DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

Student Hearing Office
810 First Street, N.E. Second Floor
Washington, DC 20002

Parent, on behalf of STUDENT,[1]	)	
Petitioner,	)	Case Number:
v.	)	Hearing Dates: April 18 and 20, 2011 Hearing Room 2006
THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS,	)	Hearing Officer: Frances Raskin
Respondent.	)	

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HEARING OFFICER DETERMINATION

I. JURISDICTION

This proceeding was invoked in accordance with the Individuals With Disabilities Education Improvement Act of 2004 ("IDEA"), codified at 20 U.S.C. §§ 1400 *et seq.*, D.C. Code §§ 38-2561.01 *et seq.*; the federal regulations at 34 C.F.R. §§ 300.1 *et seq.*; and the District of Columbia regulations at D.C. Mun. Reg. tit. 5-E §§ 3000 *et seq.*

II. BACKGROUND

Petitioner is the guardian of a fourteen-year-old student ("Student") with a disability who attends a public senior high school in the District of Columbia. On March 7, 2011, Petitioner filed a Due Process Compliant ("Complaint") against the District of Columbia Public Schools ("DCPS") pursuant to IDEA.

This Hearing Officer was appointed to preside over this case on March 8, 2011. Respondent DCPS filed a response to the Complaint on March 21, 2011.[2]

The parties participated in a resolution meeting on March 18, 2011. The parties were unable to resolve the Complaint and agreed to proceed to a due process hearing. The parties agreed that the forty-five-day, due process hearing timeline began on March 19, 2011.

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[1] Personal identification information is provided in Attachment A.
[2] DCPS filed its Response four days late.

On March 24, 2011, this Hearing Officer held a prehearing conference in which Zachary Nahass, counsel for Petitioner, and Harsharen Bhuller, counsel for Respondent DCPS, participated. This Hearing Officer issued a prehearing conference summary and order on March 31, 2011.

The due process hearing commenced on April 18, 2011. At the inception of the hearing, this Hearing Officer admitted into evidence Petitioner's exhibits 4-9 and 12-23, as well as DCPS exhibits 1-3, 5-8, 10, 11, and 13-18. Petitioner and the Student testified and presented the testimony of three witnesses on their behalf. Respondent presented the testimony of three witnesses. After the parties presented oral closing arguments, the due process hearing concluded on April 20, 2011.

III. ISSUES PRESENTED

This Hearing Officer certified the following issues for adjudication at the due process hearing:

A. Whether DCPS denied the Student a free, appropriate, public education ("FAPE") by developing individualized educational programs ("IEPs") on February 20, 2009,[3] and February 2, 2010, that failed to provide him sufficient hours of specialized instruction outside the general education setting, prescribe classroom accommodations, include a behavior intervention plan ("BIP"), and include goals to address his behavioral difficulties; and

B. Whether DCPS denied the Student a FAPE by developing an IEP on January 26, 2011, that failed to provide him sufficient individualized instruction outside the general education setting, prescribe a setting with minimal distractions to enable him to focus on the academic instruction, provide behavioral support services, and include a behavior intervention plan.

IV. FINDINGS OF FACT

1. The Student is a -year-old, grade student with a specific learning disability in mathematics.[4] He was diagnosed with attention deficit, hyperactivity disorder ("ADHD") when he was eight or nine years old.[5] He currently attends a DCPS senior high

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[3] Petitioner's claim regarding the appropriateness of the February 20, 2009, IEP is time barred because she filed the Complaint more than two years after the IEP was created. *See* 34 C.F.R. § 507 (a)(2) (due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint). Although IDEA provides that states may extend this limitations period, 34 C.F.R. § 507 (a)(2), the District of Columbia has not done so.
[4] Petitioner Exhibit 4 (January 26, 2011, IEP); Petitioner Exhibit 12 (January 7, 2011, Confidential Psychological Evaluation).
[5] Petitioner Exhibit 12 at 1.

school.[6] The Student intends to earn a diploma upon graduation from high school and would like to teach physical education.[7]

2. In January 2009, DCPS conducted a comprehensive psychological evaluation of the Student.[8] The evaluation revealed that the Student's cognitive ability was in the average range and his full scale IQ was 97.[9] His verbal and nonverbal reasoning abilities were in the average range, as were his verbal comprehension and perceptual reasoning ability.[10] His working memory, i.e., his ability to sustain attention, concentrate, and exert mental control, was in the average range.[11] His processing speed and visual-motor integration also were in the average range.[12]

