

DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
Office of Dispute Resolution
1050 First Street, N.E., 3rd Floor
Washington, DC 20002

OSSE
Office of Dispute Resolution
October 04, 2018

PETITIONER, on behalf of STUDENT, ¹)	
)	Date Issued: September 28, 2018
Petitioner,)	Hearing Officer: Peter B. Vaden
)	
v.)	Case No: 2018-0204
)	
DISTRICT OF COLUMBIA PUBLIC SCHOOLS,)	Hearing Date: September 25, 2018
)	
Respondents.)	Office of Dispute Resolution, Room 111 Washington, D.C.
)	

HEARING OFFICER DETERMINATION

INTRODUCTION AND PROCEDURAL HISTORY

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by the Petitioner under the Individuals with Disabilities Education Act, as amended (the IDEA), 20 U.S.C. § 1400, *et seq.*, and Title 5-E, Chapter 5-E30 of the District of Columbia Municipal Regulations (D.C. Regs.).

Student, an AGE child, is a resident of the District of Columbia. Petitioner's Due Process Complaint, filed on August 10, 2018, named District of Columbia Public Schools (DCPS) as respondent. The undersigned hearing officer was appointed on August 13, 2018. The parties met for a resolution session on August 31, 2018, which did not result in an agreement. On August 23, 2018, I convened a prehearing telephone conference with counsel to discuss the hearing date, issues to be determined and other matters.

The due process hearing was convened before this impartial hearing officer on September 25, 2018 at the Office of Dispute Resolution in Washington, D.C. The

¹ Personal identification information is provided in Appendix A.

hearing, which was closed to the public, was recorded on an electronic audio recording device. Petitioner appeared in person and was represented by PETITIONER'S COUNSEL. Respondent DCPS was represented by DCPS' COUNSEL.

Counsel for Petitioner made an opening statement. Petitioner testified and called as additional witnesses LAW CLERK, EDUCATIONAL ADVOCATE 1 and EDUCATIONAL ADVOCATE 2. DCPS' Counsel waived opening argument. DCPS called SCHOOL PSYCHOLOGIST as its only witness. Petitioner's Exhibits P-1 through P-25 and DCPS' Exhibits R-1 through R-16 were admitted into evidence without objection. Counsel for the respective parties made closing arguments. There was no request to file post-hearing briefs.

JURISDICTION

The Hearing Officer has jurisdiction under 20 U.S.C. § 1415(f) and D.C. Regs. tit. 5-E, § 3029.

ISSUES AND RELIEF SOUGHT

The following issues for determination were certified in the August 23, 2018 Prehearing Order:

- A. Whether from January 2018 forward, DCPS denied Student a FAPE by failing to conduct a Comprehensive Psychological Evaluation, Speech and Language Evaluation, and an Occupational Therapy Evaluation;
- B. Whether since March 2018, DCPS has denied Student a FAPE by failing to provide an IEP based on comprehensive evaluations, failing to increase service hours when Student was not making adequate progress, failing to provide Extended School Year (ESY) services, failing to provide goals and behavioral support services to address Student's behavior challenges and failing to state on the IEP that Student's behavior impeded Student's learning;
- C. Whether since March 2018, DCPS failed to implement Student's IEP by providing all of the Specialized Instruction hours specified in the IEP and

D. Whether since March 2018, DCPS denied Student a FAPE by failing to conduct a Functional Behavioral Assessment (FBA) and develop a Behavior Intervention Plan (BIP) to address Student's problem behaviors.

For relief, Petitioner originally requested that DCPS be ordered to:

- a. Within 45 days, conduct a Speech and Language Evaluation, Occupational Therapy Evaluation and FBA, and develop a BIP;
- b. Within 15 days, fund an independent Comprehensive Psychological Evaluation;
- c. Develop an appropriate revised IEP for Student within 15 days of receiving the completed evaluations;
- d. After developing an appropriate IEP, provide the parent with a schedule of when Student's specialized instruction hours will be implemented;
- e. Authorize tutoring and counseling services to help Student improve academic challenges within 10 days of receiving the Hearing Officer Determination and
- f. Fund compensatory education, as warranted for the denials of FAPE alleged in the complaint or, alternatively, order and fund any assessment or screening necessary for determining a compensatory education award.

