

DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
Student Hearing Office
810 First Street, NE, Second Floor
Washington, DC 20002

Petitioner,
v.
DISTRICT OF COLUMBIA PUBLIC SCHOOLS,
Respondent.

Hearing Officer: Kimm Massey, Esq.
Case No: [REDACTED]
Room No.: 2006

OSSE
Student Hearing Office
September 09, 2013

HEARING OFFICER DETERMINATION

**BACKGROUND AND
PROCEDURAL HISTORY**

Student is a fourteen year old [REDACTED] who has been assigned to attend [REDACTED] neighborhood DCPS senior high school. On June 25, 2013, Petitioner filed a Complaint against Respondent District of Columbia public Schools, alleging that DCPS denied Student a free appropriate public education (“FAPE”) by providing Student with an inappropriate IEP and placement/site location, failing to refer neurological-psychological and psychiatric assessments, and providing an inappropriate IEP/inappropriate behavioral intervention plan (“BIP”). As relief for these alleged denials of FAPE, Petitioner requested that the hearing officer develop an IEP based on the Complaint allegations or order DCPS to do so, and that DCPS be ordered to fund placement and provide transportation for Student to attend an appropriate public or non-public school, convene a meeting to develop an appropriate IEP and determine placement and compensatory education, and award reasonable compensatory education.

On July 3, 2013, DCPS filed a Response to the Complaint, asserting therein the following: (i) On 5/30/13 DCPS identified Student as ED; on 6/13/13 a team developed Student’s IEP and BIP and Petitioner and the team agreed with the academic and social/emotional IEP goals although the service hours were disputed. No objective evaluative data supported a full-time out of general education IEP. Both the IEP and BIP were appropriate and reasonably calculated to provide meaningful educational benefit in Student’s LRE; (ii) On 5/27/13 a DCPS psychologist conducted a review of Student’s independent comprehensive psychological evaluation; on 5/30/13 the team met and determined student’s eligibility based on the independent evaluation, the DCPS review, formal school assessments and teacher input. This initial evaluation was sufficiently comprehensive to determine Student’s eligibility and educational needs, and Petitioner agreed with the team’s determination as far as eligibility; (iii) During the 6/13/13 IEP meeting, Petitioner’s advocate requested neuropsychological and psychiatric assessments. DCPS did not formally reject the request, but IDEA does not require LEAs to administer every test requested by a parent or educational advocate, as the LEAs have the prerogative to choose assessment tools and strategies to gather relevant information. Student was not denied a FAPE or deprived of any educational benefit and Petitioner participated in the development of Student’s IEP and BIP; and (iv) The complaint is premature, as Petitioner has not even afforded

DCPS the opportunity to implement the IEP and there are no allegations of any educational harm that Student has suffered under the IEP.

The parties participated in a Resolution Meeting on July 10, 2013. There was no agreement but the parties agreed not shorten the 30-day resolution period. Therefore, the 45-day timeline began on July 26, 2013 and will end on September 8, 2013, which is the HOD deadline.

On July 30, 2013, the hearing officer conducted a prehearing conference and led the parties through a discussion of the issues, relief requested, and other relevant topics. The hearing officer issued a Prehearing Order on August 5, 2013.

By their respective letters on August 15, 2013, Petitioner disclosed thirty-three documents (Petitioner's Exhibits 1-33) and DCPS disclosed seven documents (Respondent's Exhibits 1-7).

The hearing officer convened the due process hearing on August 22, 2013, as scheduled.¹ All documents disclosed by the parties were admitted into the record without objection. The hearing officer received opening statements and testimonial evidence from Petitioner. The hearing officer also received testimonial evidence from both parties, and closing statements before concluding the hearing.

The due process hearing was convened and this Hearing Officer Determination is written pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. §§ 1400 et seq., the implementing regulations for IDEIA, 34 C.F.R. Part 300, and Title V, Chapter 30, of the District of Columbia Municipal Regulations ("D.C.M.R.").

ISSUE(S)

1. Did DCPS provide an inappropriate IEP and placement/location of services beginning when the IEP was developed on June 13, 2013 because Student needs a more restrictive placement and IEP – namely, full-time out of general education?
2. Did DCPS deny Student a FAPE by failing to refer neurological and psychiatric assessments recommended by Student's April 2013 psychological evaluation?
3. Did DCPS provide an inappropriate IEP due to an inappropriate BIP, in that the BIP is not appropriate for failure to identify who will provide Student with the services identified and is, therefore, vague and inappropriate?

