



A resolution session was also held on or about July 8, 2011, which did not resolve the Complaint, and the parties did not agree to end the resolution period early. As a result, the statutory 30-day resolution period ended July 22, 2011, and the HOD timeline expires September 5, 2011.

A Prehearing Conference (“PHC”) was then held on July 28, 2011; the parties filed five-day disclosures on August 18, 2011; and the Due Process Hearing was held on August 25, 2011. Petitioner elected for the hearing to be closed and attended the hearing in person.

At the Due Process Hearing, the following Documentary Exhibits were admitted into evidence without objection:

**Petitioner’s Exhibits:** P-1 through P-32.<sup>2</sup>

**Respondent’s Exhibits:** R-1 through R-11.

In addition, the following Witnesses testified on behalf of each party:

**Petitioner’s Witnesses:** (1) Parent-Petitioner; (2) the Student’s Educational Advocate (“EA”); (3) Psychologist; (4) Educational Consultant (regarding compensatory education); (5) the Student (direct and rebuttal); and (6) Private School representative.

**Respondent’s Witness:** Special Education Coordinator.

## **II. JURISDICTION**

The due process hearing was held pursuant to the IDEA, 20 U.S.C. §1415 (f); its implementing regulations, 34 C.F.R. §300.511; and the District of Columbia Code and Code of D.C. Municipal Regulations, *see* DCMR §§ 5-E3029, E3030. This decision constitutes the Hearing Officer’s Determination (“HOD”) pursuant to 20 U.S.C. §1415 (f), 34 C.F.R. §300.513, and Section 1003 of the *SOP*. The statutory HOD deadline is September 5, 2011.

## **III. ISSUES AND REQUESTED RELIEF**

A discussion at the PHC of the issues and requested relief raised by Petitioner resulted in the following issues being presented for determination at hearing (*see Prehearing Order*, ¶ 6):

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<sup>2</sup> The last page of Exhibit P-8 was withdrawn at the due process hearing.

- (1) **Inappropriate IEP.** — Did DCPS deny the Student a FAPE by failing to develop an appropriate IEP (*i.e.*, one that was reasonably calculated to provide educational benefit), as of March 11, 2011?

Petitioner alleges that the IEP: (a) fails to provide the Student sufficient specialized instruction based on the severity of his disability; (b) fails to address the Student's needs in the goals section of the IEP; and (c) fails to address the Student's attendance problems (through a BIP and/or specific goals). *See Complaint*, pp. 8-12.

- (2) **Inappropriate Placement.** — Did DCPS deny the Student a FAPE by failing to provide an appropriate educational placement?

Petitioner alleges that the Student should be placed at a school that can provide the specialized instruction he requires in a full-time, out of general education setting.

As relief, Petitioner requests: (a) a full-time, special education placement; (b) compensatory education; and (c) any other relief deemed appropriate. *Complaint*, p. 17; *Prehearing Order* ¶ 7. As the party seeking relief, Petitioner was required to proceed first at the hearing and had the burden of proof on each issue specified above. Petitioner also had the burden of proposing a well-articulated plan for compensatory education, in accordance with the standards of *Reid v. District of Columbia*, 401 F.3d 516 (D.C. Cir. 2005).

#### **IV. FINDINGS OF FACT**

1. The Student is a -year old student who has been determined to be eligible for special education and related services under the IDEA as a child with a disability. His primary disability is Specific Learning Disability (“SLD”). *P-10; R-6*.
2. During the 2010-11 school year, the Student attended his neighborhood DCPS senior high school (the “High School”), where he was in the 9<sup>th</sup> grade. *See P-3; Parent Test*.
3. On or about October 15, 2010, Petitioner filed an administrative due process complaint against DCPS alleging numerous IDEA violations and denials of FAPE. *P-1*. The claims included failure to evaluate, failure to develop an appropriate IEP, failure to implement IEP, and failure to provide an appropriate placement for the Student during the 2009-10 and 2010-11 school years. *Id*.
4. On or about November 15, 2010, Parent-Petitioner and DCPS entered into a written settlement agreement (“SA”), whereby they agreed to resolve the 10/15/2010 complaint in

lieu of a formal due process hearing. *P-2; R-1*. The parties agreed: (a) to authorize Parent to obtain independent evaluations of the Student (specifically, a Comprehensive Psychological, speech/language, and Vocational II Assessment); and (b) to convene an MDT meeting within 20 business days of receipt of the final evaluation to review the evaluations, review and revise the IEP if necessary, discuss location of services, and discuss and determine compensatory education if warranted. *P-2 ¶ 4; R-1 ¶ 4*. The parties agreed that the 11/15/2010 SA was “in full satisfaction and settlement of all claims contained in the pending Complaint, including those claims under IDEA and §504 the Parent now asserts or could have asserted within the statute of limitations as of the date of the signed Settlement Agreement.” *P-2 ¶ 10; R-1 ¶ 10*. Parent further agreed to withdraw the 10/15/2010 complaint “with prejudice.” *Id.*, ¶ 13.

