

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

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

OSSE
Office of Dispute Resolution
March 9, 2015

STUDENT, ¹)	Date Issued: 3/9/15
through her Parent,)	
Petitioner,)	
)	
v.)	Hearing Officer: Keith L. Seat, Esq.
)	
District of Columbia Public Schools)	
("DCPS"),)	
Respondent.)	
)	
)	
)	
)	

HEARING OFFICER DETERMINATION

Background

Petitioner, Student’s father, filed a due process complaint on 11/21/14, alleging that Student had been denied a free appropriate public education (“FAPE”) in violation of the Individuals with Disabilities Education Improvement Act (“IDEA”) because DCPS did not amend Student’s Individualized Education Program (“IEP”) at a meeting on 11/3/14 to provide a more restrictive placement for Student in light of recommendations in a psychological evaluation and her academic and behavioral issues. DCPS responded that it did provide Student a FAPE, as her IEP had just been modified on 9/29/14 and there was insufficient reason to change it again on 11/3/14.

Subject Matter Jurisdiction

Subject matter jurisdiction is conferred pursuant to IDEA, 20 U.S.C. § 1400, *et seq.*; the implementing regulations for IDEA, 34 C.F.R. Part 300; Title V, Chapter E-30, of the District of Columbia Municipal Regulations (“D.C.M.R.”) and 38 D.C. Code 2561.02.

¹ Personally identifiable information is provided in Appendix A.

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Procedural History

The due process complaint in this case was filed on 11/21/14 and assigned to this Hearing Officer on 11/25/14. Respondent filed a timely response to the complaint on 12/1/14. Respondent made no challenge to jurisdiction.

The resolution meeting took place on 12/1/14, at which time the parties neither resolved the case nor prematurely ended the resolution period. The 30-day resolution period ended on 12/21/14. A final decision in this matter must be reached no later than 45 days following the end of the resolution period, as extended by a 23-day continuance granted on 1/8/15 (due to the unavailability of DCPS counsel) and a 10-day continuance granted on 2/22/15 (due to the DC Government closing due to snow on 2/17/15, the scheduled hearing date). Thus, a Hearing Officer Determination (“HOD”) is due by 3/9/15. A prehearing conference was held by telephone on 12/17/14 and a Prehearing Order issued that same day.

The due process hearing, which was closed to the public, took place on 2/27/15 and 3/3/15.

Counsel declined to discuss settlement at the beginning of the hearing. Petitioner was present for the entire first day and virtually all of the second day of the hearing.

Neither party objected to the testimony of witnesses by telephone. The parties made no admissions and agreed on no stipulations.

Petitioner’s Disclosure statement, submitted on 2/10/15, consisted of a witness list of 7 witnesses and documents P1 through P52. Petitioner’s Disclosure statement and documents were admitted into evidence over objections based on illegibility, counsel as creator of documents, completeness, authenticity, relevance, and document version.

Respondent’s Disclosure statement, submitted on 2/10/15, consisted of a witness list of 5 witnesses and documents R1 through R16. Respondent’s Disclosure statement was admitted into evidence without objection.

Petitioner’s counsel presented 4 witnesses in Petitioner’s case-in-chief (*see* Appendix A):

1. Clinical Psychologist – qualified without objection as an expert in Clinical Psychology, Conducting Evaluations and Preparing Recommendations
2. Educational Advocate
3. Assistant Director at Nonpublic School
4. Parent

Respondent’s counsel presented 3 witnesses in its case (*see* Appendix A):

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1. School Psychologist – qualified without objection as an expert in School Psychology with a Focus on Conducting and Reviewing Psychological Assessments for IEP Development Purposes
2. General Education Teacher
3. BES Program Manager

Petitioner's counsel presented Parent as the sole rebuttal witness.

The issue to be determined in this Hearing Officer Determination is:

Issue: Whether DCPS denied Student a FAPE by failing to review and revise Student's IEP on 11/3/14 to address (a) lack of expected progress toward annual goals, and (b) the results of a 10/1/14 Psychological Evaluation.²

Petitioner seeks the following relief³:

1. A finding that DCPS denied Student a FAPE.
2. DCPS shall revise Student's IEP to provide full-time placement in a therapeutic environment, possibly a private placement with transportation services.
3. DCPS shall fund compensatory education for any denial of FAPE from the point that Student's IEP did not provide needed specialized instruction outside general education.
4. Any other appropriate relief.

