District of Columbia
Office of the State Superintendent of Education
Office of Review and Compliance
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Confidential

Parent on Behalf of Student, [1] Petitioner, v. District of Columbia Public Schools ("LEA") Respondent. Case # 2018-0082 Date Issued: June 18, 2018	HEARING OFFICER'S DETERMINATION Hearing Date: June 12, 2018 Counsel for Each Party listed in Appendix A Hearing Officer: Coles B. Ruff, Esq.

[1] Personally identifiable information is in the attached Appendices A & B.

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 June 12, 2018, at the District of Columbia Office of the State Superintendent of Education ("OSSE") Office of Dispute Resolution 1050 First Street, N.E., Washington, D.C. 20003, in Hearing Room 111.

BACKGROUND AND PROCEDURAL HISTORY:

The student ("Student") is age _____and in grade _____.[2] Student resides in the District of Columbia and has been determined eligible for special education and related services pursuant to IDEA with a disability classification of other health impairment ("OHI") due to Attention Deficit Hyperactivity Disorder ("ADHD"). District of Columbia Public Schools ("DCPS") is Student's local educational agency ("LEA") and Student attends a DCPS school ("School A").

On March 23, 2018, Student's grandparent ("Petitioner") filed his due process complaint asserting DCPS had denied Student a free appropriate public education ("FAPE") alleging, inter alia, DCPS failed to provide Student a placement in Student's least restrictive environment ("LRE") when DCPS proposed to move Student from School A to a Behavior Education Support ("BES") program at another DCPS school.

Relief Sought:

Petitioner seeks that the Hearing Officer find that the DCPS denied Student a FAPE and order DCPS to convene an IEP meeting and maintain Student's placement at School A. [3]

LEA Response to the Complaint:

The LEA filed a response to the complaint on April 12, 2018, which asserted, inter alia, DCPS convened meetings to review Student's evalautions that had been rescheduled mutiple times at the request of Petitioner's counsel. On February 9, 2018, DCPS convened a meeting at which a team reveiwed Student's behavior intervention plan ("BIP") and IEP. These documents were agreed upon by all of the DCPS members of the IEP team. Although repeatedly invited to attend Student's eligibility and IEP meeting(s), neither Petitioner, nor his counsel, ever participated. DCPS staff could not force Petitioner or Petitioner's counsel to attend, although their participation was clearly sought. Accordingly an appropriate IEP was developed. School A cannot implement Student's IEP and DCPS issued a proper prior written notice ("PWN") for student to attend a DCPS school(s) that can implement Student's IEP.

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[2] The student's current age and grade are in indicated in Appendix B.

[3] Petitioner withdrew the request that DCPS allow Student to resume therapy services from the Department of Behavioral Health at school and withdrew his request for compensatory education.

Resolution Meeting and Pre-Hearing Conference:

The parties participated in a resolution meeting on April 20, 2018, and did not resolve the complaint. The parties did not mutually agree to proceed directly to hearing. The 45-day period began on April 23, 2018, and ended [and the Hearing Officer's Determination ("HOD") was originally due] on June 6, 2018. Petitioner's counsel was not available for the initially scheduled hearing date and filed an unopposed motion to continue the hearing and to extend the HOD due date from June 6, 2018, to June 18, 2018.

The undersigned Hearing Officer ("Hearing Officer") convened a pre-hearing conference ("PHC") on May 10, 2018, and issued a pre-hearing order ("PHO") on May 15, 2018, outlining, inter alia, the issues to be adjudicated.

ISSUES: [4]

The issues adjudicated are:

1. Whether the LEA denied Student a FAPE by failing to comply with the least restrictive environment requirements of *34 C.F.R. § 300.114* by moving Student from School A and placing Student in the BES program.[5]

2. Whether the LEA denied Student a FAPE by denying parental participation in the placement decision required in *34 C.F.R. § 300.501(c)* by unilaterally changing Student's placement from School A to a BES program.

RELEVANT EVIDENCE CONSIDERED:

This Hearing Officer considered the testimony of the witnesses and the documents submitted in each party's disclosures (Petitioner's Exhibits 1 through 17 and Respondent's Exhibits 1 through 33) that were admitted into the record and are listed in Appendix 2.[6] The witnesses testifying on behalf of each party are listed in Appendix B.[7]

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[4] The Hearing Officer restated the issues at the hearing and the parties agreed that these were the issues to be adjudicated.