3. Although the Student was years old and in the grade at the time of the January 2009 psychological evaluation, his academic performance in writing, calculation, and applied problems was two to three years below the expected performance of students at his age and grade level.[13] He performed at grade level in passage comprehension and above grade level in spelling and letter-word identification.[14]

4. At the time of the January 2009 psychological evaluation, the Student exhibited behavioral difficulties in the classroom, including clinically significant oppositional behavior, cognitive problems/inattention, and hyperactivity.[15] It appeared that he was at risk for ADHD combined type (inattentive and hyperactive).[16]

5. The Student also appeared to exhibit a mild clinical risk for externalizing behaviors, including anger, bullying, and conduct problems.[17] He would have benefited from intervention to assist him with behavioral and/or academic challenges.[18]

6. On February 20, 2009, DCPS convened a meeting of the Student's IEP team that developed an IEP for the Student.[19] The IEP provided that the Student would receive 450 minutes per week of specialized instruction in mathematics outside the general education classroom.[20] Despite the recommendations of the DCPS January 2009 psychological evaluation,

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[6] *Id.* at 2; testimony of Petitioner, Student.
[7] Testimony of Student.
[8] Petitioner Exhibit 11 (January 29, 2009, Confidential Psychological Report).
[9] *Id.* at 3.
[10] *Id.* at 3, 9.
[11] *Id.*
[12] *Id.*3, 4, 9.
[13] *Id.* at 9.
[14] *Id.*
[15] *Id.* at 4.
[16] *Id.*
[17] *Id.*
[18] *Id.* at 5.
[19] Petitioner Exhibit 6 (February 20, 2009, IEP).
[20] *Id.* at 4.

the IEP team provided no interventions to assist the Student with behavioral and/or academic challenges.[21]

7. During the 2009-2010 school year, the Student attended DCPS junior high school for the first part of the year.[22] By October 2009, the Student was receiving failing grades in English, math, and one other class.[23] He had earned Ds in music and history.[24]

8. The Student then returned to the DCPS elementary school he previously attended, which included kindergarten through eighth grade students.[25] While at this school, he was easily distracted, regularly skipped class, and had verbal altercations with teachers and staff.[26] However, the staff was familiar with the Student from the previous year, and they were able to redirect him and get him to class.[27]

9. On February 2, 2010, DCPS developed an IEP for the Student.[28] The DCPS IEP team developed five annual goals for the Student in mathematics.[29] The IEP team also decided that the Student should receive five hours per week of specialized instruction in mathematics.[30] Despite the recommendations of the DCPS January 2009 psychological evaluation, the IEP team provided no interventions to assist the Student with behavioral and/or academic challenges.[31] By the end of the 2009-2010 school year the Student had earned mostly Ds and Fs.[32]

10. In March 2010, a psychiatric evaluation confirmed the Student's diagnosis of ADHD, combined type.[33] It also diagnosed the Student with oppositional defiant disorder ("ODD"), and impulse-control disorder, not otherwise specified.[34] The Student is impulsive and tends to give in to peer pressure.[35] He has difficulty resisting temptations to fight at school.[36] He has low self-esteem, and requires individual therapy.[37] He also requires a small classroom setting and access to behavioral health services.[38]

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[21] *Id.*
[22] Testimony of Petitioner.
[23] Petitioner Exhibit 23 (October 13, 2009, Letter from Junior High School Special Education Coordinator to Petitioner).
[24] *Id.*
[25] Testimony of Petitioner.
[26] *Id.*
[27] *Id.*
[28] Petitioner Exhibit 5 (February 2, 2010, IEP).
[29] *Id.* at 2.
[30] *Id.* at 3.
[31] *Id.*
[32] Testimony of Petitioner.
[33] Petitioner Exhibit 13 (March 26, 2010, Psychiatric Evaluation).
[34] *Id.* at 2.
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id.*

11. The Student's performance further deteriorated when he left the DCPS elementary school and began attending the DCPS Senior High School in fall 2010.[39] The school is very large, full of distractions, and has a large student population.[40] Until December 2010, the DCPS Senior High School was poorly managed and the students were often out of control.[41] It was not a stable environment.[42] As a result, the Student had difficulty navigating the school and was easily distracted, which led him to miss class and engage in inappropriate behavior.[43]

