

**DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
STUDENT HEARING OFFICE**

STUDENT,¹)
By and through PARENT,)
)
 Petitioner,)
v.)
)
DISTRICT OF COLUMBIA)
PUBLIC SCHOOLS,)
)
 Respondent.)

Case No.

Bruce Ryan, Hearing Officer

Issued: March 6, 2011

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HEARING OFFICER DETERMINATION

I. INTRODUCTION AND PROCEDURAL BACKGROUND

This is a due process complaint proceeding pursuant to the Individuals with Disabilities Education Act ("IDEA"), as amended, 20 U.S.C. §§1400 *et seq.*, against Respondent District of Columbia Public Schools ("DCPS"). The Complaint was filed December 21, 2010, on behalf of a 10-year old student (the "Student") who resides in the District of Columbia, currently attends his DCPS neighborhood elementary school (the "School"), and has been determined to be eligible for special education and related services as a child with a disability under the IDEA.

Petitioner claims that DCPS has denied the Student a free appropriate public education ("FAPE") by: (a) failing to evaluate in all areas of suspected disability, and (b) failing to develop an appropriate individualized education program ("IEP") as of November 24, 2010, as more specifically alleged under the Issues stated below.

DCPS filed its Response on January 5, 2011, which denies all allegations and further asserts, *inter alia*, that: (a) the recommended ophthalmology evaluation "is not an educational assessment under IDEA, but a medical one, and is not an evaluation under IDEA"; and (b) the

¹ Personally identifiable information is attached as an Appendix to this HOD and must be removed prior to public distribution.

student's IEP team properly found that OT services were not warranted. DCPS maintains that Petitioner is not entitled to any relief.

A resolution meeting was held on or about January 10, 2011, which did not result in a resolution of the complaint. There also was no agreement of the parties to end the resolution process early. The 30-day statutory resolution period ended on January 20, 2011, and the 45-day HOD timeline ends on March 6, 2011.

A Prehearing Conference ("PHC") was held on January 13, 2011, at which the parties discussed and clarified the issues and requested relief. *See Prehearing Order*, issued Jan. 20, 2011), ¶¶ 7-8. The parties agreed to schedule the due process hearing for two days, February 17 and 18, 2011.

Disclosures were filed by both parties, as directed, by February 10, 2011, and the Due Process Hearing was held in Room 2006 on February 17 and 18, 2011. Petitioner elected for the hearing to be closed. During the hearing, the following Documentary Exhibits were admitted into evidence:

Petitioner's Exhibits: -1 through -21.²

Respondent's Exhibits: DCPS-1 through DCPS-12.

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

Petitioner's Witnesses: (1) Parent-Petitioner; (2) Occupational Therapist; (3) Student's Educational Advocate ("EA"); and (4) Paralegal, James E. Brown & Associates.

Respondent's Witnesses: (1) Special Education Coordinator ("SEC"); (2) Special Education Teacher; (3) General Education Teacher; and (4) DCPS Occupational Therapist.

At the close of the hearing, the parties agreed to submit any written closing statements by 12:00 midnight on February 18. Both parties submitted a written closing statement by that deadline.

² DCPS objected to Exhibits -8 through -12 and to -20, but the Hearing Officer overruled the objections for the reasons stated on the record.

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 *Special Education Student Hearing Office/Due Process Hearing Standard Operating Procedures ("SOP")*. The HOD deadline is March 6, 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:

- (1) **Failure to Evaluate (Ophthalmology)** — Did DCPS deny the Student a FAPE by failing to conduct an ophthalmological evaluation to rule out vision difficulties, as recommended by a September 9, 2009 independent OT evaluation report?
- (2) **Failure to Evaluate (Occupational Therapy)** — Did DCPS deny the Student a FAPE by failing timely to conduct an appropriate occupational therapy (OT) evaluation as requested by Parent?³
- (3) **Failure to Develop Appropriate IEP (OT Services)** — Did DCPS deny the Student a FAPE by failing to develop an appropriate IEP, in that the November 24, 2010 IEP fails to provide any occupational therapy services?

As relief, Petitioner requests that DCPS be ordered to: (a) fund an independent ophthalmological evaluation and independent OT evaluation of the Student; (b) convene an IEP team meeting to review and revise the IEP; and (c) provide compensatory education for the Student's alleged loss of educational benefit for the period November 2009 to the present.