[5] Petitioner's counsel clearly stated reiterated at the outset of the hearing that Petitioner is not challenging Student's February 9, 2018, IEP, but challenging DCPS' action to move Student from School A to a BES program.

[6] Any item disclosed and not admitted or admitted for limited purposes was noted on the record and is noted in Appendix A.

[7] Petitioner presented one witness: an advocate employed by the law firm that is representing Petitioner. Respondent presented two witnesses: (1) Student's current DCPS special education teacher, and (2) the DCPS special education coordinator for School A.

SUMMARY OF DECISION:

Respondent held the burden of persuasion on issue #1. The Hearing Officer concluded based on the evidence adduced that after a prima facie case was met, Respondent sustained the burden of persuasion on issue #1. Petitioner held the burden of persuasion on issue #2. Petitioner did not sustain the burden of persuasion on issue #2. The Hearing Officer dismissed Petitioner's complaint with prejudice.

FINDINGS OF FACT: [8]

1. Student is a resident of the District of Columbia and has been determined eligible for special education and related services, pursuant to IDEA, with a disability classification of OHI due to ADHD. DCPS is Student's LEA and Student attends School A, a DCPS school. (Petitioner's Exhibit 5-1)

2. DCPS conducted initial evaluations of Student during the fall of 2017 and scheduled an eligibility meeting for December 21, 2017. Petitioner's representatives were unable to attend on that date and Student's eligibility meeting was rescheduled to January 3, 2018. Petitioner was unable to attend the eligibility meeting on January 3, 2018, and DCPS rescheduled the meeting to January 10, 2018. DCPS convened the eligibility meeting on January 10, 2018; however, Petitioner and his representative were unable to attend on that date as well. The DCPS team determined Student eligible. (Respondent's Exhibit 3-3, 3-4, 3-5).

3. Thereafter, DCPS scheduled a meeting for February 9, 2018, to develop Student's individualized educational program ("IEP") and sent letters of invitation to the meeting and a draft IEP to Petitioner and his representatives. On February 9, 2018, DCPS convened the IEP meeting and developed Student's IEP. Neither Petitioner, nor his representative(s), attended the meeting. School A made good faith attempts to ensure Petitioner and/or his representative(s) were able to attend both the eligibility and IEP meetings. Student's IEP prescribes 20 hours per week of specialized instruction outside the general education setting, 120 minutes per month of behavioral support services outside the general education setting, 120 minutes per month of behavioral support services inside the general education setting and 60 minutes per month of consultative behavioral support services.[9] The IEP noted on LRE page that Student would be serviced outside the general education classroom 62.28% of the time. The LRE page mistakenly indicated Student's LRE placement category was a separate school. (Witness 3's testimony, Petitioner's Exhibits 3, 5-1, 5-9, 6, 16, Respondent's Exhibit 2-15, 2-16, 3-1)

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[8] The evidence (documentary and/or testimony) that is the source of the Findings of Fact ("FOF") is noted within a parenthesis following the finding. A document is noted by the exhibit number. 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.

[9] Student's IEP was amended on March 16, 2018, to correct an error in the consultative services. (Petitioner's Exhibit16-1, 16-3, 16-5, 16-13, Respondent's Exhibit 2-4)

4. School A also developed a behavior intervention plan ("BIP") to address Student's in-school behaviors including failure to comply with staff directives, walking around and out of the classroom, verbal aggression, profanity, threats and inattentiveness. (Respondent's Exhibit 29)

5. On February 11, 2018, DCPS issued Petitioner a prior written notice ("PWN") stating that the team developed an IEP and proposed Student receive 20 hours of specialized instruction outside the general education setting in the areas of English Language Arts ("ELA") and mathematics behavior support services of 240 minutes per month. (Petitioner's Exhibit 7-1)

6. DCPS sent Petitioner's attorney a copy of the IEP and offered to reconvene a multi-disciplinary team ("MDT") meeting to review the IEP with Petitioner when he was available to meet. (Respondent's Exhibit 2-15, 2-16)

7. Petitioner and Petitioner's counsel were satisfied with Student's IEP as developed and did not desire to convene a meeting to review the IEP after it was developed. Petitioner and Petitioner's counsel believed the IEP would be implemented at School A and presumed that the LRE page noting Student's LRE placement as a separate school to be an error. (Witness 1's testimony)