Since the filing of the due process complaint, DCPS has agreed to conduct a Speech and Language evaluation and an Occupational Therapy (OT) evaluation of Student. On September 11, 2018, DCPS issued funding authorization for the parent to obtain an Independent Educational Evaluation (IEE) comprehensive psychological evaluation of Student.

FINDINGS OF FACT

After considering all of the evidence admitted at the due process hearing in this case, as well as the argument of counsel, this hearing officer's Findings of Fact are as follows:

1. Student resides with Mother in the District of Columbia. Testimony of

Mother. The family resides in a homeless shelter. Testimony of Mother. In the 2017-2018 school year, during a custody dispute between the parents, Student sometimes was late for school because the father would not take the child to school. Testimony of Educational Advocate 1.

2. Student is eligible for special education and related services as a student with a Specific Learning Disability (SLD). Exhibit R-11.

3. Student has attended City School since the 2016-2017 school year, where Student is currently in GRADE Y. Testimony of Mother.

4. Prior to the 2017-2018 school winter break, Student was referred by Mother for an initial psychoeducational evaluation, due to concerns with Student's reading, math and written language progress. According to the referral information, Student was not able to recognize letters and letter sounds independently. Student's teachers indicated that when Student was asked to identify numbers, Student would sometimes get confused and say the wrong number. Student also had difficulty writing numbers, often saying "I don't know" when asked. Writing was a challenge for Student and Student reportedly was struggling to hold the pencil properly and most of Student's letters and words were illegible. Student was reportedly not forming letters correctly and often required hand-over-hand support in order to complete classroom tasks. As concerns Student's social-emotional-behavioral development, Student was easily frustrated and became defiant to the point of noncompliance when asked to follow directions. Student could be very clingy and seemed to be possessive over the teacher, almost as if Student felt she only "belonged" to Student. Student was reported to antagonize classmates at times usually by hitting, poking and teasing. Student was

easily distracted and required several prompts in order to stay on task. Generally, there were concerns with Student's social-emotional development as well as concerns with the child's ability to retain learned information. Additionally, there were concerns around Student's ability to form letters properly. Exhibit P-18.

5. School Psychologist conducted the initial psychological evaluation of Student in December 2017 and January 2018. In addition to reviewing records, she interviewed Mother and a teacher, made two classroom observations and administered the Woodcock Johnson-IV Tests of Cognitive Achievement (WJ-IV) and the Kauffman Test of Educational Achievement - 3rd Edition (KTEA-3). School Psychologist was unable to complete the Oral Vocabulary subtest of the WJ-IV, because Student did not understand the questions, indicating that Student had limited understanding and knowledge of vocabulary words. As a result, School Psychologist was not able to obtain a general intellectual ability score. On other parts of the WJ-IV cognitive tests, Student scored in the Low Average to High Average ranges. Student's scores on the KTEA-3 academic achievement tests were all in the Low Average range. Student struggled significantly in the areas of reading comprehension and written language. Exhibit R-12. Throughout Student's testing, Student struggled to maintain attention. Testimony of School Psychologist. School Psychologist concluded that there was not sufficient data to qualify Student as a child with an SLD. Exhibit R-12. School Psychologist did not conduct a social/emotional/behavior assessment or further cognitive testing due to the 45-day deadline to complete the initial evaluation. Testimony of School Psychologist.

6. Student's multidisciplinary team (MDT) at City School met on March 14, 2018 to review the psychological evaluation. The MDT team determined that Student

was eligible for special education under the SLD classification. Exhibit R-11. The MDT team reached that decision based on Student's unsatisfactory Response to Intervention (RTI) results. Testimony of School Psychologist.

7. Student's IEP team convened on March 22, 2018 to develop Student's initial IEP. Mother attended the meeting, but was not then represented by counsel. The IEP team identified only academics – Mathematics, Reading and Written Expression – as areas of concern for Student. The IEP team provided for Student to receive 6 hours per week of pull-out Specialized Instruction services outside of general education and 8 hours per week of push-in, inside general education, services. This included 3 hours per week of push-in services for Reading, 3 hours per week of push-in services for Mathematics and 2 hours per week of push-in services for Written Expression, in addition to 3 hours per week of pull-out services for Reading and 3 hours per week of pull-out services for Mathematics. No related services were provided in the IEP. The IEP team recommended that Student have screening and progress monitoring in Speech and Language. Exhibit R-8.