12. At the DCPS Senior High School, there are more than thirty students in each of the Student's classes.[44] The Student has difficulty focusing on his class work at the DCPS Senior High School due to his ADHD and the large number of students in each class.[45] The classrooms are generally loud and the students often unruly, which also impedes the Student's ability to focus.[46] He also gets into verbal altercations with teachers, staff, and other students.[47]

13. The Student's difficulties attending to the classroom instruction and focusing on his assignments led him to skip class on a regular basis.[48] During the 2010-2011 school year, the Student has attended school every day but has missed more than four hundred classes.[49] The Student has been suspended three or four times due to his failure to attend class.[50]

14. When he does not attend class, the Student spends his time wandering the halls and in a supervised study room with other students who were caught wandering the halls.[51] The Student is sent to supervised study at least three to four times a week.[52] There are no teachers present in the supervised study rooms.[53]

15. The Student has made no academic progress at the DCPS Senior High School.[54] Additionally, his cognitive abilities have regressed since January 2009.[55] His full-scale IQ dropped from 97 to 84, which is in the fourteenth percentile and in the low average range of functioning.[56] While his overall verbal abilities and working memory remain in the average range, his perceptual reasoning fell to the twelfth percentile, which is in the low average range of

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[39] Testimony of Petitioner.
[40] Testimony of Clinical Therapist.
[41] Testimony of DCPS Senior High School Principal.
[42] *Id.*
[43] Testimony of Clinical Therapist.
[44] Testimony of Student.
[45] *Id.*
[46] *Id.*
[47] Testimony of Petitioner.
[48] *Id.*
[49] Testimony of DCPS School Special Education Coordinator ("SEC").
[50] *Id.*; testimony of Petitioner.
[51] Testimony of Student, DCPS Principal.
[52] Testimony of Student.
[53] *Id.*
[54] Testimony of Student.
[55] Petitioner Exhibit 12 (January 7, 2011, Confidential Psychological Evaluation).
[56] *Id.* at 3-4.

functioning.[57] While the Student continues to excel in broad reading, and performs several years above his age level, he performs four years below his age level, and in the low average range, in mathematics.[58]

16. The Student continues to be in the at-risk range for conduct issues.[59] He appears to struggle with organization.[60] He requires a highly structured, predictable environment, and small class sizes of no more than ten students to each teacher.[61] He also requires a school that will monitor his activities between classes and ensure that he successfully transitions from class to class.[62]

17. On January 26, 2011, DCPS convened a meeting of the Student's IEP team to review the January 7, 2011, psychological evaluation of the Student and develop an IEP.[63] Petitioner and the Student's teachers discussed the Student's continuing failure to regularly attend class.[64] The Student's general education teacher informed the team that the Student has problems sitting in his chair due to his ADHD and uses inappropriate language in class.[65] She also stated that the Student does not complete his class work or homework assignments although he is capable of doing the work.[66] The Student's general education teacher similarly stated that the Student does not complete his class work in her class.[67]

18. At the January 26, 2011, IEP meeting, Petitioner discussed her concerns about the DCPS Senior High School.[68] She informed the IEP team that the school was too large and there were too many distractions that kept the Student from attending class.[69] She further explained that, due to his ADHD, the Student requires smaller classes, stricter rules, and more restrictions.[70] Petitioner requested smaller classes and a dedicated aide for the Student.[71] She reiterated her previous requests that DCPS implement a behavioral intervention plan ("BIP").[72] To date, DCPS has not developed a BIP for the Student.[73]

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[57] *Id.* at 5.
[58] *Id.*
[59] *Id.* at 7-8.
[60] *Id.* at 8.
[61] Testimony of Clinical Therapist.
[62] *Id.*
[63] Respondent Exhibit 11 (January 26, 2011, IEP Meeting Notes).
[64] Id.; Testimony of Petitioner.
[65] Respondent Exhibit 11 at 2.
[66] *Id.*
[67] *Id.*
[68] Testimony of Petitioner.
[69] *Id.*
[70] *Id.*
[71] Testimony of Petitioner.
[72] *Id.*
[73] *Id.*; Testimony of DCPS Senior High School SEC.

