

STATE EDUCATIONAL AGENCY FOR THE DISTRICT OF COLUMBIA  
STATE ENFORCEMENT AND INVESTIGATION DIVISION (SEID)  
SPECIAL EDUCATION PROGRAMS

STUDENT,<sup>1</sup> by and through his Parent,

Petitioners,

Case No. 2009-1273  
Bruce Ryan, Hearing Officer

v.

Hearing: October 26, 2009  
Decided: November 5, 2009

DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS,

Respondent.

OSSE  
STUDENT HEARING OFFICE  
2009 NOV -6 AM 9:09

**HEARING OFFICER DECISION**

**I. PROCEDURAL BACKGROUND**

The due process complaint in this matter was filed September 8, 2009, against Respondent District of Columbia Public School ("DCPS") pursuant to the Individuals with Disabilities Education Act ("IDEA"), as amended, 20 U.S.C. §§1400 *et seq.*, and its implementing regulations. The complaint concerns a [REDACTED] year old student who resides in the District of Columbia, currently attends [REDACTED] High School, and has been determined eligible for special education and related services under IDEA.

The complaint alleges that, following a prior Hearing Officer Determination ("HOD") issued by Hearing Officer St. Clair on April 20, 2009, DCPS completed a psychological evaluation of the Student on or about May 12, 2009, and convened a meeting to review that evaluation on or about September 3, 2009. Petitioners claim that through its actions, DCPS has denied the Student a free appropriate public education ("FAPE") by (i) failing to revise/develop an appropriate individualized education program ("IEP") for the Student, (ii) failing to provide an appropriate placement, and (iii) failing to provide special education and related services called for in the Student's IEP. Petitioners also claim that DCPS has failed to comply with the terms of the April 20, 2009 HOD, which (*inter alia*) ordered that "Within 40 days hereof, DCPS will have completed a triennial reevaluation of the student, to include minimally a clinical psychological

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

evaluation to assess for ED, OHI and LD disability” and that DCPS will then convene an MDT/IEP meeting “during which evaluations will be reviewed, the IEP reviewed and revised as appropriate, and placement discussed and determined.” *HOD*, April 20, 2009, pp. 5-6.

DCPS filed a Response asserting (*inter alia*) that it has complied with the April 20, 2009 HOD, that it reviewed the May 12, 2009 psycho-educational evaluation at the 9/3/09 MDT/IEP meeting, and that it determined that the Student’s IEP could be implemented at Spingarn. DCPS maintains that it can provide the Student a FAPE at Spingarn.

A resolution session was held on or about September 21, 2009, resulting in an agreement in writing that “no agreement” was possible and that the case should proceed to a due process hearing. *See Due Process Complaint Disposition*, Sept. 21, 2009. Accordingly, the 45-day HOD timeline under IDEA started on September 22, 2009. *See* 34 CFR 300.510(c)(2); *Prehearing Order*, issued Oct. 23, 2009.

A Prehearing Conference (“PHC”) was then held on October 8, 2009, and a Prehearing Order was issued October 23, 2009. Petitioners elected for the hearing to be closed. Five-day disclosures were filed by both parties as directed, on or about October 19, 2009.

The Due Process Hearing was held on October 26, 2009. At the hearing, 10 documentary exhibits submitted by Petitioners (identified as “P-1” through “P-10”) and 12 documentary exhibits submitted by DCPS (identified as “DCPS-01” through “DCPS-12”) were admitted into evidence. Exhibit P-8 was admitted over DCPS’ objection; all other exhibits were admitted without objection.<sup>2</sup> Testifying at the hearing on behalf of Petitioners were the Student, the Parent-Petitioners (both father and grandmother), the Student’s Educational Advocate, and Mr. David Clarke (Admissions Director, [REDACTED] testifying on behalf of DCPS was Ms. [REDACTED]

This decision constitutes the Hearing Officer’s determination pursuant to 20 U.S.C. §1412 (f), 34 C.F.R. §300.513, and Section 1003 of the *Special Education Student Hearing Office Due Process Hearing Standard Operating Procedures* (“SOP”).

