DC Office of the State Superintendent of Education
Office of Review & Compliance
Student Hearing Office
1150 5th Street, SE
Washington, D.C. 20003
CONFIDENTIAL

[Parent], on behalf of [Student], Petitioner, v. District of Columbia Public Schools, Respondent.	Case #2009-1420 HEARING OFFICER'S DETERMINATION December 21, 2009 Representatives: Zachary Nahass, Petitioner Laura George, Respondent Independent Hearing Officer: Jim Mortenson

2009 DEC 21 AM 10: 20

I. PROCEDURAL BACKGROUND

This matter came before Independent Hearing Officer (IHO), Jim Mortenson, at 9:00 a.m. on December 18, 2009. The hearing concluded and the record closed on that date. The due date for the Hearing Officer's Determination (HOD) is December 21, 2009, pursuant to 34 C.F.R. § 300.515(a). This HOD is issued on December 21, 2009.

The hearing in this matter was conducted, and this decision is written, pursuant to the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. § 1400 et seq., and D.C. Mun. Regs. tit. 5, Chap. 30.

Present at the due process hearing were:

Petitioner's Counsel, Zachary Nahass, Esq.

Respondent's Counsel, Laura George, Esq.

Six witnesses testified at the hearing:

Petitioner (P);

Student (S);

[redacted] Assistant Educational Director, [redacted]

Kevin Carter, Educational Advocate, (K.C.);

Charles Watkins, Special Education Teacher, (C.W.); and

Nicholas Sidlin, Special Education Teacher, (N.S.).

The complaint in this matter was filed on October 16, 2009. A response to the complaint was filed by the Respondent on October 26, 2009. A prehearing conference was held on October 28, 2009, and a prehearing order was issued on that date. The resolution period was waived on November 6, 2009.

23 documents were disclosed and filed by the Petitioner on December 11, 2009. There were no objections raised to the admission of any of the disclosed documents and they were all admitted as exhibits into the record. (P 1 – P 23). Petitioner's exhibits are as follows:

P 1 - Hearing Officer's Determination (HOD) #2009-0716, June 25, 2009
P 2 - Administrative Due Process Complaint Notice, October 16, 2009
P 3 - Prehearing Order, October 28, 2009
P 4 - Summary and Score Report, May 16, 2007
P 5 - Confidential Comprehensive Psychological Evaluation, May 24, 2007
P 6 - Psychoeducational Evaluation, November 27, 2007
P 7 - Clinical Psychological Evaluation, November 27, 2007
P 8 - Functional Behavioral Assessment, January 30, 2008
P 9 - Reading Assessment Report, February 6, 2009
P 10 - Confidential Report of Educational Re-evaluation, May 7, 2009 (See R 7)
P 11 - Vocational Evaluation, July 30, 2009 (See R 8)
P 12 - Teacher Surveys, October 6, 2009
P 13 - Independent Education Program (IEP), January 31, 2008
P 14 - IEP, March 5, 2009 (See R 9)
P 15 - MDT (IEP team) Meeting Notes, March 5, 2009
P 16 - Student Evaluation Plan (SEP), undated

P 17 - IEP Meeting Notes, October 7, 2009
P 18 - IEP Meeting Notes, October 13, 2009 (See R 1)
P 19 - Email chain ending from Nahass to Carter, sent Wednesday, August 19, 2009
P 20 - Email chain ending from Nahass to Carter, sent Tuesday, September 15, 2009
P 21 - Letter from Carter to Wright, September 28, 2009
P 22 - Letter from Corley to [Petitioner], November 12, 2009
P 23 - Curricula Vitae, Kevin Carter

Ten documents were disclosed and filed by the Respondent on December 11, 2009. No objection was raised to the admission of any of the disclosed documents and they were admitted into the record. (R 1 – R 10). Respondent's exhibits are as follows:

R 1 - IEP Meeting Notes, October 13, 2009 (See P 18)
R 2 - Compensatory Education Plan, October 27, 2009
R 3 - IEP (proposed), October 13, 2009
R 4 - Transcript, September 28, 2009
R 5 - IEP Progress Report – Annual Goals, November 27, 2009
R 6 - Quick Lookup, 09-10 Year, November 24, 2009
R 7 - Confidential Report of Educational Re-evaluation, May 7, 2009 (See P 10)
R 8 - Vocational Evaluation, July 30, 2009 (See P 11)
R 9 - IEP, March 5, 2009 (See P 14)
R 10 - IEP Meeting Notes (undated)

II. ISSUES

1) Whether the Respondent failed to comply with HOD #2009-0716 when it failed to convene an IEP team meeting within seven calendar days of the completion of vocational assessments for the Student and failed to revise the IEP in accordance with the HOD?