19. The IEP team agreed that the DCPS Senior High School was not an appropriate setting for the Student.[74] The IEP team decided that the Student should attend another DCPS senior high school ("DCPS Senior High School 2").[75] The DCPS SEC informed Petitioner that DCPS would issue a prior written notice to DCPS Senior High School 2 for the remainder of the 2010-2011 school year.[76] DCPS Senior High School 2 is an open campus with little structure.[77] At this school, the Student would have a lot of freedom to skip class and leave school.[78] It also has large class sizes of twenty to thirty students.[79]

20. At the January 26, 2011, IEP meeting, the IEP team developed three annual goals in mathematics and provided that the Student would receive 3.75 hours per week of specialized instruction in the general education setting and 3.75 hours per week of specialized instruction outside the general education setting in mathematics.[80] Despite the findings of the March 2010 psychiatric evaluation that the Student has ADHD, ODD, and impulse-control disorder, and the Student's history of skipping class and academic failure, the IEP team failed to provide counseling and behavioral supports as part of the Student's IEP.[81] The Student is currently failing all of his classes.[82]

21. The Non-Public School is designed to address the needs of students with speech-language impairment.[83] Some of these students also have ADHD.

22. All the witnesses at the due process hearing provided credible testimony with the exception of the Non-Public School Admissions Director. The Admissions Director's testimony was inherently contradictory, as she testified that the Non-Public School served only students with speech-language impairment and then stated that not all the students had this disability. This Hearing Officer did not find that her testimony was credible on the issue of whether this would be an appropriate setting for the Student. The DCPS witnesses generally corroborated the testimony of Petitioner, the Student, and Petitioner's witnesses. None of the witnesses contradicted the testimony of Petitioner's witnesses.

V. CONCLUSIONS OF LAW

IDEA guarantees children with disabilities the right to a free and appropriate public education with services designed to meet their individual needs.[84] FAPE is defined as:

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[74] Respondent Exhibit 11 at 4.
[75] *Id.* at 5.
[76] *Id.*
[77] Testimony of Clinical Therapist.
[78] *Id.*
[79] Testimony of DCPS Senior High School 2 SEC.
[80] *Id.* at 3-5.
[81] Petitioner Exhibit 4.
[82] Testimony of Petitioner.
[83] Testimony of Non-Public School Admissions Director.
[84] 20 U.S.C. §§ 1400(d) (1)(A), 1412 (a) (1); *Bd. of Educ. v. Rowley*, 458 U.S. 176, 179-91 (1982); *Shaffer v. Weast*, 546 U.S. 49, 51 (2005).

> [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)..."[85]

In deciding whether DCPS provided Petitioner a FAPE, the inquiry is limited to (a) whether DCPS complied with the procedures set forth in IDEA; and (b) whether Petitioner's IEP is reasonably calculated to enable Petitioner to receive educational benefit.[86]

In matters alleging a procedural violation, a hearing officer may find that the child did not receive FAPE only if the procedural inadequacies impeded the child's right to FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding provision of FAPE, or caused the child a deprivation of educational benefits.[87] In other words, an IDEA claim is viable only if those procedural violations affected the student's *substantive* rights.[88]

The burden of proof is properly placed upon the party seeking relief.[89] Petitioner must prove the allegations in the due process complaint by a preponderance of the evidence.[90]

VIII. DISCUSSION

A. Petitioner Proved that DCPS Denied the Student a FAPE By Developing an IEP on February 2, 2010, that Was Not Individually Tailored to Meet His Specialized Needs.

The IEP is the centerpiece of special education delivery system.[91] An appropriate educational program begins with an IEP that accurately reflects the results of evaluations to identify the student's needs,[92] establishes annual goals related to those needs,[93] and provides appropriate specialized instruction and related services.[94] The program must be implemented in