<sup>2</sup> Exhibit P-10 is a copy of the Student’s current 2/19/09 IEP, as originally presented by DCPS in the prior complaint proceeding in April 2009 (2009-0357). It was not included in Petitioners’ five-day disclosures filed in the present case, but was offered and accepted into evidence at the Due Process Hearing.

## **II. ISSUES AND REQUESTED RELIEF**

A discussion at the PHC of the issues and requested relief raised by Petitioners, along with the pleadings filed by both parties, has resulted in the following issues being presented for determination at hearing:

- a. Compliance with 4/20/09 HOD* — Whether DCPS has failed to comply with the terms of the April 20, 2009 HOD;
- b. Inappropriate IEP* — Whether DCPS has denied the Student a FAPE by failing to develop an appropriate IEP at the September 3, 2009 MDT meeting, based on the findings and recommendations of the May 12, 2009 psychological evaluation;
- c. IEP Implementation* — Whether DCPS has denied the Student a FAPE by failing to provide special education and related services as called for in the Student's February 19, 2009 IEP;
- d. Inappropriate Placement* — Whether DCPS has denied the Student a FAPE by failing to provide an appropriate educational placement at the 9/3/09 MDT/IEP meeting;
- e. Manifestation Determination* — Whether DCPS failed to convene a manifestation determination meeting to consider whether the Student's behavior during the 2008-2009 school year (including specifically a behavioral suspension between 3/11/09 and 3/31/09) was a manifestation of his disability in accordance with 34 C.F.R. §300.530; and
- f. Other Procedural Violations* — Whether DCPS committed other procedural errors, specifically (i) failure to convene an MDT/IEP meeting with all relevant and necessary team members, (ii) failure to convene a placement meeting or discuss placement despite the parent's request, and (iii) failure to invite the parent and child to the MDT/IEP meeting.

As noted in the *Prehearing Order*, The relief sought by Petitioners includes (1) an immediate private placement at [REDACTED] the completion of additional necessary evaluations, and (3) the convening of a further MDT/IEP meeting with all relevant and necessary team members to review the evaluations, review/revise the IEP as necessary, and discuss/determine appropriate placement for the Student.<sup>3</sup>

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<sup>3</sup> At the PHC, Petitioners' counsel indicated that a manifestation review could also be made part of the MDT/IEP meeting if properly structured.

### **III. FINDINGS OF FACT**

1. The Student is a [REDACTED] student who resides in the District of Columbia, currently attends [REDACTED] High School, and has been determined eligible for special education and related services under IDEA. He is classified as a child with Multiple Disabilities including Emotional Disturbance (“ED”), Other Health Impairment (“OHI”), and Learning Disability (“LD”).

2. An IEP was developed for the Student on February 19, 2009, while he attended [REDACTED] P-10. The IEP provides 14 hours per week of specialized instruction in a setting outside general education, along with one hour per week of behavioral support services also outside general education. *Id.*

3. The Student has had a history of problematic behaviors and academic deficiencies in school. *Parent Testimony.* The Student was disciplined and suspended on March 11, 2009, for fighting on school property. P-9. The Student was re-admitted to school on March 31, 2009. The suspension covered approximately 7 to 8 school days, as the period also included a week of spring break. P-9; *Parent Testimony; SEC Testimony; DCPS-10.*

4. On April 20, 2009, an HOD was issued in response to an administrative due process complaint filed by the parent on or 3/6/09. P-7. The 4/20/09 HOD found that DCPS had failed to complete a required triennial re-evaluation of the Student. *Id.*, pp. 4-5. The HOD also found that the February 19, 2009 IEP was inappropriate because it was based on a psychological evaluation that was more than three years old. *Id.*, p. 5. The HOD issued relief in the form of an order requiring DCPS (a) to complete a triennial re-evaluation within 40 days, “to include minimally a clinical psychological evaluation to assess for ED, OHI and LD disability,” and then (b) to convene an MDT/IEP team meeting within 15 school days of the last evaluation report, “during which evaluations will be reviewed, the IEP reviewed and revised as appropriate, and placement discussed and determined.” *Id.*, pp. 5-6.