Oral closing arguments were made by counsel for both parties at the end of the due process hearing.

² A second issue was expressly withdrawn by Petitioner's counsel at the beginning of the due process hearing. That issue was, "Whether DCPS denied Student a FAPE by failing to comprehensively evaluate Student in all areas of suspected disability by failing to conduct (a) a Speech-Language Evaluation, and (b) an Occupational Therapy Evaluation, as recommended in the 10/1/14 Psychological Evaluation."

³ Petitioner's counsel at the beginning of the due process hearing expressly withdrew a request for relief that, "DCPS shall conduct or fund (a) a Speech-Language Evaluation, and (b) an Educational Evaluation, and within 10 school days after receiving the completed assessments shall convene an IEP team meeting to review the results and revise Student's IEP." Petitioner's counsel also expressly withdrew a request for compensatory education "for delay in completing needed assessments."

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Findings of Fact

After considering all the evidence, as well as the arguments of both counsel, the Findings of Fact⁴ are as follows:

1. Student is a resident of the District of Columbia. Petitioner is Student's father ("Parent").⁵
2. Student is _____ at Public School 4, where she began at the beginning of the 2014/15 school year.⁶ Student completed 3rd grade at Public School 3, and had been in other schools previously as her parents sought to find a suitable program for her.⁷
3. Student has had serious issues _____ and now receives special education services under the disability classification of Emotional Disturbance.⁸ Psychological Evaluation of Student, Autism Spectrum Disorder was ruled out and Student's prior diagnosis of primary problems with mood regulation was confirmed as Disruptive Mood Dysregulation Disorder, along with Specific Learning Disorder with Impairment in Reading and Nocturnal Enuresis.⁹
4. The result of these disabilities is that Student has harmed and is at risk of further harming herself and others at school, through fighting and trying to escape from school buildings.¹⁰ Student had serious issues at the beginning of 2014/15 in her new school where she hadn't settled in and felt she couldn't trust any adults,

A 9/3/14 incident resulted in an emergency meeting with Student's Multi-Disciplinary Team ("MDT"), including the Public School 4 Principal and 11 others.¹² A 10/7/14 incident ended with Student struggling with and biting both the Principal and the Special Education Coordinator, resulting in her suspension for 2 days.¹³

⁴ 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.

⁵ Parent.

⁶ All dates in the "2014/15" format refer to school years.

⁷ Parent.

⁸ Parent; P37-1; P1-1,8; P8-1.

⁹ P25-7,8.

¹⁰ Parent.

¹¹ P16-1.

¹² R1-1.

¹³ P19; P21.

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Other serious incidents included hurting a girl who was taken from school by ambulance and nearly breaking a boy's nose.¹⁴ Student herself ended up in the Emergency Department of a hospital on 10/7/14 and 10/30/14.¹⁵

5. Parent was often called by Public School 4 about issues with Student and feels that Public School 4 did not always document Student's suspensions appropriately.¹⁶ The Principal of Public School 4 was seeking to calibrate the school's response and "send [a] message of accountability" using various responses, including suspensions as a step prior to suspending Student so that she missed classes.¹⁷

6. In addition to special education services, Student receives significant additional support, including psychiatric attention, daily medication, and assistance from a social worker, family therapist, and tutor.¹⁸

7. DCPS has taken Student's issues seriously, steadily increasing the level of support for Student. Functional Behavior Assessments ("FBAs") have been conducted and Behavior Improvement Plans ("BIPs") developed, along with Safety Plans.¹⁹ Student has had an IEP since age 5, which increased from a couple of hours per week to 10 hours per week out of general education at Public School 3.²⁰ At Public School 4, Student's IEP Team met for her 30-day review on 9/29/14 and proposed that Student's 10 hours per week outside general education be modified to 5 hours inside general education and 5 hours outside.²¹ Parent raised concerns with the proposal and the Team modified the draft IEP to restore 10 hours per week outside general education, and add an additional 5 hours of support inside general education.²² Student also has the support of a dedicated aide 7 hours per day to "monitor her behaviors and ensure her and others['] safety."²³ Parent agreed to the 9/29/14 IEP, although he preferred a full-time IEP.²⁴

8. Student "tries very hard" in general education, raising her hand to answer questions and going up to the board to work out math problems.²⁵ Student is "very social" while with

¹⁴ Parent.