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[85] 20 U.S.C. § 1401 (9); 34 C.F.R. § 300.17.
[86] *Rowley,* 458 U.S. at 206-207.
[87] 34 C.F.R. § 300.513 (a)(2).
[88] *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006) (emphasis in original; internal citations omitted).
[89] *Schaffer v. Weast*, 546 U.S. 49, 56-57 (2005).
[90] 20 U.S.C. § 1415 (i)(2)(c). *See also Reid v. District of Columbia*, 401 F.3d 516, 521 (D.C. Cir. 2005) (discussing standard of review).
[91] *Lillbask ex rel. Mauclaire v. Conn. Dep't of Educ.*, 397 F.3d 77, 81 (2d Cir. 2005) (internal quotation marks omitted).
[92] 34 C.F.R. § 300.320 (a) (1).
[93] 34 C.F.R. § 300.320 (a) (2).
[94] 34 C.F.R. § 300.320 (a) (4).

the least restrictive environment ("LRE").[95] For an IEP to be "reasonably calculated to enable the child to receive educational benefits," it must be "likely to produce progress, not regression."[96]

In developing an IEP, the team must consider the strengths of the child; concerns of the parents for enhancing the education of the child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child.[97] An IEP must include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum.[98]

The adequacy of the student's IEP is determined by whether the student has "access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child."[99] IDEIA does not require that the services provided maximize each child's potential.[100]

When it developed the Student's February 2, 2010, IEP, the DCPS IEP team addressed the Student's difficulties in mathematics. Yet, despite the recommendations of its own psychological evaluation in January 2009, DCPS provided no interventions to assist the Student with behavioral and/or academic challenges.

DCPS was aware that, during the 2009-2009 school year, the Student was unable to focus in class, failed to achieve academically, and developed a pattern of school avoidance. Yet it failed to develop any goals or interventions to address his ADHD.

The IEP team also should have developed interventions to address the Student's academic and behavioral difficulties that were evidence the previous school year. Instead, it completely ignored his behavioral needs. As a result, the Student earned Ds and Fs in all of his classes despite that he was capable of earning average, passing grades.

For this reason, this Hearing Officer finds that DCPS denied the Student a FAPE by developing an IEP on February 2, 2010, that failed to address the Student's need for small, quiet, structured classes, behavioral goals, and a BIP.

B. Petitioner Proved that DCPS Denied the Student a FAPE by Failing to

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[95] 20 U.S.C. § 1412 (a) (5); 34 C.F.R. §§ 300.114 (a) (2), 300.116 (a) (2).
[96] *Walczak v. Florida Union Free Sch. Dist.*, 142 F.3d 119, 130 (2d Cir. 1998) (internal quotation marks and citation omitted).
[97] 34 C.F.R. § 300.324 (a).
[98] 34 C.F.R. § 300.320 (a) (1); 5 D.C.M.R. § 3007.2 (a).
[99] *Rowley,* 458 U.S. at 201 (1982).
[100] *Id.* at 198. *See also Anderson v. District of Columbia*, 606 F. Supp. 2d 86, 92 (D.D.C. 2009) (IEP must be reasonably calculated to confer educational benefits on the child but need not "maximize the potential of each handicapped child commensurate with the opportunity presented non-handicapped children") (citing, e.g., *Rowley*, 458 U.S. at 200, 207).

Develop an Appropriate IEP on January 26, 2011.

Similarly, DCPS failed to develop an appropriate IEP for the 2011-2012 school year. The IEP team developed an IEP that focused only on the Student's needs in mathematics. Despite the findings of the March 2010 psychiatric evaluation that the Student has ADHD, ODD, and impulse-control disorder, and the Student's history of skipping class and academic failure, the IEP team failed to provide counseling and behavioral supports as part of the Student's IEP.

Even though the Student's general education and special education teachers informed the IEP team that he avoided class, could not focus or stay in his seat, and failed to complete assignments, DCPS developed no interventions to address his ADHD and behavioral difficulties. It also ignored Petitioner's request for a BIP and dedicated aide. It then proposed a location of services that would have exacerbated his school avoidance.

Thus, DCPS failed to develop an IEP that was individually tailored to meet the Student's needs. As a result, he is currently failing all of his classes. For this reason, this Hearing Officer finds that DCPS denied the Student a FAPE in developing his January 26, 2011, IEP.

