

**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, D.C. 20002

OSSE  
Office of Dispute Resolution  
May 18, 2016

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<i>Student</i> , <sup>1</sup>	)	Date Issued: 5/18/16
through his <i>Parent</i> ,	)	
<i>Petitioner</i>	)	Case No.: 2016-0053
	)	
v.	)	Hearing Officer: Keith L. Seat, Esq.
	)	
District of Columbia Public Schools	)	Hearing Date: 5/2/16
("DCPS"),	)	Hearing Location: ODR Room 2004
Respondent	)	

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**HEARING OFFICER DETERMINATION**

**Background**

Petitioner, Student’s grandmother, filed a due process complaint alleging that Student had been denied a free appropriate public education (“FAPE”) in violation of the Individuals with Disabilities Education Improvement Act (“IDEA”) because Student’s Individualized Education Programs (“IEPs”) and placement were not adequate for his academic and behavioral needs. DCPS responded that the IEPs were appropriate when developed, that DCPS had appropriately responded to Student’s needs by increasing his level of services, and that Student was receiving educational benefit.

**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; and Title V, Chapter E-30, of the District of Columbia Municipal Regulations (“D.C.M.R.”).

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<sup>1</sup> Personally identifiable information is provided in Appendix A, including terms initially stated in italics.

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### Procedural History

Following the filing of the due process complaint on 3/7/16, the case was assigned to the undersigned on 3/8/16. DCPS's timely filed its response on 3/17/16 and did not challenge jurisdiction.

The resolution session meeting was held on 4/8/16, after being delayed by Parent's illness, but the parties did not settle the case. The 30-day resolution period ended on 4/6/16. A final decision in this matter must be reached no later than 45 days following the end of the resolution period, which requires a Hearing Officer Determination ("HOD") by 5/21/16.

The due process hearing took place on 5/2/16, and was closed to the public. Petitioner was represented by *Petitioner's counsel*. DCPS was represented by *Respondent's counsel*. Parent was present during the hearing. Neither party objected to the testimony of witnesses by telephone. The parties agreed on no stipulations.

Petitioner's Disclosure statement, submitted on 4/25/16, consisted of a witness list of nine witnesses and documents P1 through P62, which were admitted into evidence without objection.

Respondent's Disclosure statement, submitted on 4/25/16, consisted of a witness list of five witnesses and documents R1 through R8, which were admitted into evidence without objection.

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

1. *Compensatory Education Planner* (qualified without objection as an expert in IEP Programming and Special Education Instruction)
2. *Center Director*
3. *Educational Advocate*
4. Parent

Respondent's counsel presented one witness in Respondent's case (*see Appendix A*): *Special Education Teacher*.

Petitioner's counsel did not call any rebuttal witnesses.

The issues<sup>2</sup> to be determined in this Hearing Officer Determination are:

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<sup>2</sup> A third issue was expressly withdrawn by Petitioner's counsel during the Prehearing Conference, which was "Whether DCPS denied Student a FAPE by failing to provide a

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**Issue 1:** Whether DCPS denied Student a FAPE from the beginning of the 2015/16 school year<sup>3</sup> by failing to provide an appropriate IEP, which needed to include (a) more hours of specialized instruction outside general education, (b) meaningful and measurable goals and baselines, (c) appropriate levels of behavioral supports and counseling, and (d) classroom and statewide assessment accommodations, to address Student's academic and behavioral challenges.

**Issue 2:** Whether DCPS denied Student a FAPE from the beginning of the 2015/16 school year by failing to provide an appropriate placement and location of services that is sufficiently restrictive and therapeutic, where Student's IEP team on 2/23/16 concurred that he needed a more restrictive and therapeutic placement and agreed to refer placement to DCPS's LRE team.

Petitioner seeks the following relief:

1. A finding that Student was denied a FAPE.
2. In order to ensure an appropriate IEP and placement, DCPS shall take any actions needed to conduct evaluations, assessments, and screenings; develop plans; and make LRE referrals.
3. Within 10 school days after completing the actions, if any, in the previous paragraph, DCPS shall convene an IEP team meeting to review the results, modify Student's IEP as needed, and determine an appropriate placement.
4. DCPS shall update Student's IEP with appropriate (a) hours of specialized instruction and services outside general education, (b) behavioral goals and supports, (c) testing and classroom accommodations, and (d) measurable and meaningful baselines for Student's behavior.
5. DCPS shall provide or fund an appropriate, full-time, special education placement.
6. DCPS shall provide or fund compensatory education for any denial of FAPE.
7. Any other just and appropriate relief.