8. When School A developed Student's IEP the team determined Student required a classroom setting with fewer students, more staff, and more behavior support. However, the team did not specifically determine that Student would be in a BES program. (Witness 3's testimony)

9. Once Student was found eligible and the IEP was developed, School A began to temporarily implement the IEP by changing School A staff caseloads until DCPS central office could provide a long-term school location where Student's IEP could be implemented. School A cannot implement Student's IEP long-term because School A is not staffed appropriately and has no specialized programs to address Student's behavioral and academic needs. (Witness 3's testimony)

10. Since Student's the IEP was developed and implemented, Student's special education teacher has been attempting to provide Student 20 hours per week of specialized instruction. However, Student is often verbally aggressive with others, and the verbal aggression often escalates to physical aggression with Student fighting other students. Student has often had to be removed from the classroom for behavioral difficulties, resulting in regression of Student's academic achievement. (Witness 2's testimony)

11. On March 9, 2018, Petitioner's counsel received an email from School A with a letter of invitation informing Petitioner that Student's school location was changing and inviting Petitioner to attend a meeting regarding the change. (Witness 1's testimony)

12. On March 13, 2018, School A's special education coordinator sent an email to Petitioner's counsel identifying the new location of services ("LOS") at another DCPS school ("School B") for Student's IEP to be implemented for the remainder of SY 2017-2018. The email informed Petitioner that the LEA representative at School B proposed holding "a Transition Meeting at [School B] on Friday, March 23rd at noon" and asked that Petitioner's counsel confirm his availability to attend the meeting. (Respondent's Exhibit 2-7, 2-8 Petitioner's Exhibit 12)

13. On March 15, 2018, School A's special education coordinator sent an email to Petitioner's counsel stating that at School B Student would be integrated into a "full-time special education program… In this case a Behavior and Education Supports (BES) Classroom." The email went on to state the following: "…A full-time program was recommended by the MDT… Currently [School A] does not have this type of program on their campus thus…[Student] ha[s] been referred to and accepted into …appropriate program[s]." (Respondent's Exhibit 2-6)

14. A DCPS BES program is self-contained program that provides specialized instruction and behavior support. The School A special education coordinator personally viewed the BES program as the type of program with the structure and support that the IEP team determined Student required. (Witness 2's testimony, Witness 3's testimony)

15. In the March 15, 2018, email to Petitioner's counsel, School A's special education coordinator stated that her intention for the transition meeting at School B was to have a tour of School B following the transition meeting, and offered to schedule a tour of School B prior to the meeting, if Petitioner preferred. Although the meeting was characterized as a transition meeting, the meeting was also a placement meeting where Student's special education services and their implementation would be discussed. Petitioner and Petitioner's representative(s) would have had an opportunity for input regarding Student's placement. (Witness 3's testimony, Respondent's Exhibit 2-6)

16. DCPS issued a PWN dated March 21, 2018, that stated Student's placement would be changed to the DCPS BES at School B. The PWN is titled a "Notice of Change in Placement." (Petitioner's Exhibit 12-1)

17. On March 23, 2018, Petitioner filed his due process complaint. (Petitioner's Exhibit 13-1)

18. As a result of the due process complaint, Petitioner's counsel asserted stay-put rights for Student to remain at School A during the pendency of the due process complaint. DCPS has complied and Student has remained at School A. (Petitioner's Exhibit 14-1, 14-2)

19. On April 20, 2018, DCPS convened a resolution meeting that Petitioner and his representative attended. The DCPS personnel who participated included Student's general education and special education teachers, the School A principal, social worker and special education coordinator along with a DCPS central office compliance manager. During the meeting DCPS offered to convene an IEP meeting to resolve the complaint.

The complaint was not resolved and no subsequent meeting has occurred. (Petitioner's Exhibit 13)

20. On May 2, 2018, School A developed a safety plan to address Student's behaviors of verbal and physical aggression toward peers and staff, as well as Student's defiance and threats to leave school premises. (Respondent's Exhibits 30, 31)

21. On May 14, 2018, DCPS sent Petitioner a letter stating that another DCPS school ("School C") had been identified as Student's LOS for SY 2018-2019. (Respondent's Exhibit 33)

22. On May 31, 2018, DCPS issued a LOS letter and a PWN stating Student's placement for SY 2018-2019 would be a BES program at School C. The PWN states that the LEA requested a change in location of services because School A is unable to implement Student's IEP. The PWN is titled a "Notice of Change in Placement." (Petitioner's Exhibits 14-3, 15-1)

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").

