

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

OSSE  
 STUDENT HEARING OFFICE  
 2009 NOV -9 PM 2:57

<p>[Parent] <sup>1</sup>, on behalf of [Student],</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>District of Columbia Public Schools,</p> <p style="text-align: center;">Respondent.</p>	<p>Case #2009-1156</p> <p style="text-align: center;">HEARING OFFICER'S DETERMINATION</p> <p>November 9, 2009</p> <p><u>Representatives:</u></p> <p>Roberta Gambale, Petitioner</p> <p>Blair Matsumoto, Respondent</p> <p><u>Independent Hearing Officer:</u></p> <p>Jim Mortenson</p>
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**I. PROCEDURAL BACKGROUND**

This matter came before Independent Hearing Officer (IHO), Jim Mortenson, at 1:00 p.m. on October 30, 2009. The hearing concluded and the record closed on that date. The due date for the Hearing Officer's Determination (HOD) is November 9, 2009. This HOD is issued on November 9, 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.

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<sup>1</sup> Personally identifiable information is attached as Appendix A to this decision and must be removed prior to public distribution.

Present at the due process hearing were: Petitioner's Counsel, Roberta Gambale, Esq.; the Petitioner; and Respondent's Counsel, Blair Matsumoto, Esq.

Two witnesses testified at the hearing<sup>2</sup>:

Petitioner, the Student's Mother (P)

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The complaint in this matter was filed on August 10, 2009. The case was assigned to Independent Hearing Officer (IHO) Woods. A response to the Complaint was filed by the Respondent on September 10, 2009. A prehearing conference was held on September 11, 2009, and a prehearing order was issued on September 20, 2009. The case was reassigned to IHO Mortenson on September 29, 2009. Prior to accepting the case, IHO Mortenson informed the parties that he was not available to hear the case on October 16, 2009 (as scheduled in the prehearing order), but could do so on October 9, 2009, keeping the matter within the statutory timelines. Counsel for the parties were not available on October 9, 2009. The IHO advised the parties that his next available time to hear a case was October 30, 2009, so he should decline the case and it would be assigned to another IHO. Counsel for both parties advised they were available for an October 30, 2009, hearing and Petitioner's Counsel advised she would request a continuance. A motion for continuance was filed by the Petitioner on October 6, 2009 and the motion was granted on October 9, 2009.

24 documents were disclosed by the Petitioner on October 22, 2009. (P 1 – P 24) All of the disclosed documents were admitted into the record. The exhibits are:

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<sup>2</sup> The Respondent's Counsel expected to put on one witness, Erica Joyner, but she failed to be present to provide telephone testimony and Respondent rested its case on the record.

- P 1 - Order on Petitioner's Motion for Continuance, October 9, 2009 (See R 6)
- P 2 - Due Process Hearing Notice, undated
- P 3 - Administrative Due Process Complaint Notice, August 6, 2009 (See R 1)
- P 4 - Pre-Hearing Conference Order, September 20, 2009 (See R 7)
- P 5 - Interim Order on Continuance Motion, October 9, 2009
- P 6 - Petitioner's Motion for Continuance, October 6, 2009 (See R 6)
- P 7 - Resolution Meeting Confirmation, August 17, 2009
- P 8 - Prior to Action Notice, August 14, 2009
- P 9 - Case #2009-0713 HOD, June 20, 2009 (See R 8)
- P 10 - Letter from Gambale to Joyner, August 6, 2009
- P 11 - Fax cover sheets from Gamble to Bolton, August 11, 2009
- P 12 - Letter from Gambale to OSE Resolution Team, August 6, 2009
- P 13 - Student Assessment Plan, Review of Independent Assessment, IEP Meeting Notes, August 21, 2009. Settlement Agreement, August 20, 2009
- P 14 - Multidisciplinary Team (MDT)[IEP] Meeting Notes, August 5, 2009. (See R 4) Receipt, August 5, 2009. Memo from Saunders, June 12, 2008. Earnings Statements, July 15, 2009 and July 29, 2009. Meeting notes, August 5, 2009
- P 15 - IEP Meeting Notes, July 1, 2009
- P 16 - IEP, July 1, 2009 (See R 3 – the documents are not identical and the Petitioner's version is more complete)
- P 17 - Student Evaluation Plan, April 9, 2009 (See R 9)
- P 18 - Prior Notice, February 20, 2009
- P 19 - New Addendum Meeting Page, October 20, 2008
- P 20 - IEP, July 25, 2008
- P 21 - Vocational Evaluation, October 9, 2009
- P 22 - Comprehensive Psychoeducational Evaluation, May 15, 2009 (See R 10)
- P 23 - Speech-Language Evaluation, July 23, 2009
- P 24 - Official High School Transcript, undated

