

DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
Student Hearing Office
810 First Street, NE, Second Floor
Washington, DC 20002

Petitioner,

Hearing Officer: Kimm Massey, Esq.

v.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS,

Respondent.

OSSE
Student Hearing Office
November 07, 2013

HEARING OFFICER DETERMINATION

**BACKGROUND AND
PROCEDURAL HISTORY**¹

Student presently attends a DCPS middle school. On September 25, 2013, Petitioner filed a Complaint against Respondent District of Columbia Public Schools. On October 3, 2013, DCPS filed its Response to the Complaint.

The parties concluded the Resolution Meeting process by participating in a resolution session on October 9, 2013. No agreement was reached. This is an expedited matter, and the hearing was set for October 23, 2013, the 19th school day. Hence, the HOD will be due ten school days later on November 6, 2013.

On October 17, 2013, the hearing officer conducted a prehearing conference and determined, in a October 21, 2013 Prehearing Order, that the claims to be adjudicated, defenses asserted, and relief requested were as follows: ***Petitioner's Claims:*** (i) Alleged failure to provide an appropriate IEP on or about February 5, 2013 (due to insufficient hours of specialized instruction, lack of goals to address all areas of academic weakness, and insufficient supports to address the impact of behaviors and attention on academics); (ii) Alleged failure to timely develop or implement a behavioral intervention plan ("BIP") for SY 2012/13; (iii) Alleged failure to conduct a comprehensive initial evaluation by failing to conduct recommended social history, speech/language and functional behavior assessments; (iv) Alleged failure to comply with IDEA's disciplinary procedures by failing to convene a manifestation determination review ("MDR"), provide an alternate placement, or timely conduct a BIP following the February 8, 2013 suspension; and (v) Alleged failure to provide an appropriate placement and/or location of services for SY 2013/14. ***DCPS Defenses:*** (i) The IEP is reasonably calculated to provide educational benefit, it includes services to address Student's behavior issues, and it was based on all available data; (ii) DCPS had no obligation to develop a BIP for SY 12/13 prior to identifying Student as a child with a disability; the IEP provides behavioral support services to address Student's behavioral needs in lieu of an IEP; (iii) DCPS convened an MDR at Johnson on 2/12/13 and determined Student's behavior on February 8, 2013 was not a manifestation of her

¹ This section sets forth only the basic procedural history. Other events, including motions practice, may have taken place that are not listed here.

disability and was not a direct result of a failure to implement Student's IEP; Petitioner participated by phone and DCPS proceeded with proposing a long-term suspension; and (iv) Johnson MS provided Petitioner with a notice of proposed involuntary safety transfer prior to the start of SY 13/14 and with contact information for the Cluster Office to determine Students' new location of services, but Petitioner failed to enroll Student in a DCPS school for SY 13/14 (DCPS asserts that Student's placement has not changed). **Relief Requested:** (i) A finding of a denial of FAPE; (ii) DCPS to fund social history, speech/language and functional behavior assessments; (iii) DCPS to revise Student's IEP to include goals in reading and spelling and additional goals and/or services or supports to address the impact of attention and behavior in the classroom in all academic subjects; (iv) DCPS to timely reconvene to review evaluation results, revise Student's IEP and develop a BIP; (v) compensatory education; and (vi) DCPS to fund a private interim placement at Pathways.

By their respective letters dated October 16, 2013 and October 17, 2013, Petitioner disclosed fourteen documents (Petitioner's Exhibits 1-14) and DCPS disclosed nine documents (Respondent's Exhibits 1-9).

The hearing officer convened the due process hearing on October 23, 2013, as scheduled.² All documents disclosed by both parties were admitted into the record without objection. Thereafter, the hearing officer received opening statements, testimonial evidence and closing statements from both parties. The hearing officer then brought the hearing to a close.

The due process hearing was convened and this Hearing Officer Determination is written pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. §§ 1400 et seq., the implementing regulations for IDEIA, 34 C.F.R. Part 300, and Title V, Chapter 30, of the District of Columbia Municipal Regulations ("D.C.M.R.").