¹⁵ P20; P22.

¹⁶ Parent.

¹⁷ P51-1.

¹⁸ P5-1; P28-2; Father.

¹⁹ P9 (1/22/14 FBA); P10 (1/27/14 BIP); P14 (Public School 4 BIP); P15 (9/8/14 Safety Plan)

²⁰ P11-7; Parent.

²¹ P27-10.

²² P28-8; P17-1.

²³ P28-8.

²⁴ Parent.

²⁵ P23-3; P24-5; General Education Teacher.

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general education peers.²⁶ Student is not a behavior problem in the general education classroom.²⁷ Nor does Student have behavior issues in special education sessions.²⁸

9. School Psychologist has recess duty and observes Student from a distance of no more than 10 feet for an hour every school day at recess, as well as at lunch.²⁹ Student appears to be happy and have friends, and enjoys recess and lunch with general education students.³⁰ Student is artistic and both enjoys and does well in art and music.³¹ Student benefits from interactions with her general education peers, both for learning from each other and for socialization.³²

10. School Psychologist has intervened in each of Student's 3 serious incidents in 2014/15; Student's behavior is not "over the top" and generally she is redirected easily when necessary.³³ Public School 4 can handle her behavior, which is serious but not extreme.³⁴ While still occurring, Student's incidents have decreased in frequency as 2014/15 progressed.³⁵

11. Some of the initial incidents during 2014/15 resulted from Student protecting her younger sister on the playground, which the school has addressed by making scheduling adjustments.³⁶ Student has improved her behavior of running out of the classroom, and even when she is out of place in the school, she has not left the building at Public School 4.³⁷ DCPS's Analysis of Existing Data on 12/1/14 noted that Student "has begun to acknowledge her behaviors and role" in incidents and is willing to attend sessions.³⁸

12. Student's IEP Progress Report for the period 8/25/14 to 10/31/14 rated her as making no progress in 2 of 3 goals under Emotional, Social, and Behavioral Development, and she is only making "slow progress" in the 3rd goal of getting along with peers.³⁹

13. Public School 4 uses a Positive Behavior Incentive System in which students move up or down a range of colors based on their behavior.⁴⁰ Student is generally above the

²⁶ P23-4.

²⁷ General Education Teacher; R1-2.

²⁸ P24-3.

²⁹ School Psychologist.

³⁰ *Id.*

³¹ Father; P42-2.

³² General Education Teacher.

³³ School Psychologist.

³⁴ *Id.*

³⁵ *Id.*

³⁶ R1-2; P16-2; School Psychologist.

³⁷ P42-2; Father.

³⁸ P36-4.

³⁹ R5-4,5.

⁴⁰ General Education Teacher.

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middle and rarely in the lower colors.⁴¹ Other positive incentives are also used, including rewarding good behavior with “Tiger Bucks,” which motivate Student.⁴²

14. The 10/1/14 Psychological Evaluation did not address current educational issues or academic testing.⁴³ The later Educational Evaluation of Student, based on Woodcock-Johnson III testing on 12/15/14, indicated that Student’s “academic achievement is in the average range” in (a) Broad Written Language, (b) Broad Reading, (c) Written Expression, (d) Basic Reading Skills, (e) fluency with academic tasks, and (f) ability to apply academic skills.⁴⁴ No “significant strengths or weaknesses” were found among her scores for a selected set of achievement areas.⁴⁵

15. Academically, Student’s IEP Progress Report for the period 8/25/14 to 10/31/14 rated her as progressing and working toward mastery.⁴⁶ The benchmark i-Ready on 9/25/14 showed Student at Level 1, while the midyear i-Ready on 1/15/15 showed Student at Level II, with scores increasing from 414 to 434, although she is below grade level.⁴⁷