5. By mid-January, 2011, Petitioner had obtained the three independent evaluations and forwarded copies of the reports to DCPS. *See P-3; P-15; P-16; P-17*.
6. The Comprehensive Psychological Evaluation found (*inter alia*) that the Student’s general intellectual ability, as measured by the Woodcock-Johnson III GIA score, was in the Very Low range (GIA = 68) when compared to others in his age range. However, in light of significant discrepancies between cluster scores, the evaluator concluded that individual examination of his cluster scores provided a better overview of his cognitive abilities than did the GIA. *P-17, pp. 3-4*. The evaluator then found that the Student “scored much lower than expected in Broad Reading (actual score = 49; predicted score = 76), Broad Written Language (actual score = 56; predicted score = 77), and Oral Language (actual score = 54; predicted score = 75),” thereby suggesting that he was performing significantly below his actual abilities and indicating the presence of a learning disorder. *Id.*, p. 6. The evaluator recommended (*inter alia*) that the Student “would benefit from a full-time out [of] general education IEP and placement.” *Id.*, p. 11. *See also Psychologist Test*.
7. The Vocational II Assessment was conducted to gather comprehensive information concerning the Student’s interests and preferences and to assess his overall transition needs, so that the IEP team could structure appropriate post-secondary goals. *P-15*.
8. The speech/language evaluation conducted by an independent speech-language pathologist recommended that the Student continue to receive special education related services in this area to address his speech/language impairments. *P-16, p. 4*.

9. On or about February 24, 2011, DCPS convened a meeting of the Student's MDT/IEP Team. The stated purpose of the meeting was to "Close out SA signed and dated 11/15/10." *R-3, p. 1*. At this meeting, the DCPS Psychologist reviewed the Comprehensive Psychological Evaluation and concurred with the SLD disability classification. However, concern was expressed regarding truancy and suspensions. *Id.* The team also reviewed the speech/language evaluation and the vocational assessment. *Id.* The team then agreed to reconvene on 03/11/2011 "to finalize the IEP, to find out where the student was enrolled for the 2009/2010 SY, discuss placement, if necessary, and discuss compensatory education if warranted." *Id., p. 2*.
10. On or about March 11, 2011, DCPS convened another meeting of the Student's MDT/IEP Team. The stated purpose of the meeting was again to "Close out SA signed and dated 11/15/10." *R-4, p. 1*. At this meeting, the team reviewed and revised the IEP; the team agreed that High School was an appropriate location of services; and DCPS offered 75 hours of independent tutoring for the Student. *Id., pp. 1-2*. Petitioner did not agree with the content of the IEP or the location of services, and did not accept DCPS' compensatory education offer. <sup>3</sup> *Id.; see Parent Test*. The team concluded that all provisions of the 11/15/2010 SA had been implemented and were now closed. *Id., p. 2; see SEC Test*.
11. The Student's IEP developed at the March 11, 2011 meeting provides for 25.5 hours per week of specialized instruction in a General Education (inclusion) setting, plus the related service of Speech-Language Pathology for 90 minutes per month in an Outside General Education setting along with additional consultation services of 30 minutes per month. *R-6, p. 7*. On or about June 6, 2011, DCPS issued a Prior Written Notice to correct a minor typographical error in the 03/11/2011 IEP (*i.e.*, beginning and end dates of services). *R-7*.
12. On or about July 8, 2011, DCPS convened a resolution meeting on the instant complaint. At this meeting, DCPS issued an IEE letter authorizing an independent functional behavioral assessment ("FBA"), which is to be used to develop a behavior intervention plan ("BIP") for the Student. *See R-11*. As of the date of the due process hearing, the independent FBA was still pending.

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<sup>3</sup> Nevertheless, DCPS issued a Compensatory Education Authorization letter authorizing Petitioner to obtain 75 hours of DCPS-funded independent tutoring by a provider of the parent's choice to be completed by March 15, 2012. *See R-9*. DCPS agrees that this authorization may be used by Petitioner despite her non-acceptance of DCPS' compensatory education proposal at the 03/11/2011 MDT meeting. *See SEC Test*.