ISSUE(S)

1. Did DCPS fail to provide an appropriate IEP on or about February 5, 2013?
2. Did DCPS fail to timely develop or implement a BIP for SY 2012/13?
3. Did DCPS fail to conduct a comprehensive initial evaluation by failing to conduct recommended social history, speech/language and functional behavior assessments?
4. Did DCPS fail to comply with IDEA's disciplinary procedures by failing to convene an MDR, provide an alternate placement, or timely conduct a BIP following the February 8, 2013 suspension?
5. Did DCPS fail to provide an appropriate placement and/or location of services for SY 13/14?

² Counsel for each party and the witnesses for each party are listed in the Appendix that accompanies this decision.

FINDINGS OF FACT³

1. Student is attending seventh grade at a DCPS middle school.⁴
2. Student was determined eligible for special education and related services on February 5, 2103.⁵
3. Student's initial IEP was developed on February 5, 2013. The IEP identifies Student's disability as Specific Learning Disability ("SLD"). Pursuant to that IEP, Student is to receive 2 hours per week of specialized instruction in general education in the area of written expression and 120 minutes per month of behavioral support services outside general education.⁶
4. Student attended 6th grade at a previous DCPS middle school for SY 12/13. Student began exhibiting negative behaviors right at the beginning of SY 12/13. The school adopted a general practice of sending Student home after calling Parent without issuing any suspension papers in connection with sending Student home.⁷
5. Parent repeatedly requested a special education evaluation of Student during SY 12/13 in light of Student's ongoing behavior problems, but the school did not honor Parent's request for an evaluation until December of 2012, when DCPS conducted a psychological evaluation of Student.⁸
6. Student's December 6, 2012 psychological evaluation report confirms that Parent requested the evaluation because of academic and behavioral problems Student was exhibiting in school. The evaluator noted that her review of Student's educational records revealed that Student "is verbally disruptive, argumentative, defiant, disrespectful to classroom teachers and is often off-task which impacts her academic performance in the general education classroom."

Moreover, one of Student's teachers reported that Student was struggling academically due to significant emotional issues that presented as oppositional defiance and an explosive temper, and that Student had been absent from class quite a bit as a result of her behavioral issues. Another of Student's teachers reported that Student frequently exhibited attention-seeking behavior, such as talking loudly during instruction or disrupting other students, and when Student received consequences for the disruptive behavior, she usually exhibited defiant, disrespectful, and/or threatening behavior. This second teacher also noted that she had often observed Student insulting and threatening to hurt others, including both adults and other students, and that she had noticed Student exhibiting signs of frequent mood swings.

In connection with this same evaluation, Student also self-reported that she had difficulty with exhibiting appropriate behavior both at home and at school.⁹

³ To the extent that the hearing officer has declined to base a finding of fact on a witness's testimony that goes to the heart of the issue(s) under consideration, or has chosen to base a finding of fact on the testimony of one witness when another witness gave contradictory testimony on the same issue, then the hearing officer has taken such action based on the hearing officer's determinations of the credibility and/or lack of credibility of the witness(es) involved.

⁴ Testimony of Parent.

⁵ Stipulation by DCPS at the due process hearing.

⁶ Respondent's Exhibit 1 at 4; *see also*, Petitioner's Exhibit 2 at 16.

⁷ Testimony of Parent.

⁸ Testimony of Parent; *see* Petitioner's Exhibit 3.

⁹ Petitioner's Exhibit 3.