³ At the PHC, the parties confirmed that they had agreed at the 1/10/2011 resolution session that the OT evaluation had now been conducted and that the report was to be finalized within the next week. The advocate's concerns at resolution were that the same subtests from a previous OT were going to be used, and Petitioner was requesting the use of different subtest assessment tools. The parties agreed that the IEP team would reconvene to review the new OT evaluation. *See Resolution Session Meeting Notes* (Jan. 10, 2011), pp. 1-2; *Prehearing Order* (Jan. 20, 2011), ¶ 7 (2). Thus, the OT failure to evaluate issue presented at hearing was limited to the *timeliness* of the evaluation in response to parent's request.

IV. FINDINGS OF FACT

1. The Student is a -year old student who resides with Petitioner in the District of Columbia. She has been determined to be eligible for special education and related services under the IDEA as a child with a disability. See -5; -7; *Parent Testimony*. Her primary disability is a Specific Learning Disability (“SLD”). -5, p. 1.
2. The Student is currently enrolled at and attends her DCPS neighborhood elementary school (the “School”). See -4; *Parent Testimony*.
3. In May 2009, pursuant to the recommendation of the Student’s IEP team, a DCPS Occupational Therapist conducted an OT screening of the Student to determine if an OT evaluation was warranted. See -14 (10/23/2009 Review of Independent Occupational Therapy Evaluation, Background Information), p. 2; -17 (5/5/2009 classroom observation). The DCPS Occupational Therapist found that “any difficulties that [Student] was experiencing in the area of fine motor and visual perception skills did not appear to impact her class work or final work product.” -14, p. 2. The Student “was able to sit upright at a desk, her pencil grip though awkward was functional, and she could produce legible written work.” *Id.* Thus, a full OT evaluation was not recommended. *Id.*
4. In September 2009, Petitioner obtained an independent occupational therapy (“OT”) evaluation, which recommended that the Student would benefit from OT services to address deficits in visual perception and fine motor proficiency that the evaluator found to impact her academic performance. See -15; -16. The evaluator also recommended that an “Ophthalmological Evaluation” be conducted “to rule out any vision difficulties.” -15, p. 6.⁴
5. On or about October 23, 2009, the September 2009 independent OT evaluation was reviewed by the same DCPS Occupational Therapist. See -14. The DCPS Occupational Therapist also conducted a classroom observation of the Student on 10/16/2009 and reviewed teacher reports and work samples. *Id.*, pp. 2-3. The DCPS Occupational Therapist again found that the Student’s “delays in the areas of fine motor and visual perception do not present an educational impact which prevents her from benefiting from

⁴ However, a D.C. Health Certificate dated August 31, 2009 indicates that the Student had passed a vision screening by a medical doctor, which measured her visual acuity as 20/25 in both eyes. See *DCPS-2*; -14, p. 2.

- special education services, nor does it impact her ability to access the general education curriculum.” *Id.*, p. 3. Thus, the reviewer concluded that OT services were not warranted.
6. On or about November 17, 2009, DCPS then convened an IEP team meeting to review the September 2009 independent OT evaluation. -9. Consistent with the review of the DCPS Occupational Therapist, the 11/17/2009 IEP team determined that the Student’s fine motor skills issues did not have any educational impact on the Student, and that OT services were not warranted at that time. *Id.* Parent disagreed with the determination. *Id.*
 7. Nine months later, in August 2010, Petitioner sent a written request addressed to the Principal of the School requesting that DCPS conduct another OT evaluation of the Student. -19; *Parent Testimony.*
 8. At a November 24, 2010 IEP team meeting, attended by Petitioner, DCPS developed the Student’s current IEP. -5; *DCPS-9; DCPS-10.* The IEP provides for ten (10) hours of specialized instruction, broken down as follows: one (1) hour per week of specialized instruction in Reading in an Outside General Education setting; three (3) hours per week of specialized instruction in Reading in a General Education setting; three (3) hours per week of specialized instruction in Mathematics in a General Education setting; and three (3) hours per week of specialized instruction in Written Expression in a General Education setting. *DCPS-9*, p. 7. ⁵ No OT or other related services were included.
 9. At the 11/24/2010 meeting, Petitioner reiterated her request for a new OT evaluation of the Student “to make sure that she has no handwriting needs.” *DCPS-10*, p. 3. The team indicated that such evaluation “should be completed within 30 school days.” *Id.* The meeting notes indicate that parent and advocate had “no more concerns” at that time. *Id.*
 10. On January 4, 2011, the Student’s Educational Advocate sent a follow-up letter to the Special Education Coordinator of the School regarding the request for OT evaluation, requesting that DCPS use different assessment tools. The letter stated that Petitioner was now “asking that a different set of subtests be conducted for the OT evaluation that was initially requested on August 19, 2010.” -20.