2) Whether the Respondent has offered or provided an IEP reasonably calculated to provide the Student with educational benefit? Specifically, whether the IEP includes a statement of the Student's present levels of academic achievement,

appropriate measurable postsecondary goals, and transition services needed to assist the Student in reaching those goals?

3) Whether the Student requires a more restrictive educational placement that provides full-time specialized instruction and a full compliment of vocational opportunities?

III. FINDINGS OF FACT

1. The Student is a [redacted] year old learner currently at a public charter school which, for purposes of special education, is under the supervision of the Respondent.[1] The Student is eligible for special education and related services under the definition of other health impairment (OHI).[2] The Student suffers from attention deficit hyperactivity disorder (ADHD) and has borderline cognitive skills.[3]

2. A Hearing Officer's Decision (HOD) was issued on June 25, 2009, concerning the Student, in Case #2009-0716.[4] The HOD required, in relevant part, the following:

> 1. The Respondent has authorized the proposed assessments to be conducted independently at public expense (and may have already completed one). Upon completion of both assessments, the IEP team must convene within 7 calendar days to review the assessment results and revise the IEP accordingly. The Respondent must provide the Petitioner with at least three alternative times to meet (not all consecutive) and inform her of the date, time, and location the IEP team will meet if she fails to select one of the proposed times. Her attorney must be copied on any correspondence or other notices sent or delivered to the Petitioner, unless directed otherwise by the Petitioner.

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[1] R 3.

[2] R 3.

[3] R 7/P 10, P 7.

[4] P 1.

> 2. The IEP team must revise the IEP consistent with the findings and conclusions of this HOD including but not limited to: appropriate measurable post-secondary goals based upon age appropriate transition assessments related to training, education, employment, and independent living skills; statements of present levels of academic achievement and functional performance including how the Student's disability affects her involvement and progress in the general education curriculum (the same curriculum as for nondisabled children); measurable annual academic goals, including short-term objectives or benchmarks, designed to meet her needs that result from her disability to enable her to be involved in and make progress in the general education curriculum and meet each of her other educational needs that result from her disability; and a description of how the Student's progress toward meeting the annual goals will be measured and when periodic reports on the progress she is making toward meeting the annual goals will be provided. All IEP requirements not specifically mentioned here must be adhered to.
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> 3. The level of special education and related services must be designed to assist the Student to reach the annual goals which, in turn, must be designed to aid the Student in reaching the post-secondary goals. Academic goals must be aligned with D.C. content standards for the grade in which the Student is enrolled.
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> 6. Nothing in this order is intended to restrict the IEP team from making other changes to the program appropriate and necessary for the Student to be provided a free appropriate public education.

3. For some unexplained reason, the assessments required in the HOD were not provided to the Respondent until August 19, 2009, although they were completed July 30, 2009.[5] The IEP was not reviewed in light of the assessment results until October 7 and 13, 2009.[6]

4. An IEP was proposed on October 13, 2009.[7] It was essentially the same as the IEP this IHO found to be inappropriate in Case #2009-0716.[8] In the area of math the Student's present level of academic achievement is not specific and one can only guess at the Student's present level of academic achievement by looking at the

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[5] Stipulated.

[6] Stipulated, P 17, Testimony (T) of K.C.

[7] R 3.