16. Student’s IEP Team met on 11/3/14 to review Student’s 10/1/14 Psychological Evaluation to see if Autism Spectrum Disorder could be ruled out.⁴⁸ Parent’s desire for a full-time IEP was raised then and in follow-up emails from Educational Advocate, but the Team did not adopt the Psychological Evaluation’s recommendation for a “highly specialized, full-time special education placement that includes therapeutic...and safety...supports, and highly individualized special education instruction...”⁴⁹ Student’s IEP Team was comprised of those who work with Student and know her best and can see all sides of the issue.⁵⁰ Clinical Psychologist, who conducted the Evaluation, does not work with or observe Student in her school setting and was not a member of Student’s IEP Team.⁵¹ Clinical Psychologist has participated in only 2 IEP meetings in her career, neither of which involved Student.⁵²

17. After the due process complaint was filed in this case, DCPS agreed on 12/1/14 to increase Student’s IEP to 20 hours per week outside general education, which it considers full-time apart from “Specials” – such as music, art and physical education – in which

⁴¹ *Id.*

⁴² General Education Teacher; P14-1.

⁴³ Clinical Psychologist; School Psychologist.

⁴⁴ P43-1,2.

⁴⁵ *Id.*

⁴⁶ R5-1,2,3,4; General Education Teacher.

⁴⁷ General Education Teacher; R14-3.

⁴⁸ School Psychologist; R1-2.

⁴⁹ P25-8; P50-11,12; School Psychologist.

⁵⁰ School Psychologist.

⁵¹ Clinical Psychologist; School Psychologist.

⁵² Clinical Psychologist.

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Student would be with general education peers.⁵³ Parent agreed with the increase in hours, but seeks an even more restrictive placement.⁵⁴

18. DCPS sent Parent a letter dated 12/23/14 indicating that a self-contained Behavior and Education Support (“BES”) classroom at BES Public School would be Student’s new Location of Special Education Services to implement her 12/1/14 IEP.⁵⁵ Student would be the 7th student in her BES classroom, which is comprised of children with behavioral issues.⁵⁶ The BES classroom has a teacher, 2 support staff, including a behavior tech specialist; Student’s dedicated aide would also be there with her.⁵⁷ Transitions from the BES classroom to Specials, lunch, and recess would be monitored by classroom staff as well as Student’s dedicated aide.⁵⁸

19. BES Public School also has the ability to implement a more restrictive IEP with 26.5 hours out of general education, should that ever be required.⁵⁹ In addition to the behavior tech specialist in the BES classroom, who is trained in behavior management, BES Public School also has a full-time (or close to full-time) psychologist or psychiatrist on staff.⁶⁰ While having some attributes of a therapeutic day school, BES Public School has advantages of often not requiring students to travel as far, reducing behavioral issues while commuting across the city by bus; not facing stigma from peers for being in a separate school; and being able to shift to a less restrictive program without having to change schools.⁶¹

Conclusions of Law

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

The overall purpose of the IDEA is to ensure that “all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.” 20 U.S.C. § 1400(d)(1)(A).

To provide a FAPE for children with disabilities, “the child’s parents, teachers, school officials, and other professionals collaborate in a ‘multi-disciplinary team’ to develop an individualized educational program (IEP) to meet the child’s unique needs. *See* [20

⁵³ P37-8; R7-3.

⁵⁴ R8-1.

⁵⁵ P44-1; BES Program Manager.

⁵⁶ BES Program Manager.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

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U.S.C.] § 1414(d)(1)(B).” *D.K. v. Dist. of Columbia*, 983 F. Supp. 2d 138, 141 (D.D.C. 2013). See also *Reid ex rel. Reid v. Dist. of Columbia*, 401 F.3d 516, 519 (D.C. Cir.2005); *Dist. of Columbia v. Wolfire*, 10 F. Supp. 3d 89, 92 (D.D.C. 2014); *Smith v. Dist. of Columbia*, CV 12-2058 JEB/DAR, 2014 WL 1425737, at *4 (D.D.C. Mar. 14, 2014)