8. City School operates on an extended school year program. The regular school year ends in early July. At the end of the 2017-2018 school year, City School proposed to retain Student in GRADE X. Mother objected to this proposal. A meeting at City School was convened on July 10, 2018 to discuss the retention recommendation. Mother, Petitioner's Counsel and Law Clerk attended the meeting. The City School principal explained at the meeting that retention was recommended because Student's end-of-year reading level was at the RB (end of first quarter for Grade X) level and Student still struggled with the letters of the alphabet. Mother insisted that Student be

promoted to Grade Y. Exhibit P-6.

9. At the July 10, 2018 meeting, CASE MANAGER told the participants that for English Language Arts (ELA), Student received one hour of push-in and one hour of pull-out special education services, 4 to 5 times per week. For math, Specialized Instruction was provided for approximately 30 minutes of push-in and 30 minutes of pull-out services, four to five days a week. Case Manager stated that for written expression, Specialized Instruction was provided in smaller chunks during the school day as the teachers saw fit. Exhibit P-6.

10. At the August 31, 2018 resolution session meeting in this case, there was discussion regarding Student's behavior at school. SCHOOL SOCIAL WORKER stated that Student's 2017-2018 school year teacher did not note behaviors as a concern and that in her informal observations, Student's behaviors at school did not seem to be a concern. The school representatives agreed to conduct Speech and Language and OT evaluations of Student. Exhibit R-2. On September 11, 2018, DCPS issued a funding authorization letter for the parent to obtain an IEE comprehensive psychological evaluation of Student. Exhibit R-3. The IEE process is now underway. Representation of Petitioner's Counsel.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact and argument of counsel, as well as this hearing officer's own legal research, my conclusions of law are as follows:

Burden of Proof

As provided in the D.C. Special Education Student Rights Act of 2014, the party who filed for the due process hearing, the Petitioner in this case, shall bear the burden of

production and the burden of persuasion, except that where there is a dispute about the appropriateness of the student's IEP or placement, or of the program or placement proposed by DCPS, the District shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement; provided that the Petitioner shall retain the burden of production and shall establish a *prima facie* case before the burden of persuasion falls on the District. The burden of persuasion shall be met by a preponderance of the evidence. See D.C. Code § 38-2571.03(6).

Analysis

Initial Eligibility Evaluation and IEP

A. Whether from January 2018 forward, DCPS denied Student a FAPE by failing to conduct a Comprehensive Psychological Evaluation, Speech and Language Evaluation, and an Occupational Therapy Evaluation;

B. Whether since March 2018, DCPS has denied Student a FAPE by failing to provide an IEP based on comprehensive evaluations, failing to increase service hours when Student was not making adequate progress, failing to provide Extended School Year (ESY) services, failing to provide goals and behavioral support services to address Student's behavior challenges and failing to state on the IEP that Student's behavior impeded Student's learning.

The first issues in this case concern the adequacy of DCPS' initial eligibility evaluation of Student and whether Student's initial, March 22, 2018, IEP was adequate. Prior to the 2017-2018 winter break, Student was referred by Mother for an initial psychoeducational evaluation due to concerns with Student's progress in reading, math and written language. Mother contends that the initial evaluation was not sufficiently comprehensive.

Decisions regarding the areas to be assessed are determined by the suspected needs of the child. See Department of Education, *Assistance to States for the Education*

of Children with Disabilities, 71 Fed. Reg. 46643 (August 14, 2006). The IDEA

regulations specify that in conducting an evaluation, the public agency must, *inter alia*,

Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—

(i) Whether the child is a child with a disability under §300.8; and

(ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities).

34 CFR § 300.304(b)(1). The public agency must ensure that the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 CFR § 300.304(c)(4).