⁵ The Least Restrictive Environment (“LRE”) justification for the one hour per week of reading instruction outside the general education setting states that the Student’s “low reading level necessitates intensive, small-group instruction outside the general education setting.” *DCPS-9*, p. 8.

11. A resolution meeting was held on January 10, 2011. DCPS informed Petitioner that the requested OT evaluation had been conducted in December 2010, that the report would be finalized within the next week, and that the IEP team would reconvene to review the report. *See DCPS-11.*
12. The November 23, 2010 IEP was reasonably calculated to provide the Student with meaningful educational benefit at the time it was developed.

V. DISCUSSION AND CONCLUSIONS OF LAW

A. Summary

The Hearing Officer concludes that Petitioner has failed to meet her burden of proof on any of the issues presented for hearing. Petitioner has not shown by a preponderance of the evidence that DCPS denied the Student a FAPE by: (a) failing to conduct an ophthalmological evaluation to rule out vision difficulties; (b) failing timely to conduct an appropriate occupational therapy (“OT”) evaluation as requested by Parent; and/or (c) failing to include OT services in the Student’s November 24, 2010 IEP.

B. Burden of Proof

The burden of proof in a special education due process hearing is on the party seeking relief. DCMR 5-3030.3; *see Schaffer v. Weast*, 546 U.S. 49 (2005). This burden applies to any challenged action and/or inaction, including failures to evaluate and failures to develop an appropriate IEP. Based solely upon the evidence presented at the due process hearing, an impartial hearing officer must determine whether the party seeking relief presented sufficient evidence to prevail. *See* DCMR 5-E3030.3. The recognized standard is preponderance of the evidence. *See, e.g., N.G. v. District of Columbia*, 556 F. Supp. 2d 11 (D.D.C. 2008); *Holdzclaw v. District of Columbia*, 524 F. Supp. 2d 43, 48 (D.D.C. 2007); 20 U.S.C. §1415(i)(2)(C)(iii).

C. Issues/Denials of FAPE

1. Failures to Evaluate

Petitioner claims that DCPS denied the Student a FAPE by (a) failing to conduct an ophthalmological evaluation to rule out vision difficulties, and (b) failing timely to conduct an

OT evaluation requested by the parent. For the reasons discussed below, the Hearing Officer concludes that Petitioner has presented insufficient evidence to prevail on these issues.

Under its “child find” mandate, DCPS has an affirmative duty to “identify, locate, and evaluate” a potentially disabled child. 20 U.S.C. §1412(a) (3) (A); 34 C.F.R. §§300.111(a); DCMR 5-E3002.1(d); *see IDEA Public Charter School v. McKinley*, 570 F. Supp. 2d 28 (D.D.C. 2008). As part of both an initial evaluation and any re-evaluation, DCPS must (*inter alia*) ensure that the child “is assessed in all areas related to the suspected disability,” and that the evaluation is “sufficiently comprehensive to identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.” 34 C.F.R. §300.304 (c) (4), (6); *see also id.* §§ 300.303, 300.305, 300.324; *Harris v. DC*, 561 F. Supp. 2d 63, 67-68 (D.D.C. 2008) (noting necessity and importance of continual evaluations under the IDEA). Parents also have a right to request particular assessments to determine whether their child has a disability and the child’s educational needs. *See, e.g.*, 34 C.F.R. 300.305 (d); *Herbin v. District of Columbia*, 362 F. Supp. 254 (D.D.C. 2005).

With respect to the ophthalmological evaluation, the sole basis for Petitioner’s claim is the statement in the September 2009 independent OT evaluation that “[a]n Ophthalmological [sic] Evaluation is recommended to rule out vision difficulties.” -15, p. 6. No denial of FAPE results simply because an IEP Team fails to follow each and every recommendation of an independent evaluator. In this instance, the recommendation was unaccompanied by any discussion or analysis in the report; and it appeared to ignore (or reflect an unawareness of) the results of the Student’s 8/31/2009 vision screening, which showed 20/25 visual acuity in both eyes. *See DCPS-2; VC-14*, p. 2. Even Petitioner’s own OT expert testified that she was not sure what the evaluator meant and was not familiar with any standardized ophthalmological test for OT. *See Occupational Therapist Testimony*. And there was no other evidence of any suspected visual impairment. Indeed, Petitioner stated that she took the Student to the eye doctor at the beginning of the 2010-11 SY and was told the Student did not need glasses and had no vision problems. *See DCPS-11*, p. 1; *Parent Testimony*

With respect to the requested OT evaluation, as noted above, the parties agreed at the 1/10/2011 resolution session that the new OT evaluation has now been conducted and that the IEP team would reconvene to review the report as soon as it was available. *See Resolution Session Meeting Notes* (Jan. 10, 2011), pp. 1-2; *Prehearing Order* (Jan. 20, 2011), ¶ 7 (2).

