District of Columbia

Office of the State Superintendent of Education

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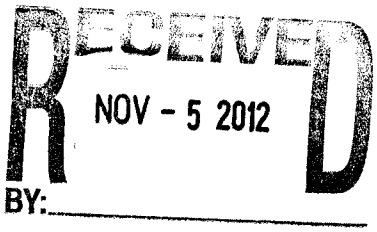

Confidential

Adult Student[1], Petitioner, v. District of Columbia Public Schools ("DCPS") Respondent. Case # 2012-0561	HEARING OFFICER'S DETERMINATION Hearing Date: October 26, 2012 <u>Representatives:</u> Counsel for Petitioner: Miguel Hull, Esq. Brown & Associates 1220 L Street, N.W. Suite 700 Washington, D.C. 20005 Counsel for DCPS: Assistant Attorney General Maya Washington, Esq. Justin Douds, Esq. 1200 First Street, NW Washington, DC 20002 <u>Hearing Officer:</u> <u>Coles B. Ruff, Esq.</u>

[1] Personally identifiable information is attached as Appendices A & B to this decision and must be removed prior to public distribution.

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 for one day on October 26, 2012, at the Office of the State Superintendent ("OSSE") Student Hearing Office 810 First Street, NE, Washington, D.C. 20003, in Hearing Room 2006.

BACKGROUND AND PROCEDURAL HISTORY:

The student (alternatively "Petitioner") is a [redacted] resident of the District of Columbia who has been determined eligible as a student with a disability under IDEA with a classification of specific learning disability ("SLD"). The District of Columbia Public Schools ("DCPS") currently funds the student's attendance at a full-time special education private day school, hereinafter referred to as "School A". The student began attending School A in December 2010 pursuant to an agreement between DCPS and the student's parent settling a prior due process complaint. Prior to attending School A the student attended another public charter school, hereinafter referred to as ("School B").

The student's current individualized educational program ("IEP") developed at School A on December 5, 2011, prescribes the following services: 26 hours per week of specialized instruction outside general education. The IEP also prescribes the following related services: 30 minutes per week of behavioral support services and 1 hour per week of speech-language pathology. The least restrictive environment ("LRE") section of the IEP requires a "full-time"[2] placement outside general education.

At the student's December 5, 2011, IEP meeting DCPS proposed to relocate the student from School A to a special education program located in a DCPS public high school and issued a prior written notice for the change. That proposed relocation was the subject of a due process complaint that culminated in a Hearing Officer's Determination ("HOD") issued March 6, 2012. The Hearing Officer concluded DCPS could not relocate the student to the proposed school because DCPS failed to follow required procedures in making such a change in placement. [3]

On or about May 14, 2012, DCPS convened an IEP team meeting with Petitioner during which the DCPS members of the team decided to change the student's school from School A to another

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[2] Full-time is considered to be 100% outside general education with all specialized instruction and related services provided in a special education setting with the student receiving no instruction or services with non-disabled students.

[3] The Hearing Officer concluded the proposed relocation to the particular DCPS program in that case was a "fundamental change in the student's educational program and amounted to a change in placement not merely a change in location of services and such a change could not be made unilaterally by DCPS but could only be made by a group of persons that included the parent or in this case the adult student and other persons knowledgeable about the student, the meaning of her evaluation data and the placement options under consideration."

private full time special education school: High Road School ("High Road"). While the Petitioner was considering High Road, Petitioner's counsel proposed to DCPS that it consider instead moving the student to Kingsbury Day School ("Kingsbury"), a school that, in the attorney's opinion, might be a better match for the student.

On July 9, 2012, Kingsbury issued a letter of acceptance for the student to attend Kingsbury upper school for SY 2012-2013. On August 8, 2012, DCPS issued a written prior notice of placement placing the student at Kingsbury.

Petitioner visited Kingsbury for the first time and was not pleased with the school for a number of reasons including the fact that Kingsbury had a ten month school year whereas School A had an eleven month program. On August 20, 2012, Petitioner filed the current due process complaint challenging DCPS' proposal to move hear from School A to Kingsbury. Petitioner seeks continued placement and DCPS funding at School A.