7. Student's December 6, 2012 psychological evaluation included the following procedures and tests: intellectual assessment scales, a test of cognitive abilities, a test of academic achievement, several measures designed to assess behavior, classroom observation, teacher, parent and student interviews, and a review of school documents.¹⁰
8. Student's December 6, 2012 psychological evaluation report reveals that her overall intelligence/cognition is in the Below Average range (composite intelligence index = 82). Student's academic functioning is at the following levels, as revealed by the psychological evaluation report: Brief Reading – 6.0 grade equivalency (“GE”); Broad Math – 10.9 GE; and Written Language – 5.0 GE. Although Student scored at or above grade level in reading, she scored slightly below grade level in the reading subtests for letter-word identification (5.7 GE) and passage comprehension (5.4 GE). Student's subtest scores in math were all at or above grade level, while her subtest scores in written language were only slightly below grade level.¹¹
9. The comprehensive psychological evaluator noted that the educational implications related to the referral question of whether or not Student's behavior difficulty impacts her academic performance needs further investigation. The evaluator also noted that Parent failed to return behavioral checklists sent to her in connection with the evaluation. The evaluator ultimately recommended, *inter alia*, referring Student for a speech and language assessment and a social history. The evaluator also “strongly recommended” a BIP to address Student's problematic behavior at school.¹²
10. The school social worker at the previous DCPS school received a referral to conduct a social history for Student. However, the social worker was not able to complete the social history because she sent several letters home to Parent through the mail and through Student but never received a response.¹³
11. Student's January 25, 2013 Progress Report revealed that she was failing three classes but earning a D in Science and a C in Math.¹⁴
12. On February 8, 2013, three days after the development of her initial IEP, Student was involved in an incident at her previous DCPS middle school where a staff member repeatedly requested that Student leave her office but Student failed to comply, Student then began walking around the staff member's desk and pretending to punch the staff member in the face, and Student's hand actually made contact with the staff member's face.¹⁵
13. Parent was called after the February 8th disciplinary incident and told that Student was going to be brought home. Thereafter, four employees from the previous DCPS school took Student home and told Parent that criminal charges would be filed against Student and she would not be able to return to the previous DCPS middle school. However, criminal charges were never filed against Student in connection with the incident.¹⁶

¹⁰ Petitioner's Exhibit 3 at 1.

¹¹ Petitioner's Exhibit 3 at 8.

¹² Petitioner's Exhibit 3 at 13.

¹³ Testimony of school social worker.

¹⁴ Petitioner's Exhibit 4.

¹⁵ Petitioner's Exhibit 2.

¹⁶ Testimony of Parent.

14. On February 8, 2013, DCPS created a Notice of proposed Disciplinary Action, wherein DCPS proposed a 42-day off-site long-term suspension for Student as a result of her “assault/physical attack” on the staff-member at her previous DCPS school.¹⁷
15. On February 11, 2013, DCPS created a Letter of Invitation to a Meeting (“LOI”), inviting Parent to attend a manifestation meeting for Student. The letter did not state the proposed date for the meeting.¹⁸
16. On February 12, 2013, DCPS created a Manifestation Determination Form, which indicates that a manifestation meeting was held for Student, Parent participated by phone, and the team determined, after reviewing Student’s evaluation and diagnostic results, information from Parent, observation(s) of Student’s behavior, and Student’s IEP and behavior intervention plan, that Student’s behavior on February 8th was not a manifestation of her disability because the conduct was not caused by and did not have a direct and substantial relationship to Student’s disability, and the conduct was not the direct result of the failure to implement Student’s IEP.¹⁹
17. Student did not attend school from on or about February 12, 2013 to June 20, 2013, which was the end of SY 2012/13, and from August 26, 2013 (the start of SY 2013/14) to October 16, 2013. Hence, at the resolution session for this matter, DCPS authorized Student to receive 50 hours of tutoring services and 20 hours of independent behavioral support services without admitting to liability.²⁰
18. Neither Parent nor her aunt, who frequently assists Parent with Student’s school-related issues, recalls that a manifestation meeting was held for Student. However, the aunt recalls that two meetings were held at the school due to Student’s suspension, and that there were telephone conversations as a result of the school calling Parent at home.²¹
19. The school social worker from the previous DCPS school participated in the manifestation meeting for Student and recalls that Parent participated by phone.²²
20. DCPS did not conduct an FBA for Student.²³
21. At the beginning of SY 2013/14, Parent un-enrolled Student from the previous DCPS middle school and attempted to enroll her at a different middle school, which indicated that there was no room for Student and sent Parent back to the previous DCPS middle school. When Parent went back to the previous DCPS middle school a few days later, the staff member in charge of attendance indicated, *inter alia*, that Student should have already been attending the current DCPS middle school. The staff member also gave Parent the telephone numbers for two people she could call. However, Parent never called the individuals; instead, she gave the paper to her lawyer. Moreover, Parent never

¹⁷ Respondent’s Exhibit 5.