[8] R 3, P 14/R 9, P 1. (Surprisingly, the Respondent showed an alarming indifference to what it had been ordered to do in the prior HOD. Meeting notes indicate staff repeatedly stated the proposed IEP was appropriate, despite not making the required changes to it. P 17, R 1.)

annual goal.[9] The present level of academic achievement statement indicates the Student "is proficient with the number sense and use of operations at 75% accuracy."[10] Even if 75% is the level of proficiency, there is no indication of what grade level the Student is proficient at, since number sense and operations are skills taught through eighth grade.[11] The annual goal for math is based on fifth and sixth grade math standards, so the reader is left to deduce, if one knows what the standards are, that the Student is proficient (at 75%) at a fourth, possibly fifth, grade level in number sense and operations.[12] This is significantly below her age level (17) and her grade level (10th), which is consistent with her most recent Woodcock-Johnson III Tests of Achievement scores.[13] While the IEP now includes an anticipated date of achievement of the goal, it still does not describe how progress toward the goal will be measured and how often progress reports will be provided.[14] Rather, the IEP includes evaluation procedures without specifics, and a schedule for using that procedure (work samples once per month, quiz each six weeks).[15] The Case #2009-0716 HOD required measurement to be

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[9] R 3, P 14/R 9.

[10] R 3, P 14/R 9.

[11] R 3, P 14/R 9. (See: District of Columbia Mathematics Pre-K through Grade 12 Standards.)

[12] R 3, P 14/R 9. (See: District of Columbia Mathematics Pre-K through Grade 12 Standards.)

[13] P 10/R7.

[14] R 3.

[15] R 3. (Imagine a student in science class being given an assignment to grow a seed to a given height over a period of time. The teacher asks: "How will you measure the seed's growth?" The student responds, "I'll watch it." Of course, simply watching the seed tells the teacher nothing about how growth will be measured, merely the measurement procedure (and a weak procedure at that). If the Student responded, "I'll measure it will my ruler" the teacher would be pleased because he knows the procedure and the metric

based on short-term objectives or benchmarks.[16] The IEP does not indicate the score to be achieved on quizzes or what the work samples would show (both of which are necessary to describe how progress will be measured).[17]

5. The statement of the Student's present level of academic achievement in reading indicates the Student is performing at a seventh grade level.[18] The annual goal only seeks one year of growth from this level.[19] While the IEP now includes an anticipated date of achievement of the goal, it still does not describe how progress toward the goal will be measured and how often progress reports will be provided.[20] Rather, the IEP includes evaluation procedures without specifics, and a schedule for using that procedure (work samples and observations twice per semester.[21] The Case #2009-0716 HOD required measurement to be based on short-term objectives or benchmarks.[22] The IEP does not indicate what the work

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(either inches or centimeters) by which growth will be gauged. The student would also, as a matter of course, document the results every time she took a measurement so that she could report on the seed's growth over the prescribed time and would be able to show whether her efforts at growing the seed to the expected height was successful. In the present case there is no metric by which to report progress as is necessary and was specifically required in the prior HOD, which eased the IEP team's decision making by requiring the use of short-term objectives (skills sets to be mastered on the way) or benchmarks (specific points of progress on the scale used).)

[16] P 1.

[17] R 3.

[18] R 3, P 14/R 9.

[19] R 3, P 14/R 9.

[20] R 3.

[21] R 3.

[22] P 1.

samples would show or what is to be observed to determine progress, or lack thereof, toward the goal.[23]

6. The statement of the Student's present level of academic achievement in writing was not changed and does not sufficiently describe how her disability affects her involvement and progress in the general curriculum because it lacks any specifics related to the standards for writing in 10th grade, or any other grade.[24] It is unclear how it will be determined that the goal ("[Student] will improve her mechanics of essay writing by improving her narrative, expository and descriptive writing with 80% accuracy.") has been met.[25] While the IEP now includes an anticipated date of achievement of the goal, it still does not describe how progress toward the goal will be measured and how often progress reports will be provided.[26] Rather, the IEP includes evaluation procedures without specifics, and a schedule for using that procedure (work samples and observations twice per semester.[27] The Case #2009-0716 HOD required measurement to be based on short-term objectives or benchmarks.[28] The IEP does not indicate what the work samples would show or what is to be observed to determine progress, or lack thereof, toward the goal.[29]

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[23] R 3.

[24] R 3, P 14/R 9.

[25] R 3, P 14/R 9.

[26] R 3.

[27] R 3.