C. Petitioner Failed to Prove that the Non-Public School is Appropriate for the Student.

To the maximum extent appropriate, children with disabilities, including children in public or private institutions with other care facilities, are to be educated with children who are nondisabled.[101] This requirement also applies to non-academic and extracurricular services and activities such as recess, meals, athletics, counseling, groups, and clubs.[102]

IDEA contemplates that a student's IEP "will be implemented where possible in regular public schools, with the child participating as much as possible in the same activities as non-handicapped children, but also provides for placement in private schools at public expense where this is not possible."[103] In other words, unless a child with a disability requires some other arrangement, he must be educated in the school that he or she would attend if nondisabled.[104]

The considerations relevant to determining whether a setting is appropriate for a student include the nature and severity of the student's disability; the student's specialized educational needs; the link between those needs and the services offered by the school; the placement's cost; and the extent to which the location represents the least restrictive environment.[105] In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of the services that he or she needs.[106] A child with a disability is not removed from education in age appropriate regular classrooms

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[101] 34 C.F.R. 300.114 (2) (i).
[102] See 34 C.F.R. § 300.117.
[103] *Burlington v. Dept. of Ed.*, 471 U.S. 359, 370 (1985).
[104] 34 C.F.R. § 300.116 (c).
[105] *Branham*, 427 F.3d at 12 (citing *Rowley*, 458 U.S. at 202).
[106] 34 C.F.R. § 300.116 (d).

solely because of needed modifications in the general education curriculum.[107]

In the District of Columbia, special education placements shall be made in the following order or priority, provided, that the placement is appropriate for the student and made in accordance with IDEA:

(1) DCPS schools, or District of Columbia public charter schools pursuant to an agreement between DCPS and the public charter school;

(2) Private or residential District of Columbia facilities; and

(3) Facilities outside of the District of Columbia.[108]

Petitioner failed to prove that the Non-Public School will meet the Student's needs. Instead, the Non-Public School would provide the Student specialized instruction designed for speech-language impaired students, which is not appropriate for him.

Petitioner also did not prove that, due to the nature of his disability, the Student must be removed from all contact with his non-disabled peers.[109] Rather, Petitioner proved that the Student requires a small, structured setting that would provide minimal distractions, a quiet learning environment, and individualized attention to ensure that he is on task. Thus, the Non-Public School is more restrictive environment than would be appropriate for the Student.

For these reasons, this Hearing Officer does not believe it would be appropriate to place the Student at the Non-Public School for the remainder of the 2010-2011 school year and the 2011-2012 school year.

ORDER

Based upon the Findings of Fact and Conclusions of Law herein, on this 2nd day of May 2011, it is hereby:

ORDERED that, on or before May 20, 2011, DCPS shall revise the Student's IEP to provide that he is to be educated in a setting that meets his needs as described herein, including but not limited to small, quiet, structured classes with no more than ten students to each class in a small school;

IT IS FURTHER ORDERED that, on or before May 20, 2011, DCPS shall revise the Student's IEP to provide at least seven hours per week of specialized instruction in mathematics outside the general education setting and sixty minutes per week of individual behavioral support services outside the general education setting;

IT IS FURTHER ORDERED that, on or before May 20, 2011, DCPS shall review the Student's recent functional behavioral assessment and behavioral implementation plan ("BIP")

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[107] *Id.* at (e).
[108] D.C. Code § 38-2561.02.
[109] *See* D.C. Mun. Reg. tit. 5-E § 3013 (in selecting the LRE, consideration shall be given to any potential harmful effect on the child or on the quality of services that the child needs).

and revise his IEP to include a BIP that provides incentives, consequences, and rewards designed to improve his classroom attendance, ensure he stays on task between classes, reduce his avoidance behavior, improve his behavior within the classroom, increase his participation in classroom instruction, develop organizational skills, and further his completion of homework assignments;

IT IS FURTHER ORDERED that, if the Student does not improve his classroom attendance, reduce his avoidance behavior, improve his behavior within the classroom, increase his participation in classroom instruction, and further his completion of homework assignments by at least 50 percent by June 15, 2011, DCPS shall amend the Student's IEP on or before June 24, 2011, to provide the Student a dedicated aide for the 2011-2012 school year;

IT IS FURTHER ORDERED that, on or before May 20, 2011, DCPS shall provide Petitioner a Prior Notice of Placement to a location of services that can both implement the IEP required by this Hearing Officer Determination and provide him the Carnegie units necessary to earn a DCPS diploma.

By: /s/ *Frances Raskin*
Frances Raskin
Hearing Officer

NOTICE OF APPEAL RIGHTS

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

Distributed to:

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