10 documents were disclosed by the Respondent on October 23, 2009. (R 1 – R 10)

All of the disclosed documents were admitted into the record. The exhibits are:

- R 1 - Administrative Due Process Complaint Notice, August 6, 2009 (See P 3)
- R 2 - District of Columbia Public Schools' Response to Petitioner's Due Process Complaint, September 10, 2009. Letter from Nyankori to Gambale, September 1, 2009 (See R 5)
- R 3 - IEP, July 1, 2009 (See P 16 - the documents are not identical and the Petitioner's version is more complete). Clinical Update, June 16, 2009
- R 4 - Multidisciplinary Team (MDT)[IEP] Meeting Notes, August 5, 2009. (See P 14)
- R 5 - Letter from Nyankori to Gambale, September 1, 2009 (See R 2)
- R 6 - Petitioner's Motion for Continuance, October 6, 2009 (See P 6). Order on Petitioner's Motion for Continuance (See P 1)

- R 7 - Pre-Hearing Conference Order, September 20, 2009 (See P 4)
- R 8 - Case #2009-0713 HOD, June 20, 2009 (See P 9)
- R 9 - Student Evaluation Plan, April 9, 2009 (See P 17)
- R 10 - Comprehensive Psychoeducational Evaluation, May 15, 2009 (See P 22)

## II. ISSUES<sup>3</sup>

- 1) Whether the Respondent failed to provide the Student with an individualized education program (IEP) reasonably calculated to provide educational benefit?
- 2) Whether the Respondent failed to offer the Student with an appropriate educational placement when it proposed [REDACTED]

## III. FINDINGS OF FACT

1. The Student is a fifteen year old learner with a disability currently enrolled at [REDACTED] Washington, D.C.<sup>4</sup> The Student is eligible for special education and related services under the definition of specific learning disability (SLD).<sup>5</sup> The Student was placed at [REDACTED] by the Respondent on an interim basis following the closing of her prior school in February 2009.<sup>6</sup>
2. A comprehensive psychoeducational evaluation of the Student was completed in May 2009.<sup>7</sup> At that time, her academic functioning in the areas of math, reading, and writing, based on the Woodcock-Johnson III Test of Achievement, was

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<sup>3</sup> The issues identified here were clarified at the start of the hearing. The parties reported that the issues identified in the prehearing order issued by IHO Woods did not accurately reflect the issues to be heard.

<sup>4</sup> Testimony (T) of P, P 16/R 3.

<sup>5</sup> P 16/R 3, P 22/R 10.

<sup>6</sup> T of P, T of S.R., P 22/R 10.

<sup>7</sup> P 22/R 10.

largely at the fourth and fifth grade levels.<sup>8</sup> She has learning disabilities in the areas of math, reading, and written expression.<sup>9</sup> She has a marked weakness in the area of visual motor processing speed and efficiency.<sup>10</sup> The Student has Attention Deficit/Hyperactivity Disorder, Predominantly Inattentive Type (ADHD).<sup>11</sup> Her ADHD manifests in mild symptoms of depression at school.<sup>12</sup> She has responded well to the increased structure of her current placement both academically and behaviorally, but continues to exhibit learning problems and inattentiveness.<sup>13</sup>

3. The May reevaluation resulted in the following recommendations<sup>14</sup>:

- [Student] should be provided with accommodations and modifications to address her perceptual motor processing speed deficit and disabilities in the area of written expression and math calculation. These should include:
  - ❖ Exposure to textbooks, source material and lectures using various sensory modalities (e.g. books on tape-CD-instructor outline of class lectures) that can provide repeated exposure to new information in a variety of formats.
  - ❖ Additional response and processing time on in class assignments, take home assignment/papers, and exams.
  - ...
  - ❖ Access to peer lecture notes (human note-taker) or instructor lesson notes/outlines.
  - ❖ Written assignments should be modified (shortened/abbreviated) and presented in verbal/auditory modalities as well as visual formats.
  - ❖ Tests/exams assessing acquisition of information should be presented in multiple choice as well as essay format. Access to a written outline of the major points in a lesson.

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<sup>8</sup> P 22/R 10.

<sup>9</sup> P 22/R 10.

<sup>10</sup> P 22/R 10.

<sup>11</sup> P 22/R 10.

<sup>12</sup> P 22/R 10.

<sup>13</sup> T of P, T of S.R., P 22/R 10.

<sup>14</sup> P 22/R 10.