Further, testimony at hearing indicated that the report has now been completed. Thus, the only issue remaining is the *timeliness* of the evaluation in response to parent's request.

Petitioner first requested that DCPS conduct an OT evaluation in an August 19, 2010 letter, which was addressed to the Principal of the School and was faxed to DCPS at several locations. *See VC-19* (including fax confirmation sheets); *Paralegal Testimony*. The SEC testified that the School's fax transmissions may have been interrupted during building reconstruction in August and that, in any event, the August letter request did not come to her attention until the November 2010 IEP team meeting. *See SEC Testimony; see also EA Testimony* (confirming SEC's statement at 11/24/2010 meeting that she had not received August 2010 request). However, other DCPS testimony indicated that the SEC may have been aware of the request much earlier. *See Spec. Ed. Teacher Testimony* (cross examination).

When the OT evaluation request was eventually discussed at the November 24, 2010 IEP team meeting, DCPS indicated that it "should be completed within 30 school days" (*DCPS-10*, p. 3), which would have meant sometime after DCPS students returned from winter break in early January 2011. However, on January 4, 2011 (after the complaint was filed), Petitioner sent a follow-up letter to the School's SEC regarding the OT evaluation, requesting that DCPS use different assessment tools. The letter stated that Petitioner was now "asking that a different set of subtests be conducted for the OT evaluation that was initially requested on August 19, 2010."

-20. While DCPS had by that time conducted the evaluation and was awaiting a report, *see DCPS-11*, Petitioner's 1/4/2011 amendment to its initial August 2010 request required a different OT evaluator to complete a different set of assessments. *See SEC Testimony*. This likely caused further delay in DCPS' completion of the final report.

In short, Petitioner has not shown that DCPS failed to conduct any appropriate evaluation of the Student in any area relating to his suspected disabilities, or that it failed to complete any requested evaluation in a reasonably timely manner under the circumstances. Moreover, even assuming *arguendo* that DCPS unreasonably delayed in responding to the August 2010 request for OT evaluation prior to the 11/24/2010 meeting, Petitioner has not shown that such delay has caused any educational harm to the Student. Accordingly, the Hearing Officer concludes that DCPS did not violate the IDEA or deny the Student a FAPE with respect to any claimed failure to evaluate.

2. Inappropriate IEP

The IDEA requires that all students be provided with a Free Appropriate Public Education (“FAPE”). 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); 34 C.F.R. § 300.17; DCMR 5-E3001.1 (emphasis added).

“Related services,” in turn, mean “transportation and such developmental, corrective, and other supportive services as are *required to assist a child with a disability to benefit from special education, and includes* ...physical and *occupational therapy*....” 20 U.S.C. § 1401(26) (emphasis added); 34 C.F.R. § 300.34 (a); DCMR 5-E3001.1.⁶

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)). 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.’”⁷ 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

⁶ See, e.g., *Irving Indep. Sch. Dist. v. Tatro*, 468 U.S. 883 (1984) (services qualify as “related services” if they are supportive services required for a disabled child to benefit from special education); *John M. v. Board of Educ. of Evanston Community Consolidated School Dist.*, 37 IDELR 38 (N. D. Ill. 2002), *aff’d*, 356 F.3d 798 (7th Cir. 2004) (addressing both direct and consultative OT and PT related services under the IDEA); 34 C.F.R. 300.320(a)(4) (IEP to include statement of related services to enable the child to “advance appropriately toward attaining the annual goals,” to “be involved in and make progress in the general education curriculum,” and “to participate in extracurricular and other nonacademic activities”).

⁷ *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). 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.”).

the child to receive educational benefits.”⁸ In addition, “[b]ecause the IEP must be ‘tailored to the unique needs’ of each child, *Bd. of Educ. v. Rowley*, 458 U.S. 176, 181 (1982), it must be regularly revised in response to new information regarding the child’s performance, behavior, and disabilities, and must be amended if its objectives are not met. See 20 U.S.C. 1414 (b)-(d).”⁹