An oral opening statement was made by Petitioner's counsel and waived by Respondent's counsel. Oral closing statements were made by both Petitioner's counsel and Respondent's counsel.

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finalized copy of Student's 2/23/16 IEP to Parent within five business days after the IEP meeting, impeding Parent's ability to participate in decision-making to provide a FAPE to Student." DCPS provided a courtesy copy of the IEP with its response to the complaint.

<sup>3</sup> All dates in the format "2015/16" refer to school years.

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### Findings of Fact

After considering all the evidence, as well as the arguments of both counsel, the Findings of Fact<sup>4</sup> are as follows:

1. Student is a resident of the District of Columbia; Petitioner is Student's Parent.<sup>5</sup> Student is *Age* and in *Grade* at Public School.<sup>6</sup>

2. Student is classified as a child with Other Health Impairment ("OHI"), due to Attention Deficit Disorder ("ADD") or Attention Deficit Hyperactivity Disorder ("ADHD").<sup>7</sup> Student's 11/13/14 IEP and earlier IEPs classified him as having Developmental Delay.<sup>8</sup> Student has been diagnosed with ADHD, Anxiety Disorder NOS, and Depressive Disorder NOS, along with School environment challenges.<sup>9</sup>

3. The IEPs at issue are dated 3/24/15 and 2/23/16: Student's 2/23/16 IEP provides five hours/week of specialized instruction within general education and ten hours/week outside general education, along with two hours/month of speech-language pathology and 180 minutes/month of behavioral support services ("BSS").<sup>10</sup> Student's 3/24/15 IEP provided five hours/week of specialized instruction within general education and five hours/week outside general education, along with two hours/month of speech-language pathology and 120 minutes/month of behavioral support services.<sup>11</sup> Prior to that, Student's 11/13/14 IEP provided three hours/week of specialized instruction within general education and 4.5 hours/week outside general education, and four hours/month of speech-language pathology.<sup>12</sup> Student's 12/9/13 IEP provided two hours/week of specialized instruction outside general education, and two hours/month of speech-language pathology.<sup>13</sup>

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<sup>4</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.

<sup>5</sup> Parent (in this case the definition of "parent" in 34 C.F.R. 300.30 includes both guardian and grandparent).

<sup>6</sup> Parent; P50-1.

<sup>7</sup> R4-1; R3-1.

<sup>8</sup> P8-1, P9-1; P10-1; Compensatory Education Planner.

<sup>9</sup> P11-8.

<sup>10</sup> R4-10.

<sup>11</sup> R3-9,12.

<sup>12</sup> P8-1,6.

<sup>13</sup> P9-11.

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4. Petitioner introduced into evidence and relied during the due process hearing on a draft 2/11/16 IEP that contained only half the amount of specialized instruction outside general education (five hours instead of 10) and only two-thirds of the BSS (120 minutes rather than 180) compared to the finalized 2/23/15 IEP.<sup>14</sup>

5. Cognitively, Student was found to be Low Average in 2015 using both the Wechsler Abbreviated Scale of Intelligence (“WASI”) and the Woodcock Johnson III, Brief Intellectual Ability.<sup>15</sup>

6. In early 2016, Student’s Reading and Writing were below grade level and he was struggling with Math.<sup>16</sup> In 2015/16, Student’s core course grades were all Below Basic, except for Math which was Proficient; his report card was worse in 2015/16 than 2014/15.<sup>17</sup> While not to grade level, Student’s i-Ready Math scores increased from 336 on 9/8/15 to 367 on 1/20/16.<sup>18</sup> Student’s classroom teacher stated on 2/23/16 that since the beginning of the year Student had shown improvement in Math.<sup>19</sup> Special Education Teacher testified that DCPS is helping Student’s Reading.<sup>20</sup> Public School has an intensive reading program that might benefit Student.<sup>21</sup> Student’s IEP Progress Report for Reporting Period 3 in 2015/16 shows that Student was mostly Progressing in Reading.<sup>22</sup>

7. Student continued to struggle with self-regulation and had difficulty coping with redirection, maintaining focus and communicating his feelings appropriately; the Connors 3 in 2015 indicated concerns about Student’s behavior.<sup>23</sup> Student’s problematic behaviors escalated in 2015/16; behavioral challenges occur in the classroom daily.<sup>24</sup> Parent was particularly concerned about receiving phone calls from Public School about Student; Parent refused outside support services for Student.<sup>25</sup>

8. A BIP was developed on 1/26/15 to address Student’s mood instability, emotional disengagement, and irritability.<sup>26</sup> Service Trackers for Student’s counseling state in February 2016 that he was Regressing or Inconsistent, while in March 2016 he was mostly

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<sup>14</sup> P7-8; R4-10.