5. On or about May 12, 2009, DCPS completed an updated psycho-educational evaluation of the Student by a DCPS school psychologist. *See DCPS-02; P-5.* The report recommended that the MDT consider the disability of Multiply Disabled, to include ED and LD; and it expressed the opinion that the Student’s ADHD symptoms were a function of his ED. *Id.*,

p. 7. The report further recommended that “[a]dditional hours in special education should be discussed by the team,” and suggested several behavioral intervention strategies. *Id.*, pp. 7-8.

6. On or about June 1, 2009, and again on or about June 24, 2009, DCPS attempted to convene an MDT/IEP team meeting with the parent. *DCPS-03; DCPS-04; DCPS-12.* However, the evidence indicates that Petitioners either did not respond or were not available for a meeting until after the 2009-2010 school year began. *See SEC Testimony.* The meeting was eventually held on September 3, 2009. *P-4; DCPS-08.*

7. During the 9/3/09 MDT/IEP team meeting with the parent present, DCPS attempted to comply with the 4/20/09 HOD. The meeting was attended by the parent (grandmother), the parent’s educational advocate, DCPS school psychologist, special education coordinator, and a special education teacher. *P-4; DCPS-08.* The team reviewed the May 12, 2009 psycho-educational evaluation report, including Wechsler and Woodcock-Johnson test scores, clinical assessment of behavior (“CAB”), and social-emotional functioning. *Id.* Based on the psychological assessment contained in the 5/12/09 evaluation report, the team determined that the Student continued to be eligible for special education and related services as a child with Multiple Disabilities. *Id.*<sup>4</sup>

8. Petitioners attempted to discuss the question of increased special education hours, as had been recommended in the 5/12/09 report, but the advocate’s notes indicate that “DCPS was not interested in discussing the student’s hours.” *P-4*, p. 5. *See also Parent Testimony* (stating that IEP was never presented at meeting); *Advocate Testimony* (2/19/09 IEP not presented at meeting, and meeting was abruptly ended by SEC without such discussion); *SEC testimony* (SEC does not recall such discussion or even whether 5/12/09 report recommended consideration of this issue). Also, as the notes indicate, no regular education teacher participated in the meeting. *P-4*, p. 5.

9. The testimony indicates that the MDT/IEP team did not actually review or discuss the contents of the 2/19/09 IEP at the 9/3/09 meeting. *See Parent Testimony; Advocate Testimony.* Nor did the team develop or issue any new or updated IEP at that meeting.

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<sup>4</sup> The evidence reflects some confusion at the 9/3/09 meeting regarding the subject of independent evaluations. The meeting notes indicate that the team thought that “independent evaluation was ordered” in the 4/20/09 HOD, and thus requested an independent report from the parent at the meeting. *DCPS-08*, pp. 1-2. However, the 4/20/09 HOD had in fact ordered only that the parent would be authorized to arrange independent evaluations at DCPS expense if DCPS failed to complete its own clinical psychological evaluation in a timely manner. *P-7*, pp. 5-6.

According to the SEC's testimony, since the team did not determine that any change in the IEP was warranted, there was no need to alter or reissue the prior IEP, notwithstanding that the 4/20/09 HOD had been found inappropriate prior to the updated psychological evaluation. *See SEC Testimony.*

10. At the 9/3/09 meeting, the MDT/IEP team did make an educational placement recommendation, apparently based on the existing 2/19/09 IEP. The placement recommendation was as follows: "DCPS recommends DCPS services at one [of] our schools. [The Student's] neighborhood school can meet his needs." *DCPS-08*. DCPS also noted that the parent disagreed with the placement recommendation/determination and that "[Parent] wants [the Student] to attend [redacted] *See also Parent Testimony.*

11. DCPS then issued a Prior Notice of Placement ("PNOP") on September 3, 2009, the same date as the meeting. *DCPS-09*. The PNOP proposed to place the Student at [redacted] SHS, his [redacted] grade neighborhood school, in a Combination General Education and Resource Classroom. *Id.*