FINDINGS OF FACT²

1. Student is a fourteen year old [REDACTED] who has been assigned to attend [REDACTED] neighborhood DCPS senior high school for school year ("SY") 2013/14. The neighborhood DCPS school is a large high school with a population of 500 or more students.³

¹ Counsel for each party and the witnesses for each party are listed in the Appendix that accompanies this decision.

² To the extent that the hearing officer has declined to base a finding of fact on a witness's testimony that goes to the heart of the issue(s) under consideration, or has chosen to base a finding of fact on the testimony of one witness when another witness gave contradictory testimony on the same issue, then the hearing officer has taken such action based on the hearing officer's determinations of the credibility and/or lack of credibility of the witness(es) involved.

³ Testimony of Student; testimony of special education specialist; testimony of advocate.

2. [REDACTED]
3. Student also was sexually molested by a male relative in a 2006 incident that resulted in the relative bumping Student's head on a pipe under a bed, which caused Student to lose consciousness.⁵
4. Student has a history of difficulties in [REDACTED] relationship with [REDACTED] father, including verbal abuse by the father, which began when Student was approximately eleven years old.⁶
5. [REDACTED]
6. [REDACTED]
7. Student has a history of substance (drug and alcohol) abuse.⁹
8. [REDACTED]
9. [REDACTED]
10. Student attended a DCPS middle school from October 2012 through the end of SY 2012/13. Student did not understand much of the instruction provided by the teachers at [REDACTED] DCPS middle school and was in danger of failing for most of the school year.

⁴ Testimony of Student; *see* testimony of Parent, Petitioner's Exhibit 5 at 2.

⁵ Testimony of Student; *see* testimony of Parent, Petitioner's Exhibit 5 at 2.

⁶ Testimony of Parent; testimony of Student

⁷ Testimony of Student; testimony of Parent; *see* Petitioner's Exhibit 5 at 3.

⁸ Testimony of Student; *see* Petitioner's Exhibit 5 at 3.

⁹ Testimony of Student; testimony of licensed psychologist; testimony of mental health therapist.

¹⁰ Testimony of Student.

¹¹ Testimony of Student.

Moreover, Student did not receive the emotional/behavioral support [REDACTED] needed at that school.¹²

11. Student has also experienced bullying for the last several years by peers at school. At the DCPS school [REDACTED] attended during SY 2012/13, Student was beat up by several students and the incident was videotaped and placed on the internet.¹³
12. Student has been diagnosed with Posttraumatic Stress Disorder (“PTSD”), Bulimia Nervosa (purging type), Major Depressive Disorder, and Learning Disorder NOS.¹⁴
13. Student receives outpatient mental health services at a federally qualified health center that services families and at-risk youth. Student is easily triggered by things around [REDACTED] including peers, noise, adults, the environment and internalized triggers (feelings). Student escalates very quickly, often by isolating herself and inflicting self-harm, such as cutting, inducing vomiting, or suicide attempts. Many of Student’s triggers arise in school and translate into the home environment, where they are often exhibited. However, Student also exhibits undesirable behaviors at school, such as crying for long periods, having panic attacks, peer conflicts, or pushing away [REDACTED] work and saying [REDACTED] cannot or does not want to do the work.¹⁵
14. Student has a Full Scale IQ of 79, which is in the Borderline range; [REDACTED] Verbal Comprehension is in the Average range; [REDACTED] Working Memory and Processing Speed are in the Low Average range; and [REDACTED] Perceptual Reasoning is in the Extremely Low range.¹⁶
15. Student will be in 9th grade in SY 2013/14. [REDACTED] Broad Reading skills are at the 8.7 grade equivalency (“GE”); [REDACTED] Broad Written Language skills are at the 7.1 GE; and [REDACTED] Broad Math skills are at the 4.6 GE. Overall, Student’s academy fluency is at the 9.5 GE.¹⁷
16. Student requires a neuropsychological evaluation to determine whether neurological impairments contribute to [REDACTED] deficits in executive functioning, spatial and visual-motor integration abilities, and whether neurological deficits in the executive functioning domain make it difficult for Student to inhibit impulses and regulate emotions. Moreover, Student suffered from a head injury in 2006 that caused [REDACTED] to lose consciousness, which under DCPS policy indicates a neuropsychological evaluation is warranted to determine whether Student has experienced brain trauma or injury.¹⁸
17. Although Student’s April 2013 comprehensive psychological evaluation report recommends that Student be referred for a psychiatric evaluation to determine if psychiatric medications are deemed appropriate, a psychiatric evaluation is not indicated for Student because Student has been under the care of a psychiatrist for several years and [REDACTED] has received psychiatric care during [REDACTED] various hospitalizations.¹⁹