## V. DISCUSSION AND CONCLUSIONS OF LAW

### A. Issues/Alleged Denials of FAPE

Under the IDEA, FAPE means:

[S]pecial education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the SEA...include an appropriate preschool, elementary school, or secondary school education in the State involved; and are provided in conformity with the individualized education program (IEP)..." 20 U.S.C. § 1401(9); see 34 C.F.R. § 300.17; DCMR 5-E3001.1.

Petitioner claims that DCPS denied the Student a FAPE by (1) failing to develop an appropriate IEP as of March 11, 2011; and (2) failing to provide an appropriate educational placement for the Student. For the reasons discussed below, the Hearing Officer concludes that Petitioner proved by a preponderance of the evidence that DCPS has denied the Student a FAPE under Issue 1 (to the extent set forth herein), but failed to prove by a preponderance of the evidence that DCPS has denied the Student a FAPE under Issue 2.

#### 1. **Alleged Failure to Develop an Appropriate IEP**

The "primary vehicle" for implementing the goals of the IDEA is the IEP, which the statute "mandates for each child." *Harris v. District of Columbia*, 561 F. Supp. 2d 63, 65 (D.D.C. 2008) (citing *Honig v. Doe*, 484 U.S. 305, 311-12 (1988)). An IEP is a comprehensive written plan that must include, among other things: (1) "a statement of the child's present levels of academic achievement and functional performance, including ... how the child's disability affects the child's improvement and progress in the general education curriculum"; (2) "a statement of measurable annual goals, including academic and functional goals, designed to ... 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 meet each of the child's other education needs that result from the child's disability"; (3) "a description of how the child's progress toward meeting the annual goals...will be measured"; (4) "a statement of the special education and related services and supplementary aids and services ...and a statement of the program modifications or supports for school personnel that will be provided for the child"; and (5) an explanation of the extent, if any, to which the child will not participate with non-disabled

children in any regular classes. 20 U.S.C. 1414(d)(1)(A)(i). *See also* 34 C.F.R. 300.320; DCMR 5-E3009.1.

To be sufficient to provide FAPE under the IDEA, an “IEP must be ‘reasonably calculated’ to confer educational benefits on the child, but it need not ‘maximize the potential of each handicapped child commensurate with the opportunity presented non-handicapped children.” *Anderson v. District of Columbia*, 109 LRP 18615 (D.D.C. 2009), slip op. at 6, quoting *Board of Education v. Rowley*, 458 U.S. 176,200,207 (1982).<sup>4</sup> Judicial and hearing officer review of IEPs is “meant to be largely prospective and to focus on a child’s needs looking forward; courts thus ask whether, at the time an IEP was created, it was ‘reasonably calculated to enable the child to receive educational benefits.’”<sup>5</sup> Also, the issue of whether an IEP is appropriate is a question of fact for hearing. *See, e.g., S.H. v. State-Operated School Dist. of Newark*, 336 F. 3d 260, 271 (3d Cir. 2003).

In this case, Petitioner claims that the Student’s March 29, 2011 IEP: (a) fails to provide the Student sufficient specialized instruction based on the severity of his disability; (b) fails to address the Student’s needs in the goals section of the IEP; and (c) fails to address the Student’s attendance problems (through a BIP and/or specific goals). *See Complaint*, pp. 8-12; *see also Prehearing Order* ¶ 6. Petitioner has prevailed on these claims to the extent discussed below.

***Specialized instruction and needs/goals (claims (a) and (b) above)***

The Hearing Officer agrees that the academic goals in the 03/11/2011 IEP are insufficiently aligned with the Student’s identified needs. In mathematics, for example, the Student’s present level of educational performance is on the 4<sup>th</sup> grade level; his “[c]lass work samples suggest [Student] is unable to perform basic mathematics operations when presented with word problems”; and “Student’s disability is impacting his mastery of basic mathematics standards.” *R-6*, p. 2. Thus, the IEP team defined his special education needs in this area to include the following:

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<sup>4</sup> *See also Kerkam v. McKenzie*, 862 F. 2d 884 (D.C. Cir. 1988); *J.G. v. Abington School*, 51 IDELR 129 (E.D. Pa. 2008), slip op. at 8 (“while the proposed IEP may not offer [the student] the best possible education, it is nevertheless adequate to advance him a meaningful educational benefit.”).