¹⁸ Respondent’s Exhibit 3.

¹⁹ Respondent’s Exhibit 4; Petitioner’s Exhibit 10.

²⁰ Stipulation by DCPS at the due process hearing; *see also* Respondent’s Exhibit 6 at 2.

²¹ Testimony of Parent; testimony of aunt.

²² Testimony of school social worker.

²³ Testimony of school social worker.

attempted to enroll Student in the current DCPS school until after the resolution meeting session for the instant case had been held.²⁴

22. Parent enrolled Student at the current DCPS school the week prior to the due process hearing in this case. Transportation services were added to Student's IEP on October 18, 2013, but DCPS never sent Parent or her counsel a copy of the amended IEP. Moreover, the transportation services had not yet begun by the time of the due process hearing in this case, so Parent's aunt has been taking Student to the current school, which requires them to take two different buses.²⁵
23. At the prehearing conference in this case, Petitioner conceded that it does not have enough information to determine whether the current DCPS middle school is appropriate for Student because Student has not been attending the school long enough for that determination to be made.
24. Petitioner has requested 150 hours of tutoring, 50 hours of behavioral support services, and 25 hours of mentoring services as compensatory education to redress the following alleged harms: Student has been out of school since February 8th; and the February 5th IEP was inappropriate because it provided an insufficient number of hours of specialized instruction and services.²⁶

CONCLUSIONS OF LAW

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

The burden of proof in an administrative hearing is properly placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005). In this regard, IDEA does not require a departure from the ordinary default rule that plaintiffs bear the risk of failing to prove their claims. *See id.*; *Ridley School District v. M.R.*, 680 F.3d 260, 269 (3rd Cir. 2012); *L.E. v. Ramsey Board of Educ.*, 435 F.3d 384, 391 (3rd Cir. 2006). Now, for a consideration of Petitioner's claims, which will be grouped together to the extent that they are interrelated.

Appropriateness of February 5, 2013 IEP and Alleged Failure to Develop a BIP

The "free appropriate public education" required by the Act is tailored to the unique needs of the handicapped child by means of an "individualized educational program." Board of Education of the *Hendrick Hudson Central School District, Westchester County, et. al. v. Rowley*, 458 U.S. 176 (1982). The IEP, and therefore the personalized instruction, should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade. *Id.* Moreover, in developing the IEP of a disabled child whose behavior impedes the learning of the child or others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. 34 C.F.R. § 300.324(a)(2)(i).

²⁴ Testimony of Parent.

²⁵ Testimony of SEC; testimony of aunt.

²⁶ Testimony of CEO and Director of educational service.

In short, a disabled child's IEP must be reasonably calculated to enable the child to receive educational benefit. *Rowley, supra*. In determining whether an IEP is reasonably calculated to provide educational benefit, the measure and adequacy of the IEP is to be determined "as of the time it is offered to the student." *Thompson R2-J Sch. Dist. v. Luke P.*, 540 F.3d 1143, 1149 (10th Cir. 2008), *cert. denied*, 555 U.S. 1173 (2009).

The evidence in this case reveals that at the time DCPS developed Student's February 5, 2013 IEP, Student was failing almost all of her classes and her behavioral problems were so significant that she was being sent home repeatedly by the school and she ultimately was referred for a comprehensive psychological evaluation to determine her potential eligibility for special education and related services. As part of the evaluation, which DCPS considered in connection with the development of the IEP, the evaluator and Student's teachers noted that Student's negative behaviors were impacting her academic performance and the evaluator "strongly recommended" a BIP for Student. Nevertheless, the IEP team provided Student with an IEP that required her to receive only 2 hours per month of behavioral support services, and the IEP did not include a behavioral intervention plan to address Student's negative behaviors that were occurring throughout the school day and negatively impacting her educational performance. Based on this evidence, the hearing officer concludes that DCPS denied Student a FAPE by failing to provide her with an IEP that was reasonably calculated to provide Student with educational benefit at the time it was offered, because the IEP did not contain sufficient behavioral support services and positive behavioral interventions, supports and other strategies to address Student's negative behaviors. As a result, the hearing officer will order DCPS to conduct an FBA for Student to determine the underlying causes of her negative behaviors, develop a BIP to address the negative behaviors throughout the school day, and increase Student's behavioral support services on the IEP to one hour per week.