- ❖ Access to calculator for tests and exams.

...

- Individual psychotherapy/counseling is recommended to help [Student] acquire coping skills to better manage symptoms associated with Attention Deficit Hyperactivity Disorder and to provide strategies and bolster self-esteem.
- . . . [Student's] teachers should be provided with strategies and modifications regarding seating, directions/instructions, and assignments/workload. The following strategies are offered:
  - ❖ Tasks should be broken down into simple components and instruction should be provided in both oral and written form.
  - ❖ Structure the classroom so that expectations are clearly understood, rules are plainly stated, and routines are predictable.
  - ❖ Place [Student] in a location with minimal distractions.
  - ❖ Keep work periods short, students with attention related difficulties have trouble working for long periods of time.
  - ❖ A daily planner or other schedule book may be a practical way to organize her-self and remain focused and on-task. Ring-bound books are ideal as they allow the addition and removal of pages.
  - ❖ Webs and outlines may help [Student] organize written work.
  - ❖ [Student] responds quite well to calm and consistent reinforcement and encouragement. In general, brief interventions to reinforce successes (verbal-praise) serve not only as ways to promote attention and sustained effort; they also provide extremely effective means of building her confidence and self-esteem.

4. The Student's IEP was reviewed on July 1, 2009, and a proposed revision made.<sup>15</sup>

The IEP includes the following statements concerning the Student's present levels of academic achievement and functional performance:<sup>16</sup>

**Math:** [Present Level of Performance:] 5.4 – [Student] shows great skill in retaining information. [Student's Needs:] Utilize mathematical reasoning skills. [Impact on Student's Educational Outcomes:] [Student] will utilize mathematical reasoning skills to solve consumer facts, interpret information from graphs.

**Reading:** [Present Level of Performance:] 4.4 – Able to retell stories using correct sequence. [Student's Needs:] Identify comprehension skills such as main idea. [Impact on Student's Educational Outcomes:] Able to gather meaning from the text and make inferences from literature.

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<sup>15</sup> T of P, T of S.R., P 15, P 16/R 3.

<sup>16</sup> P 16.

Written

Expression: [Present Level of Performance:] 4.9 – Past, present, future. [Student's Needs:] Sentence structure. [Impact on Student's Educational Outcomes:] [Student] will form complete sentences and form complete paragraphs using correct structure.

5. The IEP includes the following statements of the special education and related services and supplementary aids and services to be provided to the Student and the program modifications or supports for school personnel:<sup>17</sup>

Specialized Instruction – 20 hours per week

Behavioral Support Services – 1.5 hours per week

Special Transportation because the Student is attending “a distant school because the IEP cannot be implemented at the zone school.”

Small group work

Written and verbal instructions

Praise for effort

Define appropriate behavior

Flexible scheduling

Test administered over several days

Breaks between work periods

Time management tools

Seating in low traffic areas

Student signals for breaks

Daily schedule posted

Preferential seating for tests

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<sup>17</sup> P 16.

Location with minimal distractions for tests

Repetition of directions

Computers

Calculators

Highlighters/highlighter tape

6. The Student's IEP attempts to address her transition from secondary school to postsecondary options and includes the following information:<sup>18</sup>

Long-Range Goals and Interests:

Student will explore career field and education preparation needed for career[.]

Student will learn job related skills, will participate in career exploration.

Utilizing metro, maintaining budget/finances.

The only course of study listed is "career voc."<sup>19</sup> The IEP also lists measurable annual goals for postsecondary education and training, employment, and independent living.<sup>20</sup>

7. A vocational evaluation (transition assessment) was completed on October 9, 2009.<sup>21</sup>

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<sup>18</sup> P 16.

<sup>19</sup> P 16.

<sup>20</sup> P 16 (It is unknown why the IEP includes such goals when they are not required by either Federal or local law. See 34 C.F.R. § 300.320(b) and D.C. Mun. Regs. tit. 5 § 3009).

<sup>21</sup> P 21.

8. The Student requires a classroom environment with a low student to adult ratio of no more than eight to one in order for her to be able to focus on and benefit from classroom instruction.<sup>22</sup>
  
9. While the IEP team agreed to the Parent's request to increase special education services from 15 hours per week to 20 hours per week, they did not agree on the educational placement for the Student.<sup>23</sup> The Respondent unilaterally proposed changing the Student's placement from [REDACTED] to [REDACTED] [REDACTED] [REDACTED] is a specialized school for children with learning disabilities.<sup>25</sup> [REDACTED] is a mainstream school in which students with disabilities may be served, including the use of a "combination setting."<sup>26</sup>

#### IV. CONCLUSIONS OF LAW

1. A free appropriate public education (FAPE) is provided when special education and related services are:
  - (a) . . . 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;

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<sup>22</sup> T of P, T of S.R. (A student/teacher ratio of between five and eight to one was recommended by S.R. The IHO finds that while such a configuration may be a best case scenario, a more practical approach is to permit the assistance of other adults in the classroom to aid the teacher if more than eight students are present.)