In addition to discussing Student's academic challenges, the referral for Student's initial special education eligibility evaluation identified as suspected needs of Student, behavioral concerns, including distractibility, difficulty staying on task, frustration, defiance, attachment to the teacher and antagonizing of classmates. When School Psychologist conducted the psychological evaluation of Student in December 2017 and January 2018, she administered cognitive and academic achievement tests, but did not formally assess Student in the behavioral, social, emotional or personality domains or test for attention impairment or hyperactivity. Moreover, School Psychologist was not able to obtain a full-scale IQ score for Student, because Student did not understand the questions on the WJ-IV Oral Vocabulary subtest. School Psychologist acknowledged in her testimony that due to the deadline for completing her psychological evaluation of Student, her report was not fully comprehensive and she anticipated that more data

would be obtained. School Psychologist also agreed that Student should have Speech and Language and OT testing and that the parent and Student's educators should complete behavior rating scales. I find, therefore, that Petitioner has met her burden of persuasion that the March 2018 initial evaluation of Student was not sufficiently comprehensive to assess Student in all areas of suspected disabilities or to inform Student's IEP team sufficiently to determine the appropriate content of Student's initial IEP.

DCPS' failure to ensure that Student's initial evaluation was sufficiently comprehensive was a procedural violation of the IDEA. *See, e.g. G.G. ex rel. Gersten v. District of Columbia*, 924 F.Supp.2d 273, 280 (D.D.C. 2013) (District's failure to adequately evaluate student was a procedural error that effectively prevented development of an IEP reasonably calculated to provide student with a meaningful educational benefit.) Procedural violations may only be deemed a denial of FAPE 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 CFR § 300.513(a)(2). In this case, I conclude that DCPS' failure to ensure that Student's initial evaluation was sufficiently comprehensive significantly impeded the Mother's opportunity to participate in the decision-making process regarding Student's initial IEP and educational placement needs. Student was therefore denied a FAPE.

With regard to the appropriateness of City School's March 2, 2018 IEP for Student, in *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S.Ct. 988 (2017), the U.S. Supreme Court explained that "[a] focus on the particular child is at the core of the IDEA. The instruction offered must be "*pecially* designed" to meet a child's "*unique* needs" through an "*individualized* education program." An IEP is not a form document. It is constructed only after careful consideration of the child's present levels of achievement, disability and potential for growth. *Id.*, 137 S.Ct. at 999. (emphasis in original.) Having concluded that DCPS' initial eligibility evaluation of Student was not a full and comprehensive evaluation for the reasons discussed above, it follows that the March 22, 2018 initial IEP was not tailored to meet Student's "unique needs." See *Endrew F., supra*. "Understanding the particulars of a child's current skills and needs is critical to developing an 'individualized' educational plan." *Z. B. v. District of Columbia*, 888 F.3d 515, 522 (D.C. Cir. 2018).

With regard to services for Emotional, Social and Behavioral Development, at the time of the initial evaluation referral, it was reported that Student was easily frustrated and became defiant to the point of noncompliance when asked to follow directions, that Student was easily distracted and required several prompts in order to stay on task and that Student antagonized classmates at times with hitting, poking and teasing. Educational Advocate 2 testified that from her review of Student's 2017-2018 education records and information from the City School principal, there was ample evidence that Student's behavior challenges were impeding Student's learning. Educational Advocate 2 opined that Student's initial IEP should have included behavioral goals and at least 120 minutes per month of Behavioral Support Services. This opinion was not rebutted

by DCPS. With regard to Student's need for more Specialized Instruction services than provided in the March 22, 2018 IEP and for ESY services, I find there is insufficient data for me to make that determination. Student will receive an IEE comprehensive psychological evaluation, which, hopefully, will fill in the gaps in the initial DCPS evaluation and DCPS has agreed to conduct Speech and Language and OT evaluations. When those assessments are completed, it will be the responsibility of Student's IEP team, including the parent, to revise Student's IEP as appropriate. *See* 34 CFR §§ 300.321(a), 300.324.

Failure to Implement

C. Whether since March 2018, DCPS failed to implement Student's IEP by providing all of the Specialized Instruction hours specified in the IEP.