12. After the filing of the present due process complaint, DCPS convened a resolution meeting on September 21, 2009. *P-1; DCPS-10*. The parents again requested [redacted] an educational placement "because they feel that [the Student] needs a more structured environment." *Id.*, p. 3. DCPS indicated that it continued to believe that Spingarn SHS was an appropriate placement for the Student. DCPS also stated (*inter alia*) that "[t]he IEP was implemented as the IEP requested [and] the hours did not need to be increased after review [of] the psychological." *Id.* However, DCPS proposed to "agree to convene a 30-day review at Spingarn to review IEP/Goals, review site location of services, and discuss and determine comp ed." *Id.*, p. 4. No agreement was reached, and the case thus proceeded to hearing.

#### **IV. DISCUSSION AND CONCLUSIONS OF LAW**

##### **A. Burden of Proof**

1. 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 provide an appropriate IEP and/or placement.

2. 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 5-3030.3. The standard generally applied is preponderance of the evidence. *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); *see also* 20 U.S.C. §1415(i)(2)(C)(iii).

**B. Issues/Alleged Denials of FAPE**

3. The Hearing Officer concludes that Petitioners have carried their burden of proof to the extent set forth under each issue below, but have failed to carry their burden of proof in all other respects.

***Issue (a): Compliance with 4/20/09 HOD***

4. As noted above, Petitioners claim that DCPS has failed to comply with the terms of the April 20, 2009 HOD, which (*inter alia*) ordered as follows:

“Within 40 days hereof, DCPS will have completed a triennial reevaluation of the student, to include minimally a clinical psychological evaluation to assess for ED, OHI and LD disability ... Within 15 school days of completion/receipt of the last evaluation report, DCPS will convene an MDT/IEP/Placement meeting ***during which evaluations will be reviewed, the IEP reviewed and revised as appropriate, and placement discussed and determined.***”

*P-7 (HOD, April 20, 2009, Order ¶ 1, pp. 5-6) (emphasis added).*

5. Based on the evidence presented, the Hearing Officer concludes that DCPS complied with the first part of the HOD – *i.e.*, on May 12, 2009, it completed a clinical psychological evaluation to assess for ED, OHI and LD, as directed, within 40 days of the HOD. DCPS also complied with most of the second part of the HOD – *i.e.*, while the MDT/IEP team meeting was not convened until 9/3/09, it appears that Petitioners’ unavailability caused the delay in the meeting date; and at the meeting, DCPS did in fact review the evaluation and discuss and determine placement.

6. However, it appears that DCPS did not fully comply with the 4/20/09 HOD because the evidence indicates that the 2/19/09 IEP was not “reviewed and revised as appropriate.” The meeting notes do not reflect any discussion of the contents of the IEP, as opposed to placement. In addition, other evidence presented by Petitioners and not contradicted

by DCPS (*see P-4*) shows that the parent attempted to discuss the hours of specialized instruction as had been recommended in the evaluation, but that DCPS “was not interested” in discussing that topic. *Findings, ¶¶ 8-9; see also Parent Testimony; Advocate Testimony.*

7. This is more than a mere formality, in that (a) the 4/20/09 HOD found the 2/19/09 IEP to be inappropriate (albeit based on the out-of-date psychological that has now been updated), and (b) placement decisions are to be “based on the child’s IEP,” not the other way around. 34 C.F.R. § 300.116 (b)(2); DCMR 5-3013.1 (e). Moreover, both in its 9/11/09 response to the complaint and at the 9/21/09 resolution session, DCPS appears to recognize the necessity to review and update the current 2/19/09 IEP, which it has offered to complete at a 30-day review meeting. Accordingly, the Hearing Officer will include an appropriate provision to this effect in his order.

***Issue (b): Inappropriate IEP***

8. Under 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). *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 issue of whether an IEP is appropriate is a question of fact. *See, e.g., S.H. v. State-Operated School Dist. of Newark*, 336 F. 3d 260, 271 (3d Cir. 2003).