[28] P 1.

[29] R 3.

7. In the area of emotional, social, and behavioral development the IEP fails to include measurable annual functional goals (five goals are listed).[30] The IEP fails to include the required short-term objectives or benchmarks.[31] Two of the goals now include an anticipated date of achievement, three do not.[32] There are no descriptions of how progress toward any of the five goals will be measured and how often progress reports will be provided.[33] Three of the goals include evaluation procedures without specifics, and a schedule for using that procedure (log, observations, and verbal responses, to be done weekly, or once or twice per semester).[34] For these three goals the IEP does not indicate what would be logged, observed, or what the verbal responses would be to determine progress, or lack thereof, toward the goal.[35]

8. It does not appear the results of the recently completed vocational assessment were used to develop measurable post-secondary goals because they are still lacking in this IEP.[36] Interestingly, the IEP includes three functional goals in the areas of post-secondary education and training, employment, and independent

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[30] R 3.

[31] R 3.

[32] R 3.

[33] R 3.

[34] R 3.

[35] R 3.

[36] R 3, P 11, R 8.

living, despite no legal requirement to do so.[37] None of these three goals are measurable and they do not appear to be the result of any statements of present levels of functional performance.[38] There is no defined way to measure progress toward these particular goals.[39] Despite having no measurable post-secondary goals, the IEP lists "nursing" as the course of study to reach the post-secondary goals.[40] While the IEP does include a list of services to assist the Student with transition, it cannot be determined whether these services are appropriate or necessary because there is a lack of measurable post-secondary goals.[41]

9. The Student currently has 6.25 credits toward graduating.[42] 24 credits are required to graduate.[43] The Student had two special education teachers that worked with her consecutively during the current school year, the second who has worked with her for three weeks.[44] The two teachers report the Student appears to be

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[37] R 3.

[38] R 3.

[39] R 3.

[40] R 3. This may be because the closest thing to a measurable post-secondary goal is the note that the Student wants to be a nurse. While no evidence was presented on the curriculum of the Student's current school, it would be quite surprising if it has a "Nursing program" as indicated in the IEP. More likely, the staff lacked the competence to construct an IEP that appropriately addressed any of the requirements for transition under 34 C.F.R. § 300.320(b).

[41] R 3.

[42] R 4.

[43] R 1.

[44] T of S, T of C.W., T of N.S.

performing commensurate with her classmates.[45] Her grades at the end of the 2008-09 school year were:[46]

English I	C+
Algebra I	C-
Capstones	C
Environmental Science	B
Foundations in Public Policy	C-
Health H5	B
World History I	C

Her grades at the end of the first quarter of the 2009-10 school year were:[47]

English II	C-
Language and Composition II	C-
Geometry	F
Geometry Concepts	F
World History II	C
Biology	C-
Spanish I	B-

These grades and the subjective teacher reports are not all consistent with the Respondent's testing of the Student in April, 2009, and the IEP, which indicate her academic skills are at a fifth to seventh grade level, and do not likely represent the Student's true performance on grade-level standards.[48] No objective evidence of the Student's academic performance on grade level standards was presented.

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[45] R 5, T of C.W., T of N.S.

[46] R 4.

[47] R 6.

[48] R 7/P 10, R 3, T of K.C.

10. The Student has been admitted to [redacted] full-time special education day school in Virginia.[49] The School can meet the Student's educational needs and assist her in obtaining a diploma.[50]

IV. CONCLUSIONS OF LAW

1. A failure to implement a HOD creates a rebuttable presumption of harm. Blackman/Jones consent decree, pp. 38-39, paragraph 74 (July 2006).

2. The HOD was not complied with because the IEP was not reviewed within seven calendar days of when the Respondent received the completed assessment reports. Additionally, the IEP was not revised consistent with the findings and conclusions of the June 25, 2009 HOD. The Respondent did not overcome the presumption of harm as a result of these failures as further analyzed below.

3. Federal regulations at 34 C.F.R. § 300.17 define a free appropriate public education (FAPE) as:

> 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 §§300.320 through 300.324.