On August 28, 2012, DCPS counsel filed a response to the due process complaint asserting that there was no change in the student's IEP or educational placement, simply a change of the location of services to Kingsbury, and that as the local educational agency ("LEA") it was within the LEA's sole discretion to change the location of services. DCPS asserted that neither student's IEP, the December 2010 settlement agreement placing the student at School A, nor the March 6, 2012, HOD required the student to be an eleven month program or to remain at School A. DCPS asserted that Kingsbury could meet the student's educational needs and implement her IEP and there was evidence School A could not implement the student's IEP.

At the September 4, 2012, resolution meeting the parties did not resolve the issue alleged in the complaint. The parties agreed that the 30-day resolution period would continue for the full thirty days. Thus, the 45-day timeline ends and the HOD is due on November 3, 2012.

This case was originally assigned to another Independent Hearing Officer ("IHO"), Melanie Byrd Chisholm, Esq. IHO Chisholm conducted a pre-hearing conference on September 12, 2012, at which the issue to be adjudicated was discussed and determined. On September 12, 2012, IHO Chisholm issued a pre-hearing order.

Prior to the pre-hearing conference, on August 30, 2012, Petitioner filed a motion to compel DCPS' compliance with stay-put protections for the student to remain at School A while the due process proceeding was pending. On September 4, 2012, DCPS counsel filed an opposition to Petitioner's motion asserting there had been no change of placement, only a change in the location of services, thus, stay-put protections did not apply. On September 28, 2012, IHO Chisholm issued an order granting the motion and directing that the student remain at School A until this matter was adjudicated and a HOD issued.

On September 26, 2012, IHO Chisholm issued an order reassigning this case, which was later assigned to the current Hearing Officer. Neither party objected to the reassignment.

Petitioner's counsel asserts the change to Kingsbury amounts to a change in placement because the program is a ten-month program rather than an eleven-month program and is thus a less restrictive educational placement. Petitioner asserts also that during the student's visit to

Kingsbury she observed students' disruptive behaviors in the hallways. This student behavior raises concerns about the school's level of structure and decorum. Finally, Petitioner asserts the student has made progress at School A, she feels comfortable there and a change of school is likely to cause her to regress both academically and emotionally. Thus Petitioner urges the Hearing Officer to order that the student remain at School A.

ISSUES: [4]

> Whether DCPS' proposal to move the student from School A at the May 14, 2012, IEP team meeting and to Kingsbury pursuant to the August 8, 2012, prior written notice is a change in placement and/or a move to an inappropriate educational setting such that it results in a denial of a free and appropriate public education ("FAPE").

RELEVANT EVIDENCE CONSIDERED:

This Hearing Officer considered the testimony of the witnesses and the documents submitted in the parties' disclosures (Petitioner's Exhibits 1-41 and DCPS Exhibit 1-10) that were admitted into the record and are listed in Appendix A. Any documents not admitted into the record are so noted in Appendix A. Witnesses are listed in Appendix B.

FINDINGS OF FACT: [5]

1. The student is a student with disabilities as defined by 34 C.F.R.§300.8. (Stipulation)

2. The student is a [redacted] resident of the District of Columbia and she currently has a disability classification under IDEA of SLD. DCPS currently funds the student's attendance at School A, a full-time special education private day school. (Petitioner's Exhibit 2-1, 30-2)

3. The student was placed at School A based on the settlement agreement executed on December 15, 2010. (Stipulation)

4. The student began attending School A in December 2010. Prior to attending School A the student attended another public charter school, School B. The student was retained twice in ninth grade at School B. (Parent's testimony)

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[4] The alleged violation(s) and/or issue(s) listed in the complaint or in the pre-hearing order do not directly correspond to the issues outlined here. Hearing Officer restated the issue(s) at the outset of the hearing and the parties agreed that this was the issue(s) to be adjudicated.