<sup>15</sup> P11-3,4.

<sup>16</sup> R4-4,5,6,16.

<sup>17</sup> P29-1; P62-8.

<sup>18</sup> P14-1; R7-3.

<sup>19</sup> R4-16.

<sup>20</sup> Special Education Teacher.

<sup>21</sup> *Id.*

<sup>22</sup> P62-13,14.

<sup>23</sup> R4-8; P11-5.

<sup>24</sup> P62-18,19,20,21,22; Compensatory Education Planner.

<sup>25</sup> R4-16,17; Educational Advocate; Parent.

<sup>26</sup> P15-1.

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Progressing.<sup>27</sup> In speech-language, Student was consistently Progressing in February and March 2016.<sup>28</sup>

9. Student is able to access general education and benefit from it.<sup>29</sup> Student fits into the general education classroom; observers of Student's general education class may not be able to tell that he is a special education student.<sup>30</sup> Seeing other children without negative behaviors is beneficial modeling for Student.<sup>31</sup> Student often does better in a general education setting than when pulled out, because there is more negative behavior among the other children who are pulled out compared to the general education classroom; Student picks up that bad behavior.<sup>32</sup> Student's hours of pull-out were doubled from five to 10 on 2/23/16, which was appropriate to provide more one-on-one reading support in a smaller setting.<sup>33</sup>

10. Student's goals and baselines in his 2/23/16 IEP were updated from his 3/24/15 IEP, with changes taking into account his higher grade level.<sup>34</sup> Petitioner's advocate at the 2/23/16 IEP team meeting confirmed that "Math Goals were develop[ed] and reviewed by MDT Team"; "Reading Goals were also developed," as were "Writing Goals."<sup>35</sup>

11. Student's 3/24/15 and 2/23/16 IEPs both indicate that Student is to have regular statewide assessment "with accommodations," but list no accommodations.<sup>36</sup>

12. On 3/24/15, BSS was added to Student's IEP for the first time, providing 120 minutes/month.<sup>37</sup> Petitioner's advocate unsuccessfully requested an increase in BSS to 60 minutes/week at the 2/23/16 IEP team meeting.<sup>38</sup> Student's BSS was increased from 30 to 45 minutes/week (180 minutes/month) on 2/23/16, based on the social worker's recommendation that the extra support would help Student.<sup>39</sup>

13. On 2/23/16, Student's IEP team agreed to make an LRE referral and reconvene to discuss the report.<sup>40</sup> The LRE report of 4/10/16 noted that Student has an "FBA1/BIP1" and recommended that behavior data sheets track progress and demonstrate that the BIP is being

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<sup>27</sup> P62-1,4.

<sup>28</sup> P62-3,6.

<sup>29</sup> Special Education Teacher.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> R3; R4.

<sup>35</sup> P51-1.

<sup>36</sup> R3-11; R4-12; P50-3.

<sup>37</sup> P8-6; R3-9.

<sup>38</sup> P51-2.

<sup>39</sup> Special Education Teacher.

<sup>40</sup> R4-17; Educational Advocate.

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implemented with fidelity.<sup>41</sup> The LRE report recommended keeping Student in Public School, as he benefits from the least restrictive school setting there.<sup>42</sup>

### 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). *See Boose v. Dist. of Columbia*, 786 F.3d 1054, 1056 (D.C. Cir. 2015) (the IDEA "aims to ensure that every child has a meaningful opportunity to benefit from public education").

"[T]o further Congress' ambitious goals for the IDEA, the Supreme Court has focused on the centrality of the IEP as 'the centerpiece of the statute's education delivery system for disabled children.'" *Harris v. Dist. of Columbia*, 561 F. Supp. 2d 63, 67 (D.D.C. 2008), *quoting Honig v. Doe*, 484 U.S. 305, 311, 108 S. Ct. 592, 98 L. Ed. 2d 686 (1988).