9. Petitioners’ principal contention is that the 2/19/09 IEP is inappropriate because the Student needs more than 15 hours per week of special education, based on the findings and recommendations of the 5/12/09 psychological report. Based on the evidence presented at hearing, Petitioners have not demonstrated that more hours are necessarily required. However, as noted above, it appears that DCPS never appropriately reviewed and updated the IEP pursuant to the 4/20/09 HOD. It appears that confusion surrounding the question of whether independent evaluations were outstanding (*see note 3, supra*) may have contributed to this failure. *See, e.g., DCPS’ Response*, filed Sept. 11, 2009, p. 2 (“DCPS fully intends to review the independent

evaluations once they are received, and update the student's IEP as warranted.”). Nor is there any evidence whatsoever that the MDT/IEP team actually considered the issue of additional hours at the 9/3/09 meeting or, if they did, what reasons they had to reject the parent's request and maintain the same hours as before. Again, this subject should be discussed and determined by the team including the parent at the next meeting when the IEP can be formally updated.

***Issue (c): Implementation of the IEP***

10. Petitioners complained generally that DCPS “failed to provide the student special education and related services as called for in the IEP.” *P-3*, p. 3. However, Petitioners did not present evidence at hearing sufficient to establish any specific discrepancy between the services provided and the terms of the 2/19/09 IEP. Moreover, DCPS presented evidence that the Student in fact received all of the services specified in the 2/19/09 IEP. *See SEC Testimony; DCPS-05 (Service Trackers)*. Accordingly, the Hearing Officer concludes that Petitioners have failed to carry their burden of proof on this issue.

***Issue (d): Inappropriate Placement***

11. With respect to placement, Petitioners have not shown at hearing that [REDACTED] necessarily an inappropriate placement for the Student. As far as the evidence shows, it may well be reasonably calculated to provide meaningful educational benefits and be capable of implementing an appropriate IEP.<sup>5</sup> However, as noted above, the problem is that DCPS needs to first complete its discussion and review of the 2/19/09 IEP, and *then* decide on an appropriate placement. *See* 34 C.F.R. § 300.116 (b)(2); DCMR 5-3013.1 (e). It should not do it the other way around. Nor can the Hearing Officer simply assume from the fact that no updated IEP was ever issued (*see SEC Testimony*) that the team carefully reviewed the contents of the IEP, including the volume of special education hours – especially where the meeting notes reflect no discussion of such issues despite the parent's attempt to raise them.

12. At the same time, Petitioners have not shown that their proposed placement at High Road School would be appropriate for the Student at this time. The [REDACTED] Admissions Director who testified for Petitioners had never reviewed the current 2/19/09 IEP

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<sup>5</sup> *See, e.g., SEC Testimony; Student Testimony* (reporting that things are “going okay” and that he may be “learning more” at Spingarn than at Brown MS); *Parent Testimony* (reporting that the Student has been “up and down” at school this year at Spingarn).

addressing the Student's specialized educational needs; he also had not reviewed the 5/12/09 psychological evaluation describing the nature and severity of the Student's disability; he did not know that the Student had been promoted from 8<sup>th</sup> grade to 9<sup>th</sup> grade when he accepted him into High Road Middle School; and he was not aware that the Student's IEP called for a part-time special education program. *See Clarke Testimony (cross examination); P-2 (9/18/09 acceptance letter)*. He testified that his decision to admit the Student was based entirely on a package of material provided by Petitioners' attorney in April 2009, which did not include the 2/19/09 IEP, and a meeting with the Student and parent also in April 2009. *Clarke Testimony*. He said that he would "definitely have to look at" both the IEP and the May 2009 evaluation to confirm that their program would still be appropriate for the Student. *Id.* This evidence fails to support the requested private placement award. *See generally Branham v. District of Columbia*, 427 F.3d 7, 11-12 (D.C. Cir. 2005), *citing Board of Education v. Rowley*, 458 U.S. 176, 202 (1982); *Roark v. District of Columbia*, 460 F. Supp. 2d 32 (D.D.C. 2006). *See also* 34 C.F.R. § 300.116; DCMR 5-3013.1.