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

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. Petitioner has not challenged the IEP DCPS has developed for Student. However, Petitioner asserts that the alleged procedural violation(s) amount to denial of FAPE to Student.

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)

Pursuant to 5E DCMR 3030.14 the burden of proof is the responsibility of the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528 (2005). In this case, as noted in the PHO and during the hearing, Respondent held the burden of persuasion on issue #1 after Petitioner established a prima facie case.[10] Petitioner held the burden of persuasion on issue #2. 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).

ISSUE 1: Whether the LEA denied Student a FAPE by failing to comply with the least restrictive environment requirements of *34 C.F.R. § 300.114* by moving Student from School A and placing Student in the BES program.

Conclusion: Respondent sustained the burden of persuasion by a preponderance of the evidence on this issue.

As IDEA demands, removing a child with disabilities "from the regular education environment occurs only when the nature or severity of the disability is such that education in regular classes cannot be achieved satisfactorily." 34C.F.R. § 300.550; 34 C.F.R. §300.114[11] see also 20 U.S.C. § (a)(5)(A) (a disabled child is to participate in the same activities as non-disabled children to the "maximum extent appropriate"); *Roark ex rel. Roark v. District of Columbia*, 460 F.Supp.2d 32, 43 (D.D.C. 2006) ("The IDEA requires school districts to place disabled children in the least restrictive environment possible.")

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[10] DC Code § 38-2571.03 (6) provides:
(A) In special education due process hearings occurring pursuant to IDEA (20 U.S.C. § 1415(f) and 20 U.S.C. § 1439(a)(1)), the party who filed for the due process hearing shall bear the burden of production and the burden of persuasion; except, that:

(i) Where there is a dispute about the appropriateness of the child's individual educational program or placement, or of the program or placement proposed by the public agency, the public agency shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement; provided, that the party requesting the due process hearing shall retain the burden of production and shall establish a prima facie case before the burden of persuasion falls on the public agency. The burden of persuasion shall be met by a preponderance of the evidence.

(ii) Where a party seeks tuition reimbursement for unilateral placement, the party seeking reimbursement shall bear the burden of production and the burden of persuasion on the appropriateness of the unilateral placement; provided, that the hearing officer shall have the authority to bifurcate a hearing regarding a unilateral placement; provided further, that if the hearing officer determines that the program offered by the public agency is appropriate, it is not necessary to inquire into the appropriateness of the unilateral placement.
(B) The student's paragraph shall apply to special education due process hearings resulting from complaints filed after July 1, 2016.

[11] *34 C.F.R* § 300.114 LRE requirements. (a) General. (1) Except as provided in § 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§ 300.115 through 300.120. (2) Each public agency must ensure that— (i) 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 (ii) 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.

The evidence in this case demonstrates that on February 9, 2018, DCPS developed an IEP for Student that prescribes 20 hours per week of specialized instruction and related services to be provided both inside and outside the general education setting. The evidence also demonstrates that although Student has attended School A, School A cannot implement Student's current IEP but made temporary staff changes to implement Student's IEP to best of its abilities until a new school location could be determined for Student. Neither Petitioner, nor his representative(s), attended Student's eligibility meeting or the February 9, 2018, IEP meeting. Petitioner is not challenging Student's IEP, but asserts that DCPS proposed change from implementing Student's IEP at School A to implementing the IEP in a BES program at another DCPS school amounts to a change in Student's LRE from a general education school to a self-contained special education program.

The evidence demonstrates based upon the credible testimony of School A's special education coordinator that the IEP team on February 9, 2018, concluded that Student required a placement with fewer students, more staff and more behavior support than is available to Student at School A. As a result, School A reached out to DCPS central office for a school location where Student's IEP could be implemented. DCPS determined that Student's IEP could be implemented in a BES program initially at School B for the remainder of SY 2017-2018 and then School C for SY 2018-2019.

Although Student's IEP team had not specifically determined Student's placement to be a BES program, the School A special education coordinator, who had been a member of Student's IEP team, viewed the BES program as consistent with the type of program the IEP team determined Student required: a setting with fewer students, more staff and more behavioral supports.