¹² Testimony of Student; *see* testimony of mental health therapist.

¹³ Petitioner’s Exhibit 5 at 8; testimony of Student; Respondent’s Exhibit 1 at 4.

¹⁴ Petitioner’s Exhibit 5 at 10; testimony of Student; testimony of mental health therapist; *see* testimony of licensed psychologist.

¹⁵ Testimony of mental health therapist.

¹⁶ Petitioner’s Exhibit 5.

¹⁷ Petitioner’s Exhibit 5 at 13.

¹⁸ Petitioner’s Exhibit 5 at 9-11; *see* testimony of school psychologist.

¹⁹ Petitioner’s Exhibit 5 at 11; testimony of school psychologist; *see* Petitioner’s Exhibits 12-15, 18-21.

18. Student's current IEP is dated June 13, 2013. The IEP identifies Student's primary disability as Emotional Disturbance ("ED") and requires Student to receive 20 hours per week of specialized instruction outside general education and 600 minutes per month of behavioral support services outside general education. The IEP indicates that Student does not require the support of a dedicated aide.²⁰
19. Student's June 13, 2013 IEP includes a BIP that addresses the following three behavior concerns: Student's history of attempting suicide, Student's diagnosis of bulimia, and Student's anxiety about whether or not [REDACTED] will be promoted. The BIP includes the following interventions, among others, to address the behavior concerns: do not allow Student to be unsupervised anywhere in the school environment; closely monitor Student's restroom activity after breakfast and lunch (provide time limit, at which time [REDACTED] need [sic] to be checked on). The BIP requires that Student never be unsupervised because of the real threat that [REDACTED] may do harm to herself. However, DCPS has determined that no dedicated aide is required to implement the BIP, and the BIP does not indicate who will provide Student with the required constant supervision. Moreover, none of the DCPS personnel who have been involved in Student's case have contacted Student's neighborhood school to prepare them to receive Student.²¹
20. The requirement in Student's BIP that Student be supervised at all times is not a realistic way to address Student's self-harming issues, such as bulimia and cutting, and it will exacerbate Student's anxiety issues to know that someone is following [REDACTED]. To effectively address these self-harming issues, Student requires a placement in a small therapeutic setting. Student also needs a smaller classroom environment where [REDACTED] can receive more individualized instruction and the amount of distraction that could interfere with [REDACTED] learning will be decreased.²²
21. With [REDACTED] current IEP and in [REDACTED] assigned location of services at the neighborhood DCPS school, Student will be placed in a general education classroom in a large high school, but [REDACTED] will receive pullout services and [REDACTED] will receive emotional support from the behavior technician and the social worker who are on staff at the school. Despite Student's history of suicide attempts and psychiatric hospitalizations, the DCPS team members determined that it would not be in line with DCPS policy to provide Student with a full-time IEP because [REDACTED] is just coming into special education and it is not DCPS's policy to take a child from zero hours of special education directly to full-time services. DCPS is of the opinion that if the placement it has provided Student does not work out, the issue can be revisited after 30 days.²³
22. A general education classroom in the neighborhood DCPS school with pullout services will not provide Student with the small therapeutic setting [REDACTED] requires.
23. The severity of Student's behaviors, especially [REDACTED] repeated suicide attempts, makes the risk of placing Student in an inappropriate setting with an insufficient IEP too high, as all it takes is one time for a suicide attempt to be successful.²⁴

²⁰ Respondent's Exhibit 4; Petitioner's Exhibit 2.

