropriate goals that are achievable.

**3. DCPS denied the Student a FAPE by failing to provide the Parent meaningful participation regarding DCPS' decision to transfer the Student from middle school to high school and skip two grades.**

Parents play a crucial role under the IDEA. Pursuant to 34 C.F.R. § 300.503(a), written notice must be given to parents a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. DCPS shall initiate and conduct meetings to review each child's IEP periodically and, if appropriate, revise its provisions. At a minimum, a meeting must be held for this purpose at least once a year. 34 C.F.R. § 300.324(b)(1)(i). DCPS did not convene an IEP team meeting prior to transferring the Student from middle school and high school in October

## Hearing Officer Determination

2014. The record indicates the IEP team did revise the IEP on January 10, 2013. However, the team did not discuss either transferring the Student to high school or skipping two grades. The team did not convene again until the Student was transferred to High School. At that time, the team revised the Student's goals to the eighth grade level even though the most recent academic achievement assessment had the Student performing between the third and sixth grade in math.

A change in location is not always a change in placement. A placement is a point along the child's continuum of placement options, while a location is the physical location where the child receives related services, such as a classroom. However, a change in location may rise to a change in placement if the change in location substantially alters the student's educational program. 71 Fed. Reg. 46,588 (2006). See *Letter to Fisher*, 21 IDELR 992 (OSEP 1994). The determination as to whether a change in placement has occurred must be made on a case-by-case basis. If the proposed change substantially or materially affects the composition of the educational program and services provided to the child, then a change in placement occurs triggering the notice requirement. *Letter to Flores*, 211 IDELR 233 (OSEP 1980); *Letter to Fisher*, 21 IDELR 992 (OSEP 1994); and *Veazey v. Ascension Parish Sch. Bd.*, 42 IDELR 140 (5th Cir. 2005, unpublished), cert. denied, 112 LRP 58755, 546 U.S. 824 (2005).

In this case, the fact that the IEP team revised the Student's goals even though the Student's achievement at the time was at a third to sixth grade level shows that the change substantially and materially affected the composition of the Student's educational program. There is nothing in the record that account for the change to the Student's goals other than the fact the Student is enrolled in high school. Therefore, DCPS erred in failing to convene an IEP team meeting prior to transferring the Student to high school and skipping two grades.

Based on the evidence, the Hearing Officer concludes that the Petitioner was not afforded meaningful participation in placing the Student in High School. Therefore, the Hearing Officer will direct the IEP team to discuss and determine appropriate placement options for the Student.

**4. DCPS did not deny the Student a FAPE by failing to provide a placement in a nonpublic special school in October 2014.**

Pursuant to 34 C.F.R. § 300.115(a), DCPS "must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services." The continuum, in general, ranges from the least restrictive to the most restrictive: instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. 34 C.F.R. § 300.115(b)(1) and *H.H. v. Indiana Bd. of Special Educ. Appeals*, 50 IDELR 131 (N.D. Ind. 2008). What is pertinent in making the placement decision will vary, at least to some extent, based upon the child's unique and individual needs. *Letter to Anonymous*, 21 IDELR 674 (OSEP 1994).

The IDEA's least restrictive environment mandate emphasizes that a nonpublic special school placement should be made only when a student's disability is of such nature and severity that the student cannot be satisfactorily educated in any public school setting. 34 C.F.R. §

300.114 (a)(2)(ii).<sup>16</sup> Further, the IDEA states that the educational placement of a student with a disability shall be "as close as possible to the child's home" and that "unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school he or she would attend if nondisabled." 34 C.F.R. § 300.116.

The Student's current placement at High School is close to the Student's home and affords the Student the opportunity to be educated with her non-disabled peers. She is in special classes for a portion of the school day. Unfortunately, the Student is failing her general education classes. Her difficulties navigating around the school include her inability to effectively use her locker. She has gotten frustrated and had conflicts with peers and she does not want to attend High School.

The Petitioner argues that the Student should be placed in a nonpublic special school because the Student is not able to successfully achieve academic in High School and it would not be appropriate to return the Student to Middle School due to her age. In making a placement determination, priority must be given to placement in the regular classroom with any necessary supplemental aids and services to make that placement successful. Only after that is considered should districts move to more restrictive placement options. *OSEP Memorandum 95-9*, 21 IDELR 1152 (OSEP 1994).

The Hearing Officer finds that the High School can providing the Student with meaningful benefit by providing appropriate supplemental aides and services. A child with a disability should not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum. 34 C.F.R. § 300.116 (e). The evidence demonstrates that the Student did not require placement in a nonpublic special school in October 2014. Therefore, the Hearing Officer concludes the Petitioner did not sustain her burden of proof on this issue.

### **Compensatory Education**

Under the theory of compensatory education, "courts and hearing officers may award educational services ... to be provided prospectively to compensate for a past deficient program. The inquiry must be fact-specific and, to accomplish IDEA's purposes, the ultimate award must be reasonably calculated to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place." *Reid v. District of Columbia*, 401 F.3d 522 & 524. To aid the court or hearing officer's fact-specific inquiry, "the parties must have some opportunity to present evidence regarding [the student's] specific educational deficits resulting from his loss of FAPE and the specific compensatory measures needed to best correct those deficits." *Id.* at 526.

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<sup>16</sup> Each public agency must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

34 C.F.R. § 300.114 (a).

The Hearing Officer concludes based on the evidence offered at hearing that the student was denied a FAPE as a result of DCPS' failure to provide an IEP that was reasonably calculated to provide educational benefit. The Student requires remedial tutoring to help her in Mathematics class and OT services to help her navigate the High School environment, use the keyboard and organize her papers. The Hearing Officer calculates the Student missed approximately five hours of OT services as a result of DCPS reducing the hours of services. Therefore, the Hearing Officer concludes that to award the student compensation for the inappropriate IEP would be equitable.

**ORDER**

- (1) DCPS shall fund an independent OT assessment at market rates within 10 school days;
- (2) Within 10 school days of receipt of the OT assessment, DCPS shall convene an IEP team meeting to review the OT assessment and revise the Student's IEP to provide appropriate goals in Mathematics, appropriate OT goals and services, appropriate supplemental aides and services and discuss and determine an appropriate placement;
- (3) For everyday of delay by the Petitioner, DCPS shall have one day to convene the IEP team meeting;
- (4) DCPS shall fund five hours of independent OT services and ten hours of independent tutoring services in Mathematics to be completed by the end of the 2015-2016 school year; and
- (5) No further relief is granted.

**IT IS SO ORDERED.**

**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).

Date: June 17, 2015

*/s/ John Straus*  
Hearing Officer

Copies to:

Petitioner (U.S. mail)  
Petitioner's Attorney: Carolyn Houck, Esq. (electronically)  
DCPS' Attorney: Tanya Chor, Esq. (electronically)  
DCPS (electronically)  
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