Student's initial March 22, 2018 IEP provided for Student to receive 14 hours per week of Specialized Instruction, including 8 hours inside general education (push-in) and 6 hours outside general education (pull-out). This included 3 hours per week each of push-in services for Reading and Mathematics, 2 hours per week of push-in services for Written Expression, 3 hours per week of pull-out services for Reading and 3 hours per week of pull-out services for Mathematics. According to Law Clerk's testimony, at a July 10, 2018 meeting with the parent and her representatives, Case Manager stated that for ELA, Student's teachers did an hour a day, each, of push-in and pull-out services 4 to 5 times a week. This totals at least 4 hours per week each of ELA push-in and pull-out services. For Mathematics, again according to Law Clerk's testimony, Case Manager stated that Student was provided approximately 60 minutes per day of Specialized Instruction split between push-in and pull-out services, 4 to 5 times per week. This amounts to 4 to 5 hours per week of Specialized Instruction for Mathematics. For

Written Expression, Case Manager stated that the two hours per week of push-in services for Written Expression were provided in smaller chunks of time incorporated into the school day. Accepting Case Manager's statement as reported by Law Clerk, from the end of March 2018 until the end of the school year, Student received some 8 hours per week of Specialized Instruction in Reading, 4 hours per week of Specialized Instruction in Mathematics and 2 hours per week of Specialized Instruction in Writing – for a total of 14 hours per week of Specialized Instruction.

Petitioner contends that City School's provision of Specialized Instruction to Student in this manner was a failure to implement Student's March 22, 2018 IEP, because City School could not document that the hours provided matched the hours for each academic area specified in the IEP. In *Beckwith v. District of Columbia*, 208 F. Supp. 3d 34 (D.D.C. 2016), the U.S. District Court analyzed when a failure to fully implement an IEP results in a denial of FAPE:

To establish a deprivation of educational benefits, a moving party “must show more than a *de minimis* failure to implement all elements of that IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP.”

Beckwith, 208 F. Supp. 3d at 49 (quoting *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir.2000)). According to Case Manager's uncontested statement at the July 10, 2018 meeting, Student was provided at least 14 hours per week of Specialized Instruction, including 8 hours per week of services outside general education. Given that, even if these services were not allocated to each academic area exactly as contemplated by the IEP team, I conclude that this was not a failure to implement substantial or significant provisions of the March 22, 2018 IEP. The parent has not met her burden of persuasion on this issue.

FBA – BIP

D. Whether since March 2018, DCPS denied Student a FAPE by failing to conduct a Functional Behavioral Assessment (FBA) and develop a Behavior Intervention Plan (BIP) to address Student's problem behaviors.

Lastly, Petitioner alleges that DCPS denied Student a FAPE by not conducting an FBA, in order to develop a BIP, at the time the initial IEP was created. The IDEA requires, in the case of a child, such as Student, whose behavior impedes the student's learning or that of others, that the IEP team consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. *See* 34 CFR § 300.324(a)(2)(i). An FBA is "essential to addressing a child's behavioral difficulties, and, as such, it plays an integral role in the development of an IEP." *Harris v. District of Columbia*, 561 F.Supp.2d 63, 68 (D.D.C.2008). An LEA's failure to complete an FBA and BIP, when warranted, will constitute a denial of a FAPE. *See, e.g., Long v. District of Columbia*, 780 F.Supp.2d 49, 61 (D.D.C.2011).

When School Psychologist interviewed Student's classroom teacher for Student's comprehensive psychological evaluation, the teacher told School Psychologist that Student was easily distracted and struggled with staying on task, remaining on topic and completing class work, Student required one-on-one assistance to complete almost all tasks, had a low frustration tolerance and required frequent prompting to complete tasks. It had also been reported to School Psychologist that Student was easily frustrated and became defiant to the point of noncompliance when asked to follow directions, that Student was easily distracted and required several prompts in order to stay on task and that Student antagonized classmates at times with hitting, poking and teasing.

Educational Advocate 2 testified that an FBA and BIP were warranted because there were reported concerns over Student's maladaptive, disruptive behaviors over a long period of time. School Psychologist agreed that Student was disruptive when she conducted her classroom observations. On this evidence, I find that Petitioner has met her burden of persuasion that an FBA of Student was warranted at the time Student was determined eligible for special education and that DCPS' failure to conduct an FBA and ensure that a BIP was developed was a denial of FAPE. DCPS' Counsel represents that DCPS is prepared to conduct an FBA of Student early in the current 2018-2019 school year. Parent's expert, Educational Advocate 1, agreed in her testimony that Student's BIP should be based upon an assessment of Student's current behaviors. I will order DCPS to conduct the assessment, if still indicated, and to ensure, if warranted, that a Behavior Intervention Plan is developed.