The Act’s FAPE requirement is satisfied “by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.” *Smith v. Dist. of Columbia*, 846 F. Supp. 2d 197, 202 (D.D.C. 2012), citing *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 203, 102 S. Ct. 3034, 73 L. Ed. 2d 690 (1982). The IDEA imposes no additional requirement that the services so provided be sufficient to maximize each child’s potential commensurate with the opportunity provided other children. *Rowley*, 458 U.S. at 198. Congress, however, “did not intend that a school system could discharge its duty under the [IDEA] by providing a program that produces some minimal academic advancement, no matter how trivial.” *Hall ex rel. Hall v. Vance County Bd. of Educ.*, 774 F.2d 629, 636 (4th Cir. 1985).

Importantly, DCPS must ensure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occur 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 Hearing Officer’s determination of whether a child received a FAPE must be based on substantive grounds. In matters alleging a procedural violation, a Hearing Officer may find that a child did not receive a FAPE only if the procedural inadequacies (i) impeded the child’s right to a FAPE; (ii) significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent’s child; or (iii) caused a deprivation of educational benefit. 34 C.F.R. 300.513(a). In other words, an IDEA claim is viable only if those procedural violations affected the child’s *substantive* rights.

“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. § 3030.3. The burden of proof is on the party seeking relief. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62, 126 S. Ct. 528, 537, 163 L. Ed. 2d 387 (2005).

Issue: *Whether DCPS denied Student a FAPE by failing to review and revise Student’s IEP on 11/3/14 to address (a) lack of expected progress toward annual goals, and (b) the results of a 10/1/14 Psychological Evaluation.*

The sole issue in this case is Petitioner’s contention that Student was denied a FAPE when Student’s IEP Team on 11/3/14 failed to amend her IEP to provide a full-time therapeutic special education placement based on her Psychological Evaluation or lack of progress. Under the IDEA, DCPS is obliged to ensure that the IEP Team reviews

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evaluations and information provided by the parents of a child with a disability, 34 C.F.R. 300.305(a), and revises her IEP, as appropriate, to address the results of any reevaluation and information provided. 34 C.F.R. 300.324(b).⁶² That was done here. Student's IEP Team came together on 11/3/14 to review Student's 10/1/14 Psychological Evaluation, which had been conducted to see if Autism Spectrum Disorder could be ruled out. Parent's desire for a full-time IEP was raised on 11/3/14 and in follow-up communications, but the Team did not adopt the Psychological Evaluation's recommendation for a full-time therapeutic day school. This Hearing Officer concludes that Student was not denied a FAPE for the reasons discussed below.

As an initial matter, Student's IEP had just been adjusted on 9/29/14, adding 5 hours of additional support inside general education to the 10 hours outside general education already in Student's IEP from earlier in 2014, and continuing both 4 hours of counseling a month and a dedicated aide 7 hours a day. Parent had agreed to this increase and is not challenging the 9/29/14 IEP in the present case. Only 23 school days had passed before Student's Team came back together to review her new Psychological Evaluation, which was hardly time to have new data or information on which to determine whether the 9/29/14 IEP was inadequate, apart from the recommendations in the Evaluation. In fact, the Psychological Evaluation was conducted on 9/18/14, prior to the increase in Student's IEP hours on 9/29/14, so none of the underlying data or information included in the Evaluation was from the relevant time period between 9/29/14 and 11/3/14. Moreover, the Psychological Evaluation did not address current educational issues and academic testing.

The key aspects of the Psychological Evaluation were that it ruled out Autism Spectrum Disorder and confirmed Student's prior diagnosis relating to mood dysregulation. Without additional academic testing, Clinical Psychologist recommended a more restrictive setting with a "highly specialized, full-time special education placement that includes therapeutic...and safety...supports, and highly individualized special education instruction..." which Student's IEP Team did not adopt on 11/3/14. It is not the role of an outside evaluator to rewrite a student's IEP and it would not be appropriate for the recommendations of any single professional, no matter how well qualified, to be uncritically implemented in place of the judgment of the IEP Team that knows and works closely with the student. The IDEA and its regulations establish the process for developing and revising an IEP, and carefully define the composition of the IEP Team to ensure that the particular needs of each student are considered and incorporated into her IEP by those who are most knowledgeable about her. 34 C.F.R. 300.324, 300.321. The strength of the IEP process comes from the group interaction and integration of the varying viewpoints of a team

⁶² The IDEA requires that the LEA ensure that the IEP Team (i) reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and (ii) revises the IEP, as appropriate, to address any lack of expected progress toward annual goals and in the general curriculum, the results of any reevaluation, information about the student provided by the parents, the student's anticipated needs and other matters. 34 C.F.R. 300.324(b).