<sup>5</sup> *Schaffer v. Weast*, 554 F.3d 470,477 (4th Cir. 2009) (citing *Rowley*, 458 U.S. at 207); *see also Fuhrmann v. East Hanover Bd. of Educ.*, 993 F.2d 1031, 1040 (3d Cir. 1993) (whether an IEP is appropriate “can only be determined as of the time it is offered for the student, and not at some later date”).

“Focus for academic setting should include *intensive remediation* of Basic mathematics skills, including proficiency in all mathematics operations (addition, subtraction, division, and multiplication of whole numbers, fractions, and decimals)... [Student] *first must master these basic mathematical skills before he is able to experience success in higher-level mathematics classrooms.*” *Id.* (emphasis added).

Similarly, the Student is on the 2d-3d grade level in reading; his “disability is impacting his mastery of basic reading standards”; and he requires “intensive remediation of Basic reading skills, including a focus on phonemic awareness, decoding, and fluency-building skills” before he can fully comprehend grade-level texts. *R-6, p. 3. See also Psych. Test.* (testifying that Student lacks basic reading skills and “will be lost” in a general education classroom).

Yet, as Petitioner points out, the annual goals in each of these areas do not adequately address the need for “intensive remediation” in all of the basic skills and operations. *Id., pp. 2-3; see P-3, pp. 6, 10-11.* Many of the goals are too generic, and the meeting notes reveal little additional discussion or clarification. *See, e.g., P-9 (EA meeting notes), p. 2; R-3; R-4; EA Test.*

Moreover, grouping the Student with higher performing, non-disabled peers for all of his specialized instruction is unlikely to produce the intensive remediation that the Student has been found to require, given his cognitive abilities and how far below grade level he presently performs. *See Psych. Test.* Hence, an IEP that does not include *any* pull-out instruction would not be reasonably calculated to provide educational benefit to the Student and would not be an appropriate LRE in this case.

Finally, the record reveals troubling inconsistencies regarding the nature of the services to be provided to the Student under the 03/11/2011 IEP that should be clarified in a further IEP meeting. On the one hand, the IEP on its face states that all 25.5 hours of specialized instruction will be provided in a General Education setting (*i.e.*, “inclusion model environment”). *R-6, pp. 2-3, 7.* On the other hand, the Special Education Coordinator testified that specialized instruction was made available to the Student under the IEP through separate courses taught by certified special education teachers. These courses included Study Skills, Comprehension Development, Application Skills, and Academic Support. *SEC Test.; R-8* (listing 2010-11 courses and grades). The SEC referred to this instruction as “resource classes” and was “not certain” which ones were taught outside a regular education classroom (*i.e.*, in a non-inclusion environment). *SEC Test.*

See also *N.S. v. District of Columbia*, 709 F. Supp. 2d at 71-72 (noting similar inconsistencies both within the IEP and between IEP and special education teacher's testimony).

The IDEA requires IEPs to be "tailored to address the specific needs of each disabled student," and to "be specific enough to allow parents to understand what services will be provided." *N.S. v. District of Columbia*, 709 F. Supp. 2d 57, 70 (D.D.C. 2010). "One of the purposes of the IEP is to ensure that the services provided are formalized in a written document that can be assessed by parents and challenged if necessary." 709 F. Supp. 2d at 73. Because it appears that was not done in this case – and because the additional (non-inclusion) services not specified in the IEP may be required to meet the Student's specific needs for "intense remediation" in basic math and reading skills – the Hearing Officer concludes that the 03/11/2011 IEP was inadequate, and that DCPS failed to offer the Student a FAPE. See *id.*

Accordingly, DCPS should revise the IEP to (i) add more specificity to the academic goals under math and reading, and (ii) clarify the exact nature and setting of all specialized instruction provided to the Student, consistent with the overall need for intensive remediation.

#### *Attendance problems (claim (c) above)*

Both parties appear to agree that the Student has significant attendance problems that the IEP team found to be negatively impacting his academic performance. See, e.g., *R-6*, pp. 2-4. To help address these concerns, the 03/11/2011 IEP calls for the Student to be placed on an "attendance contract" and to be monitored by an "attendance counselor," *id.*, which appear to constitute appropriate forms of positive behavioral interventions and supports. 34 C.F.R. 300.324(a)(2)(i). However, the Hearing Officer also agrees with Petitioner that (i) the IEP should include specific social/emotional/behavioral goals to address this serious behavioral concern; and (ii) DCPS should adopt and implement a formal behavior intervention plan ("BIP") to address such behavior once the authorized independent FBA is completed.