Once a child who may need special education services is identified and found eligible, DCPS must devise an IEP, mapping out specific educational goals and requirements in light of the child's disabilities and matching the child with a school capable of fulfilling those needs. *See* 20 U.S.C. §§ 1412(a)(4), 1414(d), 1401(a)(14); *Sch. Comm. of Town of Burlington, Mass. v. Dep't of Educ. of Mass.*, 471 U.S. 359, 369, 105 S. Ct. 1996, 2002, 85 L. Ed. 2d 385 (1985); *Jenkins v. Squillacote*, 935 F.2d 303, 304 (D.C. Cir. 1991); *Dist. of Columbia v. Doe*, 611 F.3d 888, 892 n.5 (D.C. Cir. 2010).

As discussed below, 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. *Rowley*, 458 U.S. at 198. Congress, however, "did not intend that a school system could discharge its duty under the [Act] 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).

In addition, Respondent 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

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<sup>41</sup> R5-5.

<sup>42</sup> R5-4.

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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 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-E 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 1:** *Whether DCPS denied Student a FAPE from the beginning of the 2015/16 school year by failing to provide an appropriate IEP, which needed to include (a) more hours of specialized instruction outside general education, (b) meaningful and measurable goals and baselines, (c) appropriate levels of behavioral supports and counseling, and (d) classroom and statewide assessment accommodations, to address Student's academic and behavioral challenges.*

**Issue 2:** *Whether DCPS denied Student a FAPE from the beginning of the 2015/16 school year by failing to provide an appropriate placement and location of services that is sufficiently restrictive and therapeutic, where Student's IEP team on 2/23/16 concurred that he needed a more restrictive and therapeutic placement and agreed to refer placement to DCPS's LRE team.*

Petitioner failed to meet her burden of proving a denial of FAPE on either Issue 1 or Issue 2,<sup>43</sup> as DCPS demonstrated that Student's IEPs were reasonably calculated to enable Student to receive educational benefits at the time they were developed, and that DCPS has been increasing services to Student in light of his increasing needs. The legal issue is whether Student's IEPs were sufficient to enable him to advance appropriately toward

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<sup>43</sup> Issues 1 and 2 are considered together, for a “student's IEP determines whether an educational placement is appropriate; the placement does not dictate the IEP.” *S.S. by & through St. v. Dist. of Columbia*, 68 F. Supp. 3d 1, 18 (D.D.C. 2014), *citing Roark*, 460 F. Supp. 2d at 44.

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attaining his annual goals pursuant to 34 C.F.R. 300.320(a)(4) or whether his IEPs needed to be more restrictive.

To determine whether a FAPE has been provided through an IEP, a Hearing Officer must determine:

First, has the State complied with the procedures set forth in the [IDEA]? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.

*A.M. v. Dist. of Columbia*, 933 F. Supp. 2d 193, 204 (D.D.C. 2013), *quoting Rowley*, 458 U.S. at 206-07. The measure and adequacy of the IEPs are determined as of the time they were offered to Student. *See, e.g., S.S. ex rel. Shank v. Howard Rd. Acad.*, 585 F. Supp. 2d 56, 66 (D.D.C. 2008).

Here, the suitability of Student's IEPs and the adequacy of his ongoing placement at Public School is analyzed by considering the concerns raised by Petitioner about Student's amount of specialized instruction, goals and baselines, behavioral supports and counseling, and accommodations for statewide assessments, as well as his placement. *See* 34 C.F.R. 300.320(a)(1), 300.320(a)(2), 300.320(a)(4), 300.320(a)(6), 300.116; *Honig v. Doe*, 484 U.S. 305, 311, 108 S. Ct. 592, 98 L. Ed. 2d 686 (1988).

Specialized Instruction. Student has not been doing well academically at Public School, as his Reading, Writing and Math are all below grade level. His report card was worse in 2015/16 than the previous year, with all of his core course grades Below Basic, except for Math, which was Proficient. On the other hand, Special Education Teacher, whose testimony this Hearing Officer found credible and who has worked closely with Student as his special education teacher, testified that Student is able to access and benefit from general education. Further, Special Education Teacher testified that DCPS is helping Student's Reading. Student's i-Ready Math scores increased during 2015/16 and his classroom teacher stated that Student has improved in Math this year. Significantly, to address academic concerns, Student's specialized instruction was increased in his 3/24/15 IEP and then his pull-out hours were doubled from five to 10 in his 2/23/16 IEP, in order to provide more one-on-one reading support in a smaller setting. Petitioner presented no evidence that more than 10 hours/week of specialized instruction outside general education was needed, mistakenly attacking a draft IEP that included only five hours/week outside general education.