***Issue (e): Manifestation Determination***

13. 34 C.F.R. §300.530(b) provides that school personnel "may remove a child with a disability who violates a code of student conduct from his or her current placement ... ***for not more than 10 consecutive school days***...as long as those removals do not constitute a change of placement under §300.536." Section 300.536, in turn, provides that a "change of placement" occurs if either (1) the removal is for more than 10 consecutive school days, or (2) the child is subject to a series of removals totaling more than 10 school days in a school year that constitute a "pattern," determined on a case-by-case basis consistent with the factors spelled out in the rule. 34 C.F.R. §300.536. If such a "change of placement" occurs, the LEA must then convene a meeting of the IEP team to make a "manifestation determination" as provided in Section 300.530 (e).<sup>6</sup>

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<sup>6</sup> The IEP team is to determine whether the conduct in question either (1) was "caused by, or had a direct and substantial relationship to, the child's disability," or (2) was the "direct result of the LEA's failure to implement the IEP." 34 C.F.R. §300.530(e); *see* 20 U.S.C. §1415(k)(1)(E). If the team determines that the behavior was a manifestation of the child's disability, then the IEP team generally must (1) conduct a functional behavior assessment ("FBA") and implement a behavioral intervention plan ("BIP") for the child, and (2) return the child to the placement from which the child was removed. 34 C.F.R. §300.530(f); *see* 20 U.S.C. §1415(k)(1)(F).

14. In this case, Petitioners have not shown that the Student was ever subjected to a suspension or removal of more than 10 consecutive school days, or to any series of removals totaling more than 10 school days. The only suspension established on this record is the March 11, 2009 suspension, which covered at most eight (8) consecutive school days, separated by a week of spring break. *See P-9; SEC Testimony.* Accordingly, Petitioners have failed to prove that DCPS erred in not convening a manifestation determination meeting.

***Issue (f): Other Procedural Violations***

15. Finally, Petitioners claim that DCPS committed the following additional procedural errors: (1) that it failed to convene an MDT/IEP meeting with all relevant and necessary team members; (2) that it failed to convene a placement meeting or discuss placement despite the parent's request; and (3) that it failed to invite the parent and child to the MDT/IEP meeting. The Hearing Officer finds, based on the evidence presented, that DCPS did convene a placement meeting and discuss placement on 9/3/09 and that DCPS did invite the parent and Student to the MDT/IEP meeting. Thus, Petitioners failed to prove alleged procedural violations (2) and (3) above. However, the Hearing Officer concludes that Petitioners have proved the first procedural violation, and that they have proved that this inadequacy may have significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the Student pursuant to 34 C.F.R. §300.513(a)(2).

16. More specifically, DCPS failed to include at least one regular education teacher, as required where the Student is or may be participating in the regular education environment. *See* 34 C.F.R. §300.321(a)(2). This certainly may have impacted the team's approach to the issue of the volume of special education hours believed appropriate (or even its willingness to discuss the issue, as requested by the parent), since the regular education teacher would have been best positioned to assess how the Student was performing in the regular education environment when he was not receiving his 15 hours weekly of special education. The appropriate remedy for this is to order DCPS to invite at least one regular education teacher to the upcoming MDT/IEP meeting at which the Student's updated IEP can be finalized.

**C. Appropriate Relief**

17. The IDEA authorizes district courts and hearing officers 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). In this case, the Hearing Officer has exercised his discretion to issue appropriate equitable relief based on the findings and violations noted herein. The relief is in the form of an order requiring DCPS to convene a further MDT/IEP team meeting within the next 30 calendar days for the purpose of (a) obtaining information about the Student provided by at least one regular education teacher familiar with the Student's participation in that environment, along with any other information the parent wishes to provide; (b) completing its review and revision (as warranted) of the 2/19/09 IEP and confirming the contents of the Student's current IEP going forward; and (c) reviewing and confirming the Student's educational placement based on the updated IEP and the Student's experience to date at Spingarn SHS. Petitioners' request for an immediate private placement at High Road School will be denied, for the reasons set forth above.