<sup>23</sup> T of P, T of S.R., P 13, P 14/R 4, P 15.

<sup>24</sup> T of P, T of S.R., P 8.

<sup>25</sup> T of S.R.

<sup>26</sup> T of S.R., P 3, P 15.

- (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.

34 C.F.R. § 300.17. The Supreme Court has stated that:

if personalized instruction is being provided with sufficient supportive services to permit the child to benefit from the instruction, and the other items on the definitional checklist are satisfied, the child is receiving a “free appropriate public education” as defined by the Act.

Board of Educ. v. Rowley, 458 U.S. 176, 189 (1982).

2. An IEP must include, in relevant part:

- (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); . . .
  - (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; . . .
  - (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 peerreviewed 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;
  - (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).

3. The statement of the Student's present levels of academic achievement and functional performance in the IEP was not complete or accurate. For example, in the academic area of math, the statement provides a sentence on what the Student can do (retain information), that she must "utilize mathematical reasoning skills" (as all students presumably must do), and what she will need to do ("utilize mathematical reasoning skills to solve" problems). This does not describe how the Student's disabilities affect her involvement and progress in the general curriculum. Similar information is provided with regard to the academic areas of reading and writing, with the same result. There is no information on how the Student's ADHD is affecting her involvement and progress in the general curriculum. Because the IEP thus fails to meet the requirements of 34 C.F.R. § 300.320, this is a denial of a FAPE and must be corrected.
4. The IEP does not include sufficient specificity as to the special education and related services to be provided and requires additional supplementary aids and services and program modifications to enable the Student to be involved and progress in the general education curriculum. The IEP must specify that the Student requires specialized instruction in the areas of math, reading, and written expression. The anticipated frequency, location, and duration of the specialized instruction in each of those areas must be specified so that the staff know what to

provide and when. The Student will require instruction, both specialized and regular education, in a classroom with a student/adult ratio of no more than eight to one. (This will permit workable configurations, such as the use of paraprofessionals in a class room of more than eight, co-teaching, or any other appropriate configuration that will meet the requirements of this order.) Many of the other supports and services in the IEP should remain and must at least include: exposure to textbooks, source material, and lectures in various sensory modalities that can provide repeated exposure to new information; additional response and processing time on in-class assignments and exams; written assignments that are shortened or abbreviated and presented in verbal/auditory modalities; breaks during lengthy work periods, as determined necessary by the Student; a daily planner or other method to aid the Student in keeping organized; and calm and consistent reinforcement and encouragement by teachers and staff. The IEP must also specify that the 90 minutes per week of behavioral support services will be one on one counseling with someone who understands ADHD and can assist the Student in learning about and developing coping strategies for her ADHD and improving her self-esteem. These changes are necessary to ensure the Student will receive benefit from her instruction, thus ensuring a FAPE.

5. The IEP lacks measurable postsecondary goals. The IEP currently includes statements for goals such as "Student will explore career field and education preparation needed for career." This is neither measurable nor a postsecondary goal, but might rather be considered a transition service. The transition assessment completed in October must be used to develop measurable

postsecondary goals and list courses of study and any necessary services to assist the Student in reaching those goals. This is necessary to ensure the IEP meets the requirements of 34 C.F.R. § 300.320(b), thus ensuring a FAPE.

6. Students with disabilities must be placed:

- (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

34 C.F.R. §§ 300.114(a)(2), 300.116(a)(2). According to the United States Department of Education (DOE), “placement” refers to:

points along the continuum of placement options available for a child with a disability, and “location” as the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services.

71 Fed. Reg. 46588 (2006) (discussion on comment requesting clarification between “placement” and “location”). The DOE further explains:

Public agencies are strongly encouraged to place a child with a disability in the school and classroom the child would attend if the child did not have a disability. However, a public agency may have two or more equally appropriate locations that meet the child’s special education and related services needs and school administrators should have the flexibility to assign the child to a particular school or classroom, provided that determination is consistent with the decision of the group determining placement.