[5] The evidence that is the source of the finding of fact is noted within a parenthesis following the finding. 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 both parties separately the Hearing Officer may only cite one party's exhibit.

5. In August 2008 when the student was age [redacted] and attending a DCPS middle school, DCPS conducted a psycho-educational evaluation. The evaluation assessed the student's cognitive abilities and academic achievement. The student's overall intellectual abilities were assessed to be in the average range and her academic abilities were assessed at or below the first percentile rank in all areas assessed, generally at second to third grade level. (Petitioner's Exhibit 19-4, 19-6)

6. When the student began at School A in December 2010 she was in ninth grade and within the first year was promoted. In her first year at School A she made up nearly two years worth of credits. The student has made academic and emotional progress since attending School A. The student is now in twelfth grade. Since attending School A the student is more focused and interested in school. (Parent's testimony, Petitioner's Exhibit 39)

7. When the student began attending School A she was first uncomfortable but soon began to feel more comfortable. Immediately she felt a difference from her previous school, School B, in that she experienced less stress and the teachers were more helpful working with her step by step. She has developed close friendships at School A. She participates in no extracurricular activities at School A although there are some available there. (Student's testimony)

8. The student experienced anxiety, depression and anger from her experience at School B and it took her approximately seven months after arriving at School A to build her self-esteem and begin to perform well academically. She has made progress – trusts adults more and the education esteem and she is focuses on the future rather than the past. Her grades have jumped and she is now a leader in her class. ([redacted] testimony)

9. On March 28, 2011, School A conducted an educational assessment, the Woodcock Johnson-III. The student had the following scores:

   (Petitioner's Exhibit 17-2)

	Standard Score	RPI[6]	Age Eq.	Grade Eq.
Broad Reading	81	46/90	11-11	6.5
Broad Math	57	14/90	9-1	3.8
Broad Written Language	65	29/90	9-6	4.1
Math Calculation Skills	66	39/90	10-3	4.8
Written Expression	75	51/90	10-5	5.0
Academic Skills	61	9/90	9-8	4.3

[6] RPI: The relative proficiency index - proficiency with similar tasks that average individuals in the comparison group (grade) would perform with 90% proficiency.

Academic Fluency	83	70/90	12-10	7.4
Academic Applications	59	19/90	8-11	3.6

10. The student received the following grades during SY 2010-2011 at School A: Petitioner's Exhibit 13)

Subject:	Adv 1	Adv 2	Adv 3	Adv 4	Exam	Final
English 11	B	B	B	B		B
Science (Chemistry)	B	B	B	B		B
Math (Geometry)	B	B	B	B		B
DC History/Government	B	C	A	A		B
Dance/Theatre	A	A	A	A		A
French	D	B				C
Reading Resource	P	P	P	P		P
Business Management			B	C		C
Physical Education			B	B		B
Community Services Hrs.	0	0	0	0		0
Grade Point Average	2.83	3.0	3.28	3.14		2.87

11. The student's current IEP dated December 5, 2011, and completed at School A, requires that the student receive 26 hours per week of specialized instruction, 30 minutes per week of behavioral support services, and 1 hour per week of speech-language pathology services. The LRE section of the IEP states that the student "continues to require a full-time placement out of the general education [sic] to receive specialized instruction in the areas of reading, math and written expression." (Stipulation - Petitioner's Exhibit 35-3: HOD-FOF 7)

12. The specialized instruction and related services on the student's current IEP are appropriate for the student. (Stipulation)

13. At the student's December 5, 2011, IEP meeting DCPS proposed to relocate the student from School A to a special education program located in a DCPS public high school and issued a prior written notice for the change. That proposed relocation was the subject of a due process complaint that culminated in a HOD issued March 6, 2012, that concluded DCPS could not relocate the student to the proposed school. The Hearing Officer

concluded DCPS failed to follow required procedures in making the change in placement and prohibited the student's relocation from School A to the DCPS program. (Petitioner's Exhibits 3-1, 35-7)