Goals and Baselines. Petitioner alleged that the annual goals and baselines in Student's IEPs were inadequate,<sup>44</sup> but offered no competent evidence that the goals in

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<sup>44</sup> Every IEP must include a written statement for the student "that is developed, reviewed, and revised" at the IEP team meeting, which must include—

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Student's 3/24/15 and 2/23/16 IEPs were not reasonably designed to meet Student's educational needs. Student's goals and baselines in his 2/23/16 IEP were updated from his 3/24/15 IEP, taking into account his higher grade level. Where there was repetition, Petitioner offered no evidence that Student's earlier IEP goals were mastered or were outdated. *See Bd. of Educ. of Montgomery County v. Brett Y*, 1998 WL 390553, at 11 (4th Cir. 1998). *See also Tice By & Through Tice v. Botetourt County Sch. Bd.*, 908 F.2d 1200, 1207 (4th Cir. 1990) ("a reviewing court should be reluctant indeed to second-guess the judgment of education professionals . . . nor . . . disturb an IEP simply because we disagree with its content. Rather, we must defer to educators' decisions as long as an IEP provided the child 'the basic floor of opportunity that access to special education and related services provides'" (quoting *Rowley*, 458 U.S. at 201)).

Behavioral Supports and Counseling. Petitioner alleged that the behavioral supports and counseling in place for Student were insufficient to provide a FAPE, but again failed to offer evidence to support her contention. Student struggles with self-regulation and has difficulty coping with redirection, maintaining focus and communicating his feelings appropriately, which was substantiated by an assessment of Student last year. Student's problematic behaviors escalated in 2015/16 and occur daily. However, Special Education Teacher credibly testified that Student fits into the general education classroom and that observers may not even be able to tell that Student is a special education student. Importantly, Public School increased Student's behavioral support services to address Petitioner's concerns, including BSS for the first time in the 3/24/15 IEP at 120 minutes/month, and then increased BSS by another 50% to 180 minutes/month in the 2/23/16 IEP. Petitioner's advocate sought to increase Student's BSS to 60 minutes/week on 2/23/16, which would have doubled the services in one step, but Petitioner provided no evidence at the due process hearing demonstrating that such a sizeable step was necessary for a FAPE.

Testing Accommodations. Student's 3/24/15 and 2/23/16 IEPs both indicate that he is to have regular statewide assessments "with accommodations," but listed no accommodations. *See* 34 C.F.R. 300.320(a)(6). This failure to provide any accommodations on his IEP is a procedural violation, but Petitioner did not provide any

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(1) A statement of the child's present levels of academic achievement and functional performance, including—

(i) How the child's disability affects the child's involvement and progress in the general education curriculum (*i.e.*, the same curriculum as for nondisabled children); . . .

(2)(i) A statement of measurable annual goals, including academic and functional goals designed to—

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability. . . .

34 C.F.R. 300.320(a).

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evidence to demonstrate that this omission had a substantive impact by impeding Student's right to a FAPE; significantly impeding Parent's opportunity to participate in decision-making regarding the provision of a FAPE; or causing a deprivation of educational benefit. See 34 C.F.R. 300.513(a); *Leggett v. Dist. of Columbia*, 793 F.3d 59, 67 (D.C. Cir. 2015).

Placement. Finally, Petitioner alleged that a more restrictive and therapeutic placement or location of services was needed to provide Student a FAPE, but failed to support the allegation with evidence at the due process hearing. In addition to the reasonableness of DCPS's actions to increase services to meet Student's needs at Public School as discussed above, the IEP team referred Student for an LRE Review, which on 4/10/16 recommended keeping Student at Public School, because he benefited from the least restrictive school setting there, to which Petitioner made no contrary showing at the due process hearing.

Conclusion. Based on all the above, this Hearing Officer concludes that there was no denial of a FAPE on any of the individual concerns above or when DCPS offered Student the 3/24/15 IEP and 2/23/16 IEP and placement at Public School; both IEPs were reasonably calculated to provide the services needed by Student at the time they were developed. *A.M.*, 933 F. Supp. 2d at 204. An IEP is not required to, and does not, guarantee any particular outcome or any particular level of academic success. See, e.g., *Holman v. Dist. of Columbia*, 2016 WL 355066, at 2 (D.D.C. Jan. 28, 2016).

### **ORDER**

Petitioner has failed to meet her burden of proof on the issues 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).

Copies to:

Counsel of Record (Appendix A, by email)

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