²¹ Respondent's Exhibit 4; Petitioner's Exhibit 4; testimony of advocate; testimony of school psychologist; testimony of special education specialist.

²² Testimony of mental health therapist; Petitioner's Exhibit 5 at 11.

²³ Testimony of school psychologist; testimony of special education specialist; testimony of advocate.

²⁴ Testimony of mental health therapist.

24. Student has been accepted to attend a nonpublic special education school located in suburban Maryland that serves children aged 5 to 21 with emotional disabilities, learning disabilities and autism spectrum disorders. The school provides integrated counseling in a therapeutic program with individualized schedules based on academic needs, and it operates essentially year round from July 1 to June 18. Class sizes at the school are small, with approximately six students per class, and there is a high ratio of staff to students. All the teachers at the school are at a minimum provisionally certified to teach special education, and the mental health providers on staff are clinical social workers, licensed clinical professional counselors, consulting psychologists and a consulting psychiatrist. All of the students at the school are supervised at all times because all of the students require a high level of supervision. The bathrooms at the school are locked, so the students cannot go to the bathroom without assistance. Tuition for District of Columbia students is approximately \$50,000 per year.²⁵
25. The requested private school is appropriate for Student in light of [REDACTED] need for a small therapeutic setting, and the private school is reasonably calculated to provide Student with educational benefit.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

The burden of proof in an administrative hearing is properly placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005). In this regard, IDEA does not require a departure from the ordinary default rule that plaintiffs bear the risk of failing to prove their claims. *See id.*; *Ridley School District v. M.R.*, 680 F.3d 260, 269 (3rd Cir. 2012); *L.E. v. Ramsey Board of Educ.*, 435 F.3d 384, 391 (3rd Cir. 2006). Now, for a consideration of Petitioner's claims.

IEP and Placement/Location of Services

The FAPE required by IDEA is tailored to the unique needs of a disabled child by means of the IEP. *See Board of Education of the Hendrick Hudson Central School District, Westchester County, et. al. v. Rowley*, 458 U.S. 176 (1982). The requirement to provide a FAPE is satisfied "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." *Rowley*, 458 U.S. at 203. Moreover, in the case of a child whose behavior impedes the child's learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. 34 C.F.R. § 300.324(a)(2)(i).

In determining whether a Student's IEP is appropriate, the hearing officer must determine (1) whether the LEA has complied with the procedures set forth in IDEA, and (2) whether the IEP developed through IDEA's procedures was reasonably calculated to provide Student with educational benefits. *See Rowley, supra*. In turn, in determining whether an IEP is reasonably calculated to provide educational benefit, the measure and adequacy of the IEP is to be determined "as of the time it is offered to the student." *Thompson R2-J Sch. Dist. v. Luke P.*, 540 F.3d 1143, 1149 (10th Cir. 2008), *cert. denied*, 555 U.S. 1173 (2009).

²⁵ Testimony of director of private school.

Under IDEA, a public agency must also provide an appropriate educational placement for each child with a disability, so that the child's needs for special education and related services can be met. *See* 34 C.F.R. § 300.17; 34 C.F.R. §§ 300.114-300.120. In this regard, a FAPE consists of special education and related services that, *inter alia*, include an appropriate secondary school and are provided in conformity with the Student's IEP. *See* 34 C.F.R. § 300.17.

Each public agency must ensure that a continuum of alternative placements is available to meet the needs of disabled children for special education and related services. The continuum must include alternative placements such as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions; and must make provision for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement. 34 C.F.R. § 300.115.

In the instant case, Petitioner argues that Student's IEP and educational placement/location of services are inappropriate because Student requires a full-time out of general education and a small therapeutic setting.²⁶ DCPS disagrees, arguing that the current IEP provides a significant level of support and that there has been no chance to implement the IEP to determine whether it will be sufficient. DCPS further argues that if it turns out that the current IEP is insufficient, then the parties can come back to the table to revise the IEP.