## **2. Alleged Failure to Determine an Appropriate Educational Placement**

"Designing an appropriate IEP is necessary but not sufficient. DCPS must also implement the IEP, which includes offering *placement in a school that can fulfill the requirements set forth in the IEP.*" *O.O. v. District of Columbia*, 573 F. Supp. 2d 41, 53 (D.D.C. 2008) (emphasis added). In determining educational placement, DCPS must place a

student with a disability in “an *appropriate special education school or program*” in accordance with the IDEA. D.C. Code 38-2561.02 (emphasis added).<sup>6</sup> Among other things, DCPS must ensure (*inter alia*) that the placement decision is “based on the child’s IEP,” and that it is in conformity with Least Restrictive Environment (“LRE”) provisions. 34 C.F.R. § 300.116. “If no suitable public school is available, the District must pay the costs of sending the child to an appropriate private school.” *Jenkins v. Squillacote*, 935 F. 2d 303, 305 (D.C. Cir. 1991).

In this case, Petitioner failed to demonstrate that High School cannot implement an appropriate IEP or provide an appropriate educational placement/location of services that is reasonably calculated to provide educational benefit to the Student, once the goals and parameters of the setting for all specialized instruction is clarified as discussed above. To the contrary, the evidence shows that High School has provided at least some of the Student’s specialized instruction in math and reading in narrower settings outside the general education classrooms, and that the Student has experienced relative success there. *See SEC Test.; R-8* (transcript noting 2 B’s, a C, and a D). Moreover, the High School can provide a diploma-track placement, consistent with the terms of the IEP and desires of the Student and Parent. *See R-6, p. 14; Parent Test.; Student Test.*

### **C. Appropriate Relief**

The IDEA authorizes the Hearing Officer to fashion “appropriate” relief, *e.g.*, 20 U.S.C. §1415(i)(2)(C)(iii), and such authority entails “broad discretion” and implicates “equitable considerations,” *Florence County Sch. Dist. Four v. Carter*, 510 U.S. 7, 15-16 (1993); *Reid v. District of Columbia*, 401 F.3d 516, 521-23 (D.C. Cir. 2005). Based on the findings and record developed at hearing, the Hearing Officer has exercised his discretion to order appropriate equitable relief, as described in the Order issued below, which requires DCPS to reconvene a meeting of the MDT/IEP Team to review the results of the independent FBA, and to review and revise the Student’s IEP with respect to the above deficiencies.

For the reasons discussed below, Petitioner failed to demonstrate any entitlement to compensatory education services beyond the 75 hours of independent tutoring already authorized

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<sup>6</sup> *See also Branham v. District of Columbia*, 427 F. 3d 7, 12 (D.C. Cir. 2005), *citing McKenzie v. Smith*, 771 F.2d 1527, 1534-35 (affirming “placement based on match between a student’s needs and the services offered at a particular school”); *T.T. v. District of Columbia*, 48 IDELR 127 (D.D.C. 2007) (“Once developed, the IEP is then implemented through an appropriate placement in an educational setting suited to the student’s needs”).

by DCPS pursuant to the 11/15/2010 SA. Petitioner also failed to prove that a full-time, private, special education placement is required to remedy the denial of FAPE found under Issue 1 (inappropriate IEP).<sup>7</sup>

In closing argument, Petitioner's counsel conceded that Parent does not seek any compensatory education relief for any time period prior to the 11/15/2010 SA. Nor could she legally do so since she chose to settle, rather than litigate, her prior claims of denials of FAPE.<sup>8</sup> As a result of that settlement, DCPS convened an MDT meeting to "discuss and determine compensatory education, if warranted" (*R-1, p. 2*); at which it authorized 75 hours of independent tutoring. *R-9*. These services may now be obtained by Petitioner for the benefit of the Student before March 15, 2012. *See id.; SEC Test*.

With respect to the post-03/11/2011 IEP time period, Petitioner has not shown that the Student has suffered any specific educational harm from having an IEP that lacked some appropriate goals and/or failed to specify that certain specialized instruction should be provided outside of general education for the last three months of the 2010-11 school year. During this period, the Complaint appears to allege only that the Student has been harmed "because he dislikes the school which has impacted his attendance" and further speculates that "if there had been appropriate services he may have adapted to the school." *P-3, pp. 11-12*. The evidence shows that the Student actually received significant specialized instruction outside of general education classes; and that he achieved passing grades in most subjects. Moreover, the Hearing Officer does not believe it would be appropriate to exercise his equitable discretion to award compensatory education to restore educational benefits of any instruction the Student may have missed merely because "he dislikes school."<sup>9</sup>

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<sup>7</sup> In closing argument, Petitioner's counsel requested in the alternative that the Hearing Officer order DCPS to convene an MDT meeting to discuss placement under a revised IEP. That alternative relief is being ordered.