Id. Additionally, there is no change of placement when “maintaining a child’s placement in an educational program that is substantially and materially similar to the former placement. . . .” Id. at 46588-46589 (discussion on comment concerning when a change in program is not a change in placement). Local regulations also provide the following relevant standards:

3013.6 The LEA shall place each child in need of special education who requires a non-public day school in a program within the District if a suitable program is available therein. Only if there is no appropriate program within the District shall a child be placed in a program outside of the District.

3013.7 In consultation with the parent, the LEA shall place each child with a disability-requiring placement outside the LEA in the program that meets the requirements of the LEA and the child's IEP that is closest to the child's residence.

D.C. Mun. Regs. tit. 5 §§ 3013.6 & 3013.7 (2007).

7. While the Respondent can choose a location of service that is consistent with the IEP team's determination, it cannot unilaterally choose a location that is not "materially similar to the former placement." The change from a specialized school for kids with learning disabilities (██████████) to a mainstream school ██████████ is not a change between to locations materially similar and cannot be made unilaterally by the Respondent. However, the Respondent could move the Student from ██████████ to a similar program, consistent with the DCMR provisions and this order (including the soon to be revised IEP). The significant question raised by the Petitioner is whether the proposed placement at ██████████ is appropriate. The Petitioner has met her burden of persuasion that ██████████, or a similarly structured public or private program, continues to be the appropriate placement for the Student under the revisions to the IEP that will be made, as there was no thorough explanation in the record for the proposed change other than it would be a less restrictive environment.

## V. DECISION

1. The Respondent failed to provide the Student with an IEP reasonably calculated to provide educational benefit.
2. The Respondent failed to offer the Student with an appropriate educational placement when it proposed ██████████.

## VI. ORDER

1. The Student's IEP must be corrected to include:
  - a. accurate and complete statements of the Student's present levels of academic achievement and functional performance, including how her learning disabilities in reading, math, and writing, as well as her ADHD, affects her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children);
  - b. statements of special education and related services and supplementary aids and services that include:
    - 1) Direct, specially designed instruction in the areas of reading, math, and written expression;
    - 2) All instruction (regular and special education) provided in classrooms with a student/adult ratio of at least eight to one and which include clearly defined expectations, predictable routines, and minimal distractions;
    - 3) Weekly counseling services to aid her in learning about and developing coping strategies for her ADHD and improving her self-esteem;
    - 4) Provision to provide exposure to textbooks, source material, and lectures in various sensory modalities that can provide repeated exposure to new information;
    - 5) Additional response and processing time on in-class assignments and exams;
    - 6) Written assignments that are shortened or abbreviated and presented in verbal/auditory modalities;
    - 7) Breaks during lengthy work periods, as determined necessary by the Student;
    - 8) A daily planner or other method to aid the Student in keeping organized; and
    - 9) Calm and consistent reinforcement and encouragement by teachers and staff.
  - c. appropriate measurable postsecondary goals (not annual goals) based upon age appropriate transition assessments related to training, education, and employment; and

- d. the transition services, including courses of study, needed to assist the Student in reaching her postsecondary goals.
2. The IEP team must meet and revise the IEP, in accordance with this order no later than November 30, 2009. Three alternate times for an IEP team meeting must be provided to the Petitioner including the time the IEP team will meet if she does not respond or is unable to attend any of the proposed times. The Respondent is responsible for the due process and supervision of the program, in accordance with 34 C.F.R. § 300.17(a), regardless of where the IEP is implemented. The IEP team must include all required staff in accordance with 34 C.F.R. § 300.321, including a regular education teacher.
3. The Student will remain at [REDACTED] or another materially similar school for the remainder of the 2009-2010 school year or until the IEP is subsequently reviewed and revised, following the revision ordered here, and the IEP team determines a change of placement is necessary.
4. Any disagreement over the IEP thus required may be resolved by filing a complaint with the SEA, pursuant to 34 C.F.R. §§ 300.151 – 300.153, or any other appropriate dispute resolution mechanism.
5. All other IEP and due process requirements under the IDEA and the DCMR must be followed in the completion of this order.

**IT IS SO ORDERED.**

Dated this 9th day of November, 2009



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Jim Mortenson, Esq.  
Independent Hearing Officer

## **NOTICE OF APPEAL RIGHTS**

The decision issued by the Independent Hearing Officer is final, except that any party aggrieved by the findings and decision of the Independent Hearing Officer shall have 90 days from the date of the decision of the hearing officer to file a civil action with respect to the issues presented at the due process hearing in a district court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. § 1415(i)(2).

**APPENDIX A**

Personally identifiable information is attached as Appendix A to this decision and must be removed prior to public distribution.

Student:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner:

[REDACTED]