A review of the evidence in this case reveals that Student has a history of suicide attempts, bulimia, psychiatric hospitalizations, substance abuse, emotional and behavioral difficulties, and being bullied, and ■■■ requires a small therapeutic setting to address ■■■ self-harming issues, as well as a small classroom setting where ■■■ can receive the individualized instruction ■■■ needs with minimal distraction. However, DCPS has provided Student with an IEP and an educational placement/location of services which, combined, will result in Student being placed in a general education classroom with nondisabled students in a large high school with a population of 500 or more students, where Student will receive pullout instructional services for a total of 20 hours per week, which averages out to four hours per day, and ■■■ will receive behavioral support services for 600 minutes per month, which averages out to 30 minutes per day, with the behavioral support services to be provided by the behavior technician and the social worker on staff at the DCPS high school. Based on this evidence, the hearing officer concludes that Petitioner has met its burden of proving that DCPS has denied Student a FAPE by providing ■■■ with an inappropriate IEP and an inappropriate educational placement.

“Where a public school system has defaulted on its obligations under the IDEA, a private school placement is proper under the Act if the education by said school is ‘reasonably calculated to enable the child to receive educational benefits.’” *N.G. v. District of Columbia*, 556 F.Supp.2d 11, 37 (D.D.C. 2008) (quoting *Wirta v. District of Columbia*, 859 F. Supp. 1, 5 (D.D.C. 1994) (quoting *Rowley*, 456 U.S. 176, 207)). “Courts have identified a set of considerations relevant to determining whether a particular placement is appropriate for a particular student, including 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

²⁶ Relevant case law explains that the term “educational placement” means the student's educational program, not the particular institution where the program is implemented. *White v. Ascension Parish School Board*, 343 F.3d 373, 379 (5th Cir. 2003); *see also, e.g., A.K. v. Alexandria City School Board*, 484 F.3d 672, 680 (4th Cir. 2007) (citing *AW v. Fairfax County School Board*, 372 F.3d 674, 676 (4th Cir. 2004)) (“educational placement” as used in stay put provision refers to overall educational environment rather than precise location where disabled student educated). In the instant case, however, Petitioner is challenging both the educational program provided to Student by way of the IEP, as well as the educational setting and particular location of services assigned for Student.

to which the placement represents the least restrictive environment.” *Id.*, 556 F.Supp.2d at 37 (quoting *Branham v. District of Columbia*, 427 F.3d 7, 12 (D.C. Cir. 2005) (citing *Board of Education v. Rowley*, *supra*, 456 U.S. 176, 202)).

In the instant case, the evidence proves that the requested private school is appropriate for Student in light of ■■■ need for a small therapeutic setting and is reasonably calculated to provide Student with educational benefit. Therefore, the hearing officer will award Petitioner funding and placement at the requested private school, plus transportation, for SY 2013/14.

Failure to Refer Neurological and Psychiatric Assessments

In evaluating a student, a public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child. 34 C.F.R. § 300.304(b)(1). The public agency must also ensure that the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 C.F.R. § 300.304(c)(4).

In the instant case, Petitioner argues that DCPS denied Student a FAPE by failing to provide ■■■ with neurological and psychiatric assessments recommended in ■■■ April 2013 comprehensive psychological evaluation report. DCPS disagrees, noting that 34 C.F.R. § 300.304(b)(1) requires the use a variety of assessment tools but there is no statutory requirement to administer every test, even those recommended in evaluation reports.

A review of the evidence in the instant case reveals that Student requires a neuropsychological evaluation to determine whether neurological impairments contribute to ■■■ deficits in executive functioning, spatial and visual-motor integration abilities, and whether neurological deficits in the executive functioning domain make it difficult for Student to inhibit impulses and regulate emotions. Moreover, Student suffered from a head injury in 2006 that caused ■■■ to lose consciousness, which under DCPS policy indicates a neuropsychological evaluation is warranted to determine whether Student has experienced brain trauma or injury. As a result, the hearing officer concludes that Petitioner has met its burden of proof with respect to this portion of its claim, and the hearing officer will order DCPS to conduct a neuropsychological evaluation for Student.

With respect to the recommended psychiatric evaluation, however, the evidence in this case proves that a psychiatric evaluation is not indicated for Student because Student has been under the care of a psychiatrist for several years and ■■■ has received psychiatric care during ■■■ various hospitalizations. Hence, the hearing officer concludes that DCPS has not denied Student a FAPE by failing to conduct a recommended psychiatric evaluation for ■■■

Appropriateness of IEP with respect to the BIP

As noted above, the FAPE required by IDEA is tailored to the unique needs of a disabled child by means of the IEP. *See Board of Education of the Hendrick Hudson Central School District, Westchester County, et. al. v. Rowley*, 458 U.S. 176 (1982). The requirement to provide a FAPE is satisfied “by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.” *Rowley*, 458 U.S. at 203. Moreover, in the case of a child whose behavior impedes the child’s learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. 34 C.F.R. § 300.324(a)(2)(i).