Petitioner further argues in connection with this claim that the IEP was inappropriate for failure to provide additional specialized instruction to Student because Student requires goals in all academic areas, and in particular goals in spelling and reading comprehension. However, the evidence in this case reveals that Student's assessment data demonstrates that Student is performing at or above grade level in reading and math, even though she scored slightly below grade level on two reading subtests. Moreover, the evidence indicates that it is Student's negative behaviors, not any cognitive, intellectual or academic deficiencies, which are adversely impacting her ability to access her education. Therefore, the evidence does not support Petitioner's claim that Student's IEP must include additional hours of specialized instruction to be reasonably calculated to provide educational benefit. As a result, the hearing officer concludes that Petitioner has not met its burden of proof with respect to this portion of its claim that the IEP is inappropriate.

Alleged Failure to Conduct a Comprehensive Initial Evaluation

Under IDEA, an initial evaluation must consist of procedures to determine if the child is a child with a disability under 34 C.F.R. § 300.308, and to determine the child's educational needs. 34 C.F.R. § 300.301(c)(2). Moreover, the child must be assessed using a variety of assessment tools and strategies and the public agency must not use any single measure or criterion, and the child must be 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 C.F.R. § 300.304(b)-(c).

In the instant case, the evidence reveals that DCPS's initial evaluation of Student consisted of a psychological evaluation included the following procedures and tests: intellectual assessment

scales, a test of cognitive abilities, a test of academic achievement, several measures designed to assess behavior, classroom observation, teacher, parent and student interviews, and a review of school documents. Hence, the evidence is clear that DCPS used a variety of tools and strategies designed to address all areas related to the suspected disability. Moreover, although the evidence further reveals that the psychological evaluator recommended referring Student for a speech and language assessment and a social history, and strongly recommended a BIP to address Student's problematic behavior at school, the hearing officer has already charged DCPS above with denying Student a FAPE by failing to develop the recommended BIP, which necessarily would have required DCPS to conduct an FBA, and the evidence in this case reveals that DCPS attempted to conduct the recommended social history, which would have been based primarily on an in-depth interview with Parent, but Parent failed to respond to the social worker's requests to participate in the social history. With respect to the recommended speech and language evaluation, the hearing officer notes that there is no requirement that DCPS adopt wholesale all recommendations contained in an evaluator's report, and there is no other evidence in this case tending to suggest that Student is suspected of having a disability in connection with her speech and language abilities. Under these circumstances, the hearing officer concludes that Petitioner has failed to meet its burden of demonstrating a denial of FAPE in connection with Student's initial evaluation.

Alleged Failure to Comply with IDEA's Disciplinary Procedures

IDEA requires that within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP team must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine (i) if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, or (ii) if the conduct was the direct result of the LEA's failure to implement the IEP. 34 C.F.R. § 300.530(e)(1). If either of these two conditions is met, then the conduct must be determined to be a manifestation of the child's disability, and the IEP team must, *inter alia*, conduct an FBA if one does not exist and implement a BIP, or review and modify as necessary any existing BIP. *See* 34 C.F.R. § 300.530(e)(3) & (f)(1).

IDEA further provides that for disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability, school personnel may apply relevant disciplinary procedures to disabled children in the same manner and for the same duration as the procedures would be applied to children without disabilities, except that the disabled child must continue to receive educational services so as to enable the child to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the child's IEP, and must receive as appropriate an FBA and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. 34 C.F.R. § 300.530(c)-(d)(1). For purposes of removals of a disabled child from the child's current educational placement under §§ 300.530 – 300.535, a change in placement occurs if, *inter alia*, the removal is for more than 10 consecutive school days. 34 C.F.R. § 300.536(a)(1).