The Supreme Court has described the purpose of the IDEA quite clearly:

> When the language of the Act and its legislative history are considered together, the requirements imposed by Congress become tolerably clear. Insofar as a State is required to provide a handicapped child with a "free appropriate public education," we hold that it

[49] P 22, T of A.W.

[50] T of A.W.

> satisfies this requirement by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction. Such instruction and services must be provided at public expense, must meet the State's educational standards, must approximate the grade levels used in the State's regular education, and must comport with the child's IEP. In addition, the IEP, and therefore the personalized instruction, should be formulated in accordance with the requirements of the Act and, if the child is being educated in the regular classrooms of the public education system, should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.

Board of Educ. v. Rowley, 458 U.S. 176, 203-204 (1982). "[A]n IEP that focuses on ensuring that a child is involved in the general education curriculum will necessarily be aligned with the State's content standards." Fed. Reg. Vol. 71, No. 156, Monday, August 14, 2006, p. 46662.

4. An IEP must include the following components:

(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); or
(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
(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;
(ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;
(3) A description of—
(i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and
(ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
(4) A statement of the special education and related services and supplementary aids and services, based on peer reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child —
(i) To advance appropriately toward attaining the annual goals;
(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and
(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;

(6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and

(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why —

(A) The child cannot participate in the regular assessment; and

(B) The particular alternate assessment selected is appropriate for the child; and

(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

(b) *Transition services.* Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include-

(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

34 C.F.R. § 300.320(a) & (b), *see also,* D.C. Mun. Regs. tit. 5, § 3009.

5. The IEP lacks measurable post-secondary goals and measurable annual goals. These errors were to be resolved when the assessment data ordered in HOD #2009-0716 was reviewed and the IEP revised by the IEP team. This was not done and the IEP was not revised in any meaningful way. The academic goals in the IEP were not aligned with D.C. content standards for the 10th grade and, in fact, no effort was made through the IEP to close the gap between the Student's assessed academic performance and grade level standards. The IEP also continued to lack measurable postsecondary goals based on her vocational assessment. The statement of present levels of academic achievement and functional performance, annual goals, and how progress toward the annual goals would be measured and the frequency of reporting, were all to be clarified or articulated and were not.

6. The District did not present convincing evidence overcoming the presumption of harm for failure to comply with the HOD. The testimony of the special education teachers and their observations of the Student (comparing her to her peers) were at odds with the more objective data from her Woodcock-Johnson III Tests of Achievement Scores.[51] It is the Respondent's position that the Student is behind her same-grade peers as a result of her disability. This position would be reasonable for a student with a disability who is not provided special education and related services. Indeed, the purpose of providing special education and related services is to ensure a student with a disability may be involved in and progress in the general education curriculum and meet the applicable State education standards. It is the Respondent's failure to develop an IEP in accordance with IDEA and HOD #2009-0716, and provide necessary special education and related services to address the Student's educational needs resulting from her disability that has contributed to her still being significantly behind her peers on objective measures of her educational performance. Furthermore, the failure to appropriately address the Student's transition out of secondary

[51] It is noted that this data was also not the best possible evidence, as it measured the Student's performance based on generalized nationally-normed academic expectations, not the D.C. curriculum standards the Student was or should have been studying. Yet, it is the best evidence provided. Why the Student's academic performance on local standards was not constantly measured and known is a mystery, as effective teaching requires real-time knowledge of student response to instruction, particularly for students with disabilities, so that teaching and supports can be adjusted as appropriate for students. There was no objective evidence supporting the grades the Student received which, in the context of the more objective evidence provided (both the WJ III scores and consistent IEP information), were not convincing of her academic achievement and, thus, the educational benefit provided.

education renders the entire IEP suspect because the IEP is to be built around the post-secondary goals, which have yet to be clearly articulated for the Student.[52]

7. Because the Respondent has failed to comply with a prior HOD designed to ensure educational benefit for the Student, and because the procedures of the IDEA have not been complied with in developing an IEP (rendering the IEP not reasonably calculated to provide educational benefit), and because Petitioner has proposed a placement that is appropriate to meet the Student's needs, the Student will be placed at [redacted] has accepted the Student and the Student will be placed there at public expense until the Petitioner or Student and the Respondent agree it is no longer appropriate, or, if Accotink cannot or will not comply with the supervision of the Respondent as directed in this Order, the Respondent may change the Student's location of services to a similar full-time special education day school.