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comprised of those who work with and know the student best, in order to arrive at a consensus that will appropriately guide the educational path of each student.

The reasonableness of not modifying Student's 9/29/14 IEP on 11/3/14 is seen from the fact that Student did make academic progress during that period, receiving meaningful educational benefit. Student's IEP Progress Report for the period 8/25/14 to 10/31/14 rated her as progressing in academic areas and working toward mastery. The i-Ready benchmark test on 9/25/14 showed Student at Level 1, while the midyear i-Ready on 1/15/15 showed Student at Level II, with her scores increasing from 414 to 434. Based on December 2014 testing, Student's academic achievement is in the "average range" in Broad Written Language, Broad Reading, Written Expression, Basic Reading Skills, fluency with academic tasks, and ability to apply academic skills. *See Pinto v. Dist. of Columbia*, 2013 WL 1445344, 4 (D.D.C. 2013) (an IEP must be "reasonably calculated to enable the child to receive educational benefits" in order to adequately provide FAPE), *quoting Rowley*, 458 U.S. at 207.

While Student's IEP Progress Report rated her as making little progress on Emotional, Social, and Behavioral Development, Student appeared to be improving by other measures. Some of the initial incidents resulted from Student protecting her younger sister on the playground, which the school addressed with scheduling adjustments. Student had improved her behavior of running out of the classroom and had not improperly left the building at Public School 4. Notably, Student had begun to take responsibility by acknowledging her behaviors and role in incidents.

However, DCPS has continued to work with Parent even after the due process complaint was filed in this case, increasing Student's IEP to 20 hours outside general education on 12/1/14, which is full-time apart from Specials. DCPS has determined the appropriate location of services to be a self-contained Behavior and Education Support classroom at BES Public School in order to better address Student's behavioral issues. BES Public School has attributes of a therapeutic school, with a psychologist or psychiatrist on staff, along with a behavior tech specialist in the BES classroom who is trained in behavior management. In addition, the BES Public School has the added benefit of flexibility by being able to provide Student with interactions with general education peers for Specials and lunch and recess, which DCPS reasonably believes is appropriate now, plus the ability to remove Student from interactions with nondisabled students during Specials if necessary in the future. This is particularly important given Student's challenges in changing schools and moving to a new environment.

Student is artistic and does well in art and music, which she attends with general education peers. School Psychologist credibly testified that Student appears to enjoy recess and lunch with general education students, while General Education Teacher credibly testified that Student works well in her general education classes. Student participates while in general education classes and is very social there. In addition, Specials were the only areas in which Student received the best mark of "Secure" on her 2014/15 Report Card from Public School 4, improving from 1st Term to 2nd Term; in Specials, Student was with her general education peers. The IDEA requires school districts to place disabled children in

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the least restrictive environment possible. *Roark ex rel. Roark v. Dist. of Columbia*, 460 F.Supp.2d 32, 43 (D.D.C. 2006) (*citing* 20 U.S.C. § 1412(a)(5); 34 C.F.R. 300.550; 5 D.C.M.R. § 3011). This Hearing Officer concludes that a separate full-time day school would not be Student's LRE.

Nonetheless, as Student's education progresses, DCPS is certainly encouraged to continue working with Parent so that Student continues to receive a FAPE and has every opportunity to thrive.

ORDER

Petitioner has failed to meet his burden of proof on the issue in this case. Accordingly, **it is hereby ordered** that any and all claims and requests for relief are **dismissed with prejudice**.

IT IS SO ORDERED.

Dated in Caption

/s/ Keith Seat

Keith L. Seat, Esq.
Hearing Officer

NOTICE OF RIGHT TO APPEAL

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