In this case, Petitioner claims that the November 24, 2010 IEP was not reasonably calculated to provide the Student with meaningful educational benefit because it failed to include the related service of OT. However, the evidence shows that the Student’s IEP team had previously considered the Student’s need for OT services at its November 2009 meeting, when it reviewed the same September 2009 independent OT evaluation now cited by Petitioner. At that time, the team decided that OT services were not warranted because the Student’s fine motor skills issues did not have any educational impact. -9; see also -14 (Review of Independent Occupational Therapy Evaluation).¹⁰ There is no evidence to suggest that the IEP team should have reached a different determination at the November 2010 meeting based on the information before it at that time. To the contrary, the DCPS Special Education Teacher testified that at both the November 2009 and November 2010 meetings, the educators who teach and interact with the Student at the School felt that the handwriting concerns the parent expressed did not adversely affect her classroom performance. See *Spec. Ed. Teacher Testimony* (reflecting his own analysis and his discussions with other teachers). See also *DCPS OT Testimony* (Student does not qualify for direct OT services based on evaluation reports and other records reviewed, due to her ability to overcome any fine motor skill deficits in the academic environment).

Accordingly, the Hearing Officer concludes that Petitioner has failed to prove that the 11/24/2010 IEP is not reasonably calculated to confer meaningful educational benefits on the Student in this respect.

⁸ *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”).

⁹ *Maynard v. District of Columbia*, 54 IDELR 158 (D.D.C. 2010), slip op. at p. 6. 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). “Ultimately, the question ...is whether or not [the] defects in the ...IEP are so significant that [DCPS] failed to offer [the Student] a FAPE.” *N.S. v. District of Columbia*, 2010 WL 1767214, Civ. Action No. 09-621 (CKK) (D.D.C. May 4, 2010), p. 20).

¹⁰ Petitioner disagreed with that determination at the November 2009 meeting, -9, but apparently did not challenge the IEP at that time.

As noted above, the 11/24/2010 IEP team did recognize that Petitioner has requested another updated OT evaluation, primarily to address handwriting issues. *DCPS-10*, p. 3. But the evaluation still needed to be completed at that time, and thus was not available to the team in developing the 11/24/2010 IEP. At the time of hearing, DCPS had agreed to reconvene the IEP team to review the results of the new OT evaluation, *see DCPS-11*, but such meeting had not yet occurred. Petitioner retains the right to challenge the outcome of such further team meeting in a separate due process complaint. *See* 34 C.F.R. 300.513 (c).

D. 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, 521-24 (D.C. Cir. 2005). Having found no denial of FAPE, however, Petitioner is not entitled to any appropriate relief, including compensatory education.

In any event, assuming *arguendo* that Petitioner had proved that DCPS denied the Student a FAPE in one or more of the respects alleged, and that such failure caused educational harm, the Hearing Officer would conclude that Petitioner’s compensatory education proposal was not adequately supported. Petitioner was given ample “opportunity to present evidence regarding [Student’s] specific educational deficits resulting from his [alleged] loss of FAPE and the specific compensatory measures needed to best correct those deficits.” *Reid*, 401 F. 3d at 523-24. However, Petitioner did not meet her “burden of ‘proposing a well-articulated plan that reflects [the student’s] current education abilities and needs and is supported by the record.’” *Phillips v. District of Columbia*, 55 IDELR 101 (D.D.C. Sept. 13, 2010), *quoting Friendship Edison Pub. Charter Sch. Collegiate Campus v. Nesbitt*, 583 F. Supp. 2d 169, 172 (D.D.C. 2008) (Facciola, Mag. J.). The plan submitted at 21 falls woefully short of such standard.¹¹

¹¹ For example, the educational advocate who prepared the compensatory education proposal testified that she based her proposal for 100 hours of independent OT services on her understanding that the Student did not receive required OT services since *November 2009*, despite the fact that the Complaint alleges a failure to include OT services in the November 2010 IEP only. *See EA Testimony*; *see also VC-21*, pp. 4-5 (noting that Student “went without services of OT from November 2009-present,” and “has missed over a year of OT services and has actually regressed” over that time period). The EA also testified that her determination of regression was based on written work samples provided at the 11/24/2010 meeting. Yet, assuming that Petitioner prevailed on her inappropriate IEP claim, 11/24/2010 would be the start (not the end) of the relevant compensatory education period for such FAPE denial, and thus the 11/24/2010 work samples would provide a baseline (rather than any evidence of regression) for the Student’s fine motor skills. Nor was the EA able to explain how she even arrived at 100 hours. *EA Testimony*.

VI. ORDER

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

1. Petitioner's requests for relief in her Due Process Complaint are **DENIED**.
2. The Complaint is **DISMISSED, With Prejudice**; and
3. This case shall be, and hereby is, **CLOSED**.



Dated: March 6, 2011

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).