In the instant case, the evidence reveals that although Parent and her aunt do not recall that a manifestation meeting was held for Student, DCPS held a manifestation meeting and determined that Student's behavior on February 8, 2013 was not a manifestation of her disability. However, the evidence in this case also reveals that after DCPS determined to remove Student from school for more than 10 consecutive school days as a result of her disciplinary infraction, DCPS failed

to ensure that Student continued to receive educational services and failed to provide Student with an FBA and a BIP designed to address her behavior violation so that it does not recur. Based on this evidence, the hearing officer concludes that Petitioner has met its burden of proving that DCPS denied Student a FAPE by failing to comply with IDEA's disciplinary procedures, with the result that Student did not attend school, and therefore did not receive any academic instruction or behavioral support services, from February 12, 2013 to June 20, 2013, which was the end of SY 2012/13, and from August 26, 2013 (the start of SY 2013/14) to October 16, 2013. In an attempt to redress this harm, DCPS has authorized Student to receive 50 hours of tutoring and 20 hours of behavioral support services. However, as Student missed all academic instruction, both special education and otherwise, for almost the entire second semester of SY 2012/13 and for the first portion of SY 2013/14, the hearing officer finds that DCPS's award of tutoring and behavioral support services is inadequate to fully remedy the harm suffered by Student, and the hearing officer will award Student an additional 50 hours of tutoring and 20 hours of behavioral support services to enable Student to receive the educational benefit she would have received but for DCPS's failure to provide her with any school services at all during the time periods at issue. The hearing officer declines to award Petitioner the requested mentoring services, on the ground that the additional tutoring and behavioral support services will fully redress the harm suffered by Student in connection with this claim.

Alleged Failure to Provide an Appropriate Placement for SY 2013/14

Under IDEIA, a public agency must provide an appropriate educational placement/location of services for each child with a disability, so that the child's needs for special education and related services can be met. *See* 34 C.F.R. § 300.17; 34 C.F.R. §§ 300.114-300.120. In this regard, a FAPE consists of special education and related services that, *inter alia*, include an appropriate secondary school and are provided in conformity with the Student's IEP. *See* 34 C.F.R. § 300.17.

In the instant case, Petitioner contends that DCPS failed to provide Student with a suitable educational placement, or indeed any educational placement at all, for SY 2013/14. However, DCPS has already conceded that Student missed the first portion of SY 2013/14 and offered missed services to redress that harm, which has been supplemented above by the hearing officer. Moreover, all parties concede that Student is now attending the current DCPS middle school, although as of the due process hearing, she was not being provided with the necessary transportation to attend that school, and Petitioner concedes that Student has not been attending the school long enough to determine whether the school is an appropriate location of services for Student. As a result, the hearing officer finds that Petitioner has failed to demonstrate a denial of FAPE in connection with this claim. However, to ensure that Student is able to attend the school DCPS has assigned her to attend, the hearing officer will order DCPS, if it has not already done so, to begin providing Student with transportation services on the school day immediately following the issuance of this decision, and if DCPS fails to do so, then DCPS shall fund Student's transportation to and from the school by private taxicab until such time as it begins providing her with the necessary transportation services. *See Letter to Armstrong*, Office of Special Education Programs (28 IDELR 303 June 11, 1997) (states must set up due process system which gives hearing officers authority to order any relief necessary to ensure student receives a FAPE).

ORDER

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

1. Within 15 calendar days of the issuance of this Order, DCPS shall conduct an FBA for Student to determine the underlying causes of her negative behaviors and convene an IEP team meeting to develop a BIP to address the negative behaviors throughout the school day and increase Student's behavioral support services on the IEP to one hour per week.
2. DCPS shall provide funding for Student to receive an additional 50 hours of tutoring and 20 hours of behavioral support services, above and beyond the services already authorized by DCPS at the 10/9/2013 resolution session meeting for this case.
3. If it has not already done so by the date of the issuance of this Order, on the school day immediately following the issuance of this Order DCPS shall begin providing Student with transportation services to and from the current DCPS middle school. Should DCPS fail to do so, then DCPS shall fund Student's transportation to and from that school by private taxicab until such time as it begins providing her with the necessary transportation services to and from the school.
4. All remaining claims and requests for relief in Petitioner's September 25, 2013 Complaint are **DENIED AND DISMISSED WITH PREJUDICE**.

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).

Date: 11/6/2013

/s/ Kimm Massey

Kimm Massey, Esq.
Hearing Officer