<sup>8</sup> It is well established that compensatory education is an equitable remedy for the denial of FAPE; it is not a claim or dispute over the provision of FAPE itself. *See, e.g., Board of Educ. of Fayette County v. L.M.*, 478 F.3d 307, 316 (6<sup>th</sup> Cir. 2007). When the prior claims were settled and released by the 11/15/2010 SA, they could not be re-litigated in a new due process complaint. *See, e.g., Bristol Township School District v. S.W.*, 55 IDELR 72 (E.D. Pa. 2010).

<sup>9</sup> *Cf. Garcia v. Board of Educ. of Albuquerque Public Schools*, 520 F.3d 1116 (10<sup>th</sup> Cir. 2008) (affirming decision not to award denial of FAPE remedy in light of student's severe truancy); *Hinson v. Merritt Educ. Ctr.*, 579 F. Supp. 2d 89, 104 (D.D.C. 2008) (conclusion that student "was not 'availing himself of educational benefit' due to extended absences was a reasonable determination.").

Finally, the written compensatory education proposal submitted with Petitioner's five-day disclosures does not provide any basis for "an informed and reasonable exercise of discretion regarding what services [Student] needs to elevate him to the position he would have occupied absent the school district's failures." *Reid v. District of Columbia*, 401 F.3d 516, 524 (D.C. Cir. 2005). For one thing, the proposal appears to encompass alleged harm to the Student predating the 11/15/2010 SA and 03/11/2011 IEP, such as "not having an IEP for more than 17 months" (*P-26, p. 2*), for which Petitioner cannot recover. *See also Educ. Consult. Test.* (confirming that compensatory education proposal was intended to remedy two years worth of missed services, totaling over 700 hours during a 17-month period prior to the IEP). Second, the alleged regression suffered by the Student is based entirely on a comparison between Woodcock-Johnson III test scores from December 2010 and February 2011, which Petitioner's witness conceded was not statistically significant. *See P-26; Educ. Consult. Test. (cross examination)*. Of course, such comparison also cannot possibly demonstrate harm occurring as a result of an inappropriate IEP that was not even adopted until March 2011.

Petitioner was given ample opportunity to present evidence regarding any specific educational deficits resulting from the inappropriate IEP, and the specific compensatory measures needed to best correct those deficits, *Reid*, 401 F. 3d at 526, but did not do so in this case. Accordingly, the Hearing Officer concludes that it is appropriate to award only the prospective relief specified below.

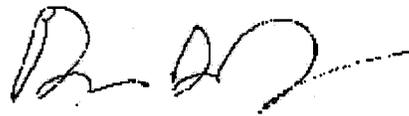
**VI. ORDER**

Based upon the above Findings of Fact and Conclusions of Law, and the entire record herein, it is hereby **ORDERED**:

1. Within **20 calendar days** of receiving the results of the independent FBA authorized on July 8, 2011, DCPS shall convene a meeting of the Student's MDT/IEP Team with all necessary members (including Petitioner) to (a) review the FBA; (b) develop an appropriate BIP; (c) review and revise the Student's IEP in accordance with this HOD and other updated information; and (d) discuss and determine an appropriate educational placement and location of services for the revised IEP (including, but not limited to, the appropriateness of any proposed vocational training program).
2. Any delay in meeting the above deadline caused by Petitioner or Petitioner's representatives (*e.g.*, absence or failure to attend a meeting, or failure to respond to scheduling requests) shall extend the deadline by the number of days attributable to such delay.
3. All other requests for relief in Petitioner's June 22, 2011 Due Process Complaint are **DENIED**; and
4. This case shall be, and hereby is, **CLOSED**.

***IT IS SO ORDERED.***

Dated: September 5, 2011



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Impartial Hearing Officer

**NOTICE OF RIGHT TO APPEAL**

This is the final administrative decision in this matter. Any party aggrieved by the findings and decision made herein has the right to bring a civil action in any District of Columbia 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 Decision of the Hearing Officer in accordance with 20 U.S.C. §1415(i)(2).