#### V. ORDER

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

1. Within **30 calendar days** of this Order (*i.e.*, before **December 5, 2009**), DCPS shall convene a meeting of the Student's MDT/IEP team for the following purposes:
  - a) to review and revise, as appropriate, the Student's February 19, 2009 IEP based on all relevant and updated information, including but not limited to: (i) the results of the May 12, 2009 psychological evaluation of the Student; (ii) information to be provided by at least one regular education teacher invited to attend the meeting regarding the Student's participation in the regular education environment; and (iii) any additional information provided by the parents;
  - b) to review the Student's experience to date in his educational placement at Spingarn SHS during the 2009-2010 school year; and
  - c) to discuss and determine, based on the Student's updated and finalized IEP, what educational placement is appropriate for the Student for the remainder of the 2009-2010 school year.
2. Because the next annual review of the Student's IEP is due to be completed by February 2010, and IDEA encourages the consolidation of IEP team meetings to the extent possible, DCPS may also decide to treat the next meeting as an annual review of the IEP pursuant to 34 C.F.R. § 300.324(b).
3. Petitioners' other requests for relief, including private placement at the High Road School, shall be, and hereby are, **DENIED**; and.

4. This case shall be, and hereby is, **CLOSED**.

***IT IS SO ORDERED.***

Dated: November 5, 2009



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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).

**APPENDIX**

**CASE NO. : 2009-1273**

**STUDENT: [REDACTED]**

**DATE OF BIRTH: 07 [REDACTED]**

**STARS NO. : [REDACTED]**

**SCHOOL: [REDACTED]**

**PARENT-PETITIONERS: [REDACTED]**

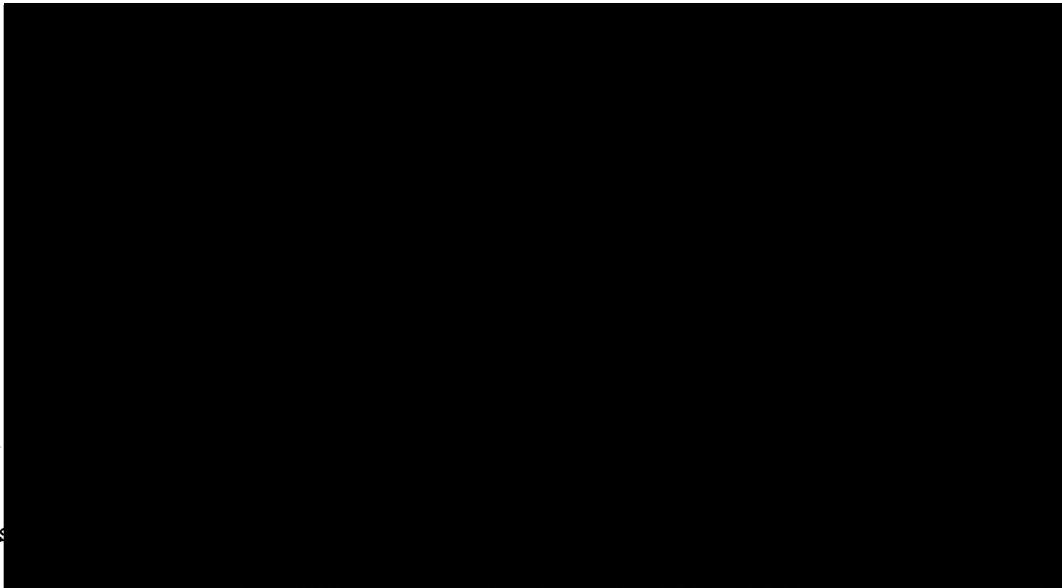
**PETITIONERS' ATTORNEY: CHIKE IJEABUONWU, ESQ.**

**RESPONDENT DCPS' ATTORNEY: NIA FRIPP, ESQ.**

**Brown, Pamela M. (OSSE)**

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Hearing  
Decision-C

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Attached please find a copy of the HOD issued today in this case.  
Bruce Ryan, IHO

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