Although Petitioner asserts there is a distinct difference between Student's IEP being implemented at School A and it being implemented in a BES program, there was insufficient evidence for the Hearing Officer to conclude that the BES program is a significantly different placement than the IEP team concluded Student needed when it developed Student's IEP on February 9, 2018. There was testimony that a BES program is a self-contained special education program that will provide Student with the specialized instruction and related services of behavior support that Student's IEP prescribes.

Despite all "good faith" attempts by DCPS to involve Petitioner and Petitioner's representative(s) in the IEP process, neither participated in the Student's eligibility and IEP meetings. Petitioner has made no challenge to Student's IEP.

The evidence demonstrates that once DCPS central office informed the School A special education coordinator that Student's IEP could be implemented in the BES program at School B, she informed Petitioner's counsel and invited Petitioner to a meeting to tour the location and discuss the details of Student's transition to the program at School B. The special education coordinator credibly testified that a letter of invitation was sent to Petitioner and had the meeting been held Petitioner would have had an opportunity to discuss Student's placement.

Although the PWN had change in placement in its title and could have reasonably been interpreted to indicate that a change of placement was occurring in Student's move from School

A to School B, the evidence demonstrates that prior to the PWN being issued DCPS invited Petitioner and his representative(s) to a meeting at which Student's placement could be discussed. The Hearing Officer concludes that even if Student's move from School A to the BES program were considered a change in placement, the change had not actually occurred, and Petitioner was granted an opportunity with a letter of invitation to attend a meeting where Student's placement could be discussed and determined.

Consequently, the Hearing Officer concludes that DCPS did not violate IDEA's LRE requirement by proposing Student's move from School A to the BES program at School B or School C, thus Student was not denied a FAPE in this regard. Respondent sustained the burden of persuasion by a preponderance of the evidence on this issue.

ISSUE 2: Whether the LEA denied Student a FAPE by denying parental participation in the placement decision of *34 C.F.R. § 300.501(c)* by unilaterally changing Student's placement from School A to a BES program.

Conclusion: Petitioner did not sustain the burden of persuasion by a preponderance of the evidence on this issue.

34 C.F.R.§ 300.116 provides that in determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child and is made in conformity with the LRE provisions. [12]

34 C.F.R. § 300.501(c) provides that 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. [13]

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[12] *34 C.F.R.*§ 300.116 provides: In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that— (a) 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; and (2) Is made in conformity with the LRE provisions of this subpart, including §§ 300.114 through 300.118;
(b) The child's placement— (1) Is determined at least annually; (2) Is based on the child's IEP; and (3) Is as close as possible to the child's home;
(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend
if nondisabled;
(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and
(e) A child with a disability is not removed from education in age appropriate regular classrooms solely because of needed modifications in the general education curriculum.

[13] *34 C.F.R. § 300.501*(c) provides: (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

As stated above, the evidence demonstrates that once DCPS central office informed the School A special education coordinator that Student's IEP could be implemented in the BES program at School B, she informed Petitioner's counsel and invited Petitioner to a meeting to tour the location and discuss the details of Student's transition to the program at School B. The special education coordinator credibly testified that had such a meeting been held Petitioner would have had an opportunity to discuss Student's placement along with the change in LOS.

The School A special education coordinator did not personally view the BES program a change in placement. Instead, she viewed the BES programs as being consistent with the type of program and structure required by Student's IEP. Nonetheless, because placement could easily have been discussed at the meeting DCPS proposed and Petitioner could have had the opportunity to visit and view the program and location, the Hearing Officer does not find a violation of *34 C.F.R.*§ 300.501(c).

Consequently, the Hearing Officer concludes that DCPS did not violate IDEA's requirement that a parent participate in the placement decision and thus there was no denial of a FAPE in this regard. Petitioner did not sustain the burden of persuasion by a preponderance of the evidence on this issue.

Despite the outcome of this decision, the Hearing Officer encourages DCPS to again invite Petitioner to a meeting to discuss Student's placement and LOS for SY 2018-2019 at which the team, including Petitioner and/or his representative(s) can discuss any concerns Petitioner may have regarding the Student's placement and LOS.

ORDER: [14]

Petitioner's due process complaint filed March 23, 2018, is hereby dismissed with prejudice.

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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.

[14] Any delay in Respondent meeting the timelines of this Order that is the result of action or inaction by Petitioners shall extend the timelines on a day for day basis.

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 ninety (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*

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Coles B. Ruff, Esq.
Hearing Officer
Date: June 18, 2018

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