As further noted above, in determining whether a Student's IEP is appropriate, the hearing officer must determine (1) whether the LEA has complied with the procedures set forth in IDEA, and (2) whether the IEP developed through IDEA's procedures was reasonably calculated to provide Student with educational benefits. *See Rowley, supra*. In turn, in determining whether an IEP is reasonably calculated to provide educational benefit, the measure and adequacy of the IEP is to be determined "as of the time it is offered to the student." *Thompson R2-J Sch. Dist. v. Luke P.*, 540 F.3d 1143, 1149 (10th Cir. 2008), *cert. denied*, 555 U.S. 1173 (2009).

In the instant case, Petitioner argues that Student's IEP is also inappropriate because it includes an inappropriate BIP, in that the BIP does not identify who will provide Student with the services identified and is, therefore, vague and inappropriate. DCPS disagrees, arguing that the BIP is reasonably calculated to provide Student with no educational benefit and addresses Student's behavior concerns that impact ■ in school, and there is no requirement of the level of specificity sought by Petitioner.

A review of the evidence in this case reveals that Student's BIP attempts to address, *inter alia*, Student's history of attempting suicide and ■ diagnosis of bulimia, and it does so by, *inter alia*, requiring that Student not be allowed to be unsupervised anywhere in the school environment and that Student's restroom activity after breakfast and lunch be closely monitored. At the time the BIP was added to Student's IEP, DCPS had also determined to provide Student with an IEP and location of services that would place ■ in a general education classroom in a large DCPS high school with a population of 500 or more students; yet, DCPS failed to indicate on the BIP who in this large high school would provide Student with the required constant supervision and close monitoring necessary to prevent ■ history of suicide attempts and diagnosis of bulimia from interfering with ■ ability to make academic progress. Under these circumstances, the hearing officer concludes that Petitioner has met its burden of proving that the IEP is inappropriate for failure to include an appropriate BIP. However, the hearing officer has already determined to award Petitioner funding and placement for Student at the requested private school for SY 2013/14, and the evidence in this case proves that all of the students at the requested private school are supervised at all times because all of the students require a high level of supervision. As a result, the hearing officer concludes that the award of a private placement will fully compensate Student for any deficiencies in the BIP during SY 2013/14, and the hearing officer declines to award additional relief to address this denial of FAPE. *See Branham. v. District of Columbia*, No. 04-7084 (D.D.C. 2005) (award of private-school placement is prospective relief aimed at ensuring child receives tomorrow the education required by IDEA).

In this regard, the hearing officer further notes that the IEP at issue was developed in June 2013, near the end of SY 2012/13, and the due process hearing in this case took place prior to the start of SY 2013/14. Hence, to the extent that Student suffered any educational harm as a result of the denials of FAPE identified throughout this Hearing Officer Determination, said harm was *de minimis*, at best, and will be fully rectified by the neuropsychological evaluation and private placement awarded herein. Hence, the hearing officer declines Petitioner's request for an award of compensatory education in this case. *See Mr. I. and Mrs. I. v. Maine Sch. Admin. Dist. No. 55*, 480 F.3d 1 (1st Cir. 2007) (appellate court affirmed district court's decision to decline compensatory education request where district court reasoned that IEP it ordered would necessarily take into account the identified denials of FAPE).

ORDER

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

1. DCPS shall provide placement and funding, including transportation, for Student to attend the requested private school for SY 2013/14.
2. Within 30 days of the issuance of this Order, DCPS shall conduct a neuropsychological evaluation of Student.
3. All remaining requests for relief in Petitioner's June 25, 2013 Complaint are **DENIED**.

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Any party aggrieved by this Hearing Officer Determination may bring a civil action in any state 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 Hearing Officer Determination in accordance with 20 U.S.C. § 1415(i).

Date: 9/8/2013

/s/ Kimm Massey
Kimm Massey, Esq.
Hearing Officer