14. DCPS allowed the student to remain at School A until the end of SY 2012-201. On May 14, 2012, DCPS convened an IEP team meeting with Petitioner during which the DCPS members of the team decided to change the student's school from School A to another private full time special education school: High Road. (Ms. Johnson's testimony)

15. The student and her parent attended the May 14, 2012, IEP meeting and disagreed with the proposed relocation but agreed to visit High Road. (Parent's testimony)

16. On May 15 2012, Petitioner's attorney sent an email to DCPS' compliance case manager and progress monitor for School A proposing Kingsbury as an alternative citing factors that made Kingsbury a better fit for the student in his opinion. (DCPS 4-1)

17. On July 9, 2012, Kingsbury issued a letter of acceptance for the student to attend Kingsbury's upper school for SY 2012-2013. (DCPS Exhibits 5)

18. On August 8, 2012, DCPS issued a prior written notice proposing Kingsbury as the location of services for the student. (Stipulation)

19. Petitioner visited Kingsbury for the first time and was not pleased with the school for a number of reasons including the fact that Kingsbury had a ten month school year whereas School A had an eleven month program and she did not find the Kingsbury staff genuine or inviting and found the students rude and disruptive in the hallways while changing classes. (Petitioner's testimony)

20. On August 20, 2012, Petitioner filed the current due process complaint challenging DCPS' proposal to move hear from School A to Kingsbury. Petitioner seeks continued placement and DCPS funding at School A. (Petitioner's testimony, Petitioner's Exhibit 1)

21. The student and her parent are concerned about reduction in the length of the school year that is offered at Kingsbury and that the student would regress with the longer summer break and that the student might regress academically, behaviorally and emotionally if she is moved to Kingsbury. (Parent's testimony)

22. The student is not sure what if any differences there are between extended school year services ("ESY") that might be available to her at Kingsbury and the eleven month program at School A. The student is clear that she wants to stay at School A and thinks she might become depressed at Kingsbury because she is so used to School A. She hopes to attend college after high school college tours and has prepped for the SAT while attending School A. However, the student is not sure when she will graduate. (Student's testimony)

23. The student currently receives weekly services from a School A counselor who is supervised by School A's director of counseling, [redacted]. In [redacted] professional opinion the student is progressing at School A and stands a chance of

regression if moved to Kingsbury as the adjustment period would likely hinder her psychological development and her grades might decline. She could adjust more quickly to the change with proper professional assistance if it is made available at Kingsbury. ([redacted] testimony[7])

24. School A is a non-profit non-public day school that serves students with various disabilities classifications, most with SLD classification. The school has been in existence approximately seven years and is approved by OSSE to provide special education and related services and is awaiting final renewal of that approval. School A can and is implementing the student's IEP. Last school year the student was at the 10th-11th grade level and is now at 11th – 12th grade level. Within her first year at School A she progressed at least one academic year. Although she currently has 20 of 24 credits required for graduation she does not have all the required courses and should be able to attend school next year for a half-day and obtain her high school diploma in June 2014. School A operates on an eleven month schedule taking a shorter summer break to allow students to retain more information between school years. ([redacted] testimony)

25. At the student's May 14, 2012, IEP meeting DCPS stated that it was not recommending the student to remain at School A. DCPS did not give a formal reason at the time but later indicated there were issues with teacher certifications. School A's teachers have always had special education certification. During 2011 DCPS began attempts to remove all students from the school without a stated reason. It took several months for DCPS to raise the teacher certifications as the reason for the student removals. Now that School A has been informed that teachers need dual certification in special education and content area, School A teachers have applied for the certifications. Some have already received the certifications and some are still awaiting final certification from OSSE. ([redacted] testimony)

26. The DCPS progress monitor assigned to Kingsbury is [redacted] participates in IEP meetings for DCPS students attending Kingsbury. Based upon her interaction and information provided by the school staff [redacted] believes all teachers at Kingsbury are certified either in special education or their subject content area or both. Those teachers in the school's high school division who are not certified in special education collaborate with special education teachers to develop and deliver specialized instruction and provide differentiated instruction and accommodations needed to effectively meet students' educational needs. Kingsbury has small classes and individualized instruction and can implement the student's current IEP including specialized instruction and related services in a full-time special education program. ESY services can be provided to the student at Kingsbury if it determined that she needs them. ([redacted] testimony)