Remedy

DCPS has already agreed to provide substantial parts of the relief requested by Petitioner, including funding an IEE comprehensive psychological evaluation and conducting OT and Speech and Language evaluations. DCPS' Counsel also indicated that DCPS would conduct an FBA after Student has settled in Student's new classroom for the current school year. I will order DCPS to convene Student's IEP team to review and revise Student's IEP, as appropriate, including developing a BIP if warranted, promptly upon receiving the completed assessments.

Petitioner also requests an award of compensatory education for the denials of FAPE in this case. I have determined in this decision that DCPS denied Student a FAPE by not ensuring that City School's initial eligibility evaluation of Student was

comprehensive and included an FBA, and that the March 22, 2018 IEP was individualized for Student based upon a full and comprehensive evaluation. Specifically, I found that the evidence established that Student's IEP should have included goals for Emotional, Social and Behavioral Development and at least 120 minutes per month of Behavioral Support related services.

The D.C. Circuit pronounced in *B.D. v. District of Columbia*, 817 F.3d 792 (D.C. Cir. 2016), that if a hearing officer concludes that the school district denied a student a FAPE, he has "broad discretion to fashion an appropriate remedy, which may include compensatory education." *Id.* at 800. "That inquiry requires "figuring out both [(1)] what position a student would be in absent a FAPE denial and [(2)] how to get the student to that position." *Butler v. District of Columbia*, 275 F. Supp. 3d 1, 6 (D.D.C. 2017), citing *B.D.* at 799. Student's initial IEP had only been implemented for less than four months at the time the due process hearing was held. Pending receipt of Student's psychological reevaluation and the OT and Speech and Language assessments yet to be completed, it is not possible to figure out what different position Student might now be in, if DCPS' initial evaluation of Student had been appropriately comprehensive.

Educational Advocate 2's opinion, offered at the due process hearing, that Student should have been provided at least 120 minutes per month of Behavioral Support Services in the initial IEP was not contested by DCPS. Educational Advocate 2 recommended as compensatory education for this omission, and the failure to offer Student a BIP, that Student be awarded 40 hours of compensatory education counseling. I do not find that this level of relief is commensurate with whatever harm resulted from DCPS' not providing some 8 hours of Behavioral Support Services and a

BIP over the first 3-4 months of the IEP. Accounting for the Behavior Support Services that were actually omitted and DCPS' failure to ensure that Student was provided a BIP with the initial IEP, I will order DCPS to provide Student 20 hours of individual therapy services as compensatory education for the denials of FAPE in this case.

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby

ORDERED:

1. Upon completion of the IEE comprehensive psychological reevaluation of Student and DCPS' OT and Speech and Language assessments, DCPS shall ensure that Student's IEP team is promptly convened to consider this information and to update Student's IEP, as appropriate, informed by the new assessments and other current data, in accordance with this decision and 34 CFR § 300.320, *et. seq.*;
2. Unless contraindicated by the new assessments or by improvements in Student's behavior in the current 2018-2019 school year, DCPS shall promptly conduct a Functional Behavioral Assessment of Student and ensure that an appropriate Behavior Intervention Plan is developed and implemented;
3. As compensatory education for DCPS' failure to address Student's behavior challenges in the initial IEP and its failure to ensure that a Behavior Intervention Plan was developed for Student in the 2017-2018 school year, DCPS shall provide funding authorization for the parent to obtain 20 hours of individual counseling/therapy services for Student. Petitioner shall not be barred from seeking further compensatory education in a separate proceeding hereafter, if the additional evaluations and IEE psychological reevaluation of Student show that as of the date the initial IEP was developed, the IEP lacked goals and services, besides behavior goals and services, that were needed to enable Student's progress and
4. All other relief requested by the Petitioner herein is denied.

Date: September 28, 2017

s/ Peter B. Vaden
Peter B. Vaden, 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).

cc: Counsel of Record
Office of Dispute Resolution
OSSE - SPED
DCPS Resolution Team