V. DECISION

1. The Petitioner prevails on Issue 1 because the Respondent failed to comply with HOD #2009-0716 when it did not convene an IEP team meeting within seven calendar days of receipt of vocational assessments for the Student and failed to revise the IEP in accordance with the HOD.

[52] Because the purpose of educating a student is to provide them with the skills necessary for life outside of high school (secondary school), the purpose of special education is necessarily to support a child with a disability in that same endeavor. (See, e.g., 34 C.F.R. § 300.1(a)(One of the purposes of Part B of the IDEA is "[t]o ensure that all children with disabilities have available to them a [FAPE] that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.")) Thus, the importance of aligning the IEP, at the appropriate time, with the post-secondary goals of the Student.

2. The Petitioner prevails on Issue 2 because the Respondent has not offered or provided an IEP reasonably calculated to provide the Student with educational benefit.

3. The Petitioner prevails on Issue 3 because the Student, as a result of the Respondent's aforementioned violations, is entitled to a full-time special education day school in order to progress toward a duly awarded diploma.

VI. ORDER

1. The Student shall be enrolled in, and begin attending, [redacted]n [redacted]o later than the first day of school following the winter break for the 2009-2010 school year. This placement, including transportation, shall be at the Respondent's expense.

2. The [redacted] staff, with the Petitioner, shall be responsible for the revision and implementation of the Student's IEP. The Respondent shall remain responsible for the supervision and cost of the special education and related services provided to the Student, ensuring that sufficient education and supports are provided for the Student to permit her to graduate with a diploma no later than the semester ending following her 21st birthday. Respondent staff shall have no authority to object to the special education and related services provided unless there is clear data indicating the Student is not making sufficient progress and [redacted]s unwilling or unable to alter the program to effectively address any lack of expected progress. Thus, if the Student is not making sufficient progress toward a diploma, the Respondent may make a change in

location to a comparable full-time special education day school, with two weeks notice to the Petitioner and [redacted] pursuant to 34 C.F.R. § 300.503. If [redacted] fails to adhere to due process requirements as directed by this order or the Respondent, the Respondent may make a change in location following the due process requirements just described.

3. The new IEP team must revise the IEP consistent with the findings and conclusions of this HOD including but not limited to: appropriate measurable post-secondary goals based upon the July vocational assessment; statements of present levels of academic achievement and functional performance including how the Student's disability affects her involvement and progress in the general education curriculum (the same curriculum as for nondisabled children); measurable annual academic goals designed to meet her needs that result from her disability to enable her to be involved in and make progress in the general education curriculum and meet each of her other educational needs that result from her disability; and a description of how the Student's progress toward meeting the annual goals will be measured and when periodic reports on the progress she is making toward meeting the annual goals will be provided to the Petitioner and Student. All IEP requirements not specifically mentioned here must be adhered to. The level of special education and related services must be designed to assist the Student to reach the annual goals which, in turn, must be designed to aid the Student in reaching the post-secondary goals. Academic goals must be projected to be aligned with D.C. content standards in a trajectory to

graduate based on successful demonstration of knowledge of the standards by the time stated in paragraph 2 above.

4. If, at the time of any progress report, the Student is not making expected progress toward a goal or goals, the IEP team must meet within one week to review and revise the IEP to improve the Student's progress.

5. If the Petitioner believes the resulting proposed IEP has not complied with this order, or other requirements of this order have not been complied with, she is directed to enforce this order, including by filing a complaint with the Office of the State Superintendent of Education pursuant to 34 C.F.R. §§ 300.151-300.153.

6. Nothing in this order is intended to restrict the IEP team from making other changes to the program appropriate and necessary for the Student to be provided a free appropriate public education, except that the Student will remain in a full time special education day school until she graduates with a diploma, ages out, or the Student or the Petitioner (whom ever has decision making authority for the Student) and the Respondent agree to a new placement (more or less restrictive setting).

IT IS SO ORDERED.

Dated this 21st day of December, 2009.

Jim Mortenson, Esq.
Independent Hearing Officer