27. The DCPS progress monitors are responsible for ensuring that DCPS students who are placed in private special education school are making academic progress and schools are complying with DCPS requirements. The current DCPS monitor for School A spends

[7] This witness was qualified as an expert in psychological counseling.

one day a week at School A and is responsible for participating in IEP meetings for all DCPS students attending School A. There are currently 25 students at School A and between 8 and 13 of those students are DCPS students. DCPS is still attempting to relocate most of these students to other schools. For any student who might move from School A to another school a transition case manager will be assigned to coordinate the move and assist the student's smooth transition from School A to another school. ([redacted] testimony)

28. The DCPS monitor has reviewed the student's current School A transcript and is concerned whether the student has really earned all the credits reflected in the transcript. Because of concerns with many private schools DCPS has recently begun to require that private school credits submit student data for each advisory so that DCPS can make an accurate audit regular audit of services provided and student credit earned. This audit has not yet been done by DCPS for School A. The DCPS progress monitor is also concerned that there is no recent information that has been entered by School A in DCPS' database for the student's speech language services, only for the behavior support services provided. ([redacted] testimony)

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").

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.

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

Pursuant to 5E DCMR 3030.14 the burden of proof is the responsibility of the party seeking relief. [8] *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528 (2005).

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[8] The burden of proof shall be the responsibility of the party seeking relief. Based solely upon the 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.

ISSUE: Whether DCPS' proposal to move the student from the School A at the May 14, 2012, IEP team meeting and to Kingsbury pursuant to the August 8, 2012, prior written notice is a change in placement and/or a move to an inappropriate educational setting such that it results in a denial of a FAPE.

Conclusion: The student's IEP services and LRE remained unchanged and DCPS' change in school from School A to Kingsbury is appropriate. Petitioner did not sustain the burden of proof that this is a change in placement or that Kingsbury is inappropriate.

Petitioner's counsel restated at the outset of the hearing that Petitioner is not challenging the procedural validity of the May 14, 2011, IEP meeting or the August 8, 2012, prior written notice. Rather than alleging a procedural violation as was adjudged to be the case in the March 6, 2012, HOD, Petitioner's allegation in this case is that DCPS' proposed change in location from School A to Kingsbury is inappropriate because of (1) the substantive change in the student's program from eleven months to ten months, (2) the detrimental effect the relocation will have upon the student as evidenced by the student's and parent's visit to Kingsbury when they found the school and its staff uninviting and its students rude and (3) the possibility that student's sudden relocation may cause her academic and emotional regression.

On the other hand, DCPS alleges there is scant evidence that the student is making or has made academic progress at School A, there are questionable certifications of the School A faculty providing services to the student as well as questionable data that the student is receiving at School A the services in her IEP included the related services of speech-language pathology. Thus, DCPS maintains that School A is an inappropriate educational placement and location of services for the student and thus the basis for its proposed change of location to Kingsbury. DCPS also asserts that Kingsbury is the location that Petitioner's counsel requested and it can implement the student's IEP. DCPS maintains that this change in location of services is within its sole purview as the LEA and the change to Kingsbury is appropriate and in the best interest of this student.

In determining the educational placement of a 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, the meaning of the evaluation data, and the placement options; and is made in conformity with the LRE provisions of the IDEA; and the public agency must ensure that the child's placement is determined at least annually, is based on the child's IEP, and is as close as possible to the child's home. See 34 C.F.R. § 300.116.

To the extent possible, children with disabilities, including children in public or private institutions or other care facilities, must be educated with children who are nondisabled; and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. See 34 C.F.R. §300.114.

Petitioner's counsel objected to DCPS unilaterally changing the student's location of services. "The touchstone of 'educational placement' is not the location to which the student is assigned but rather the environment in which educational services are provided. To the extent that a new setting replicates the educational program contemplated by the student's original assignment and is consistent with the principles of mainstreaming and affording access to a FAPE, the goal of protecting the student's educational placement served by the stay-put provision appears to be met. Likewise, where a change in location results in a dilution of the quality of a student's education or a departure from the student's least restrictive-compliance setting, a change in educational placement occurs." *AW v. Fairfax County School Board*, 41 IDELR 119 (2004).

Comments to the Federal Register, Vol. 71, No.156, p. 46588, clarify the difference between "placement" and "location." "Placement" is defined as points along the continuum of placement options available for a child with a disability, and "location" is defined as the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services. Public agencies are strongly encouraged to place a child with a disability in the school and classroom the child would attend if the child did not have a disability. The Comments go on to state that "while public agencies have an obligation under the Act to notify parents regarding placement decisions, there is nothing in the Act that requires a detailed explanation in children's IEPs of why their educational needs or educational placements cannot be met in the location the parents request...such a provision would be overly burdensome for school administrators and diminish their flexibility to appropriately assign a child to a particular school or classroom, provided that the assignment is made consistent with the child's IEP and the decision of the group determining placement. It is the Department's longstanding position that maintaining a child's placement in an educational program that is substantially and materially similar to the former placement is not a change of placement. In all cases, placement decisions must be individually determined on the basis of each child's abilities and needs and each child's IEP, and not solely on factors such as category of disability, severity of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience."

There is no evidence in the record that the student's IEP or LRE was changed at the May 14, 2012, meeting. Petitioner's IEP prescribed full time out of general education specialized instruction, behavioral support and services and speech language services. The evidence demonstrates that at Kingsbury the student can receive services in a full time out of general education setting, with small classes and individualized instruction and receive the prescribed related services. And although School A is an eleven month program and Kingsbury is apparently a ten month program the student's IEP does not require an eleven month program. There is evidence the student can be provided ESY services at Kingsbury if it determined they are warranted to prevent regression. The Hearing Officer is not convinced by the argument that this difference in the length of school year makes Kingsbury is a less restrictive setting than School A. The Hearing Officer concludes that the decision to place the student at Kingsbury was a location of services decision that was within the sole discretion of DCPS and not a change of placement decision. DCPS did not violate the IDEA and DCPS' actions did not deny the student a FAPE.

The Hearing Officer is convinced by the testimony of the DCPS progress monitor currently assigned to Kingsbury that Kingsbury can implement the student's IEP and meet her needs. Petitioner's asserts

Kingsbury is inappropriate because it is not an eleven month program and because of the students' behaviors when the parent and student visited and the possibility that the student might regress. Despite the student and parent's testimony about there visit to Kingsbury and despite the parent's concerns that the student might lose her current academic momentum if she were required to change schools, the Hearing Officer concludes based on evidence that Kingsbury can implement the student's IEP and is an appropriate location of services for the student.

While the Hearing Officer's empathizes with the student's and parent's concern about the possible consequences of change, the Hearing Officer is not convinced that the student's relocation to Kingsbury will be detrimental. The school has counseling staff that should be able to provide the level of support that even Dr. Gravely-Moss suggested would be helpful to assist the student in such a transition. The evidence also indicates that DCPS has a designated transition manager than will assist to ease the student transition from one school to the next. To make certain the these legitimate concerns are effectively addressed the Hearing Officer directs that DCPS ensure that its transition manger works closely and promptly with the student, the Kingsbury staff and School A staff to make certain the student's transition to Kingsbury is as smooth as possible and she does not suffer academically or emotionally as she makes this change of school location.

Accordingly, the Hearing Officer concludes that Petitioner failed to meet her burden of proof that DCPS' change of the student's school from School A to Kingsbury is a change in placement or that Kingsbury is unable to implement the student's IEP or that it is a lesser restrictive environment or cannot meet the student's unique needs.

ORDER:

The complaint is DISMISSED with prejudice.

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 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*

Coles B. Ruff, Esq.
Hearing Officer
Date: November 3, 2012