

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

Student Hearing Office
810 First Street NE, STE 2
Washington, DC 20002

OSSE
Student Hearing Office
April 08, 2013

[Parent], on behalf of
[Student],¹

Date Issued: April 8, 2013

Petitioner,

Hearing Officer: Jim Mortenson

Case No: 2013-0049

v

District of Columbia Public Schools (DCPS),

Respondent.

HEARING OFFICER DETERMINATION

I. BACKGROUND

The complaint in this matter was filed by the Petitioner on January 28, 2013. A previous complaint had been filed on December 28, 2012, which was withdrawn and dismissed without prejudice on January 25, 2013. A Hearing Officer's Determination (HOD) was issued by Independent Hearing Officer (IHO) Ramona Justice on January 2, 2011, in Case #2010-1417, concerning the parties here.

The Petitioner is represented by Miguel Hull, Esq, and Joy Freeman-Coulbary, Esq. The Respondent is represented by Daniel McCall, Esq., and Steven Rubenstein, Esq. A timely response to the complaint was filed on February 5, 2013. A prehearing conference was held on February 19, 2013, and a prehearing order was issued on that date. A resolution meeting was convened on February 25, 2013, and resulted in no agreements.

¹ Personal identification information is provided in Appendix C which is to be removed prior to public dissemination.

The due process hearing was convened on March 26, 2013, in room 2003 at 810 First Street NE, Washington, D.C. The hearing was closed to the public. The due date for this HOD is April 13, 2013. This HOD is issued on April 8, 2013.

II. JURISDICTION

This hearing process was initiated and conducted, and this decision is written, pursuant to the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. § 1400 et seq., its implementing regulations at 34 C.F.R. Part 300, and D.C. Mun. Regs. tit. 5-E30.

III. ISSUES, RELIEF SOUGHT, and DETERMINATION

The issues to be determined by the IHO are:

1. Whether the Respondent denied the Student a free appropriate public education (FAPE) when it failed to provide the Student an individualized education program (IEP) reasonably calculated to enable the Student to be involved in and make progress in the general education curriculum, since February 2011, because it lacked:
 - (1) A dedicated aide;
 - (2) Supplementary aids and services (including: intervention strategies for social skill development; regular review of classroom and individual expectations; organizational supports; previewing information; direct instruction for learning new skills or generalizing skills; repeated instruction and practice in multiple environments with a variety of materials and people; extra time to take a test; seating in the front of the classroom; receiving written study guides; daily or weekly communication between parent and teacher; reducing the number of questions on a test or homework; adjusting grading to weighted grading; using a calculator during a math test; changes in curriculum to suit his needs; visual or written daily schedules, laminated so the Student can check off items completed, with mini-schedules for activities within classes or other activities; provide instructions orally as well as written; allow extra time for the Student to respond to directions; providing pictures the Student can point to when communication is difficult; repeat or rephrase instruction or questions, allowing several seconds in between to allow the Student to process information; model tasks; posting rules of classroom in a place that is easy to see adding pictures to visually depict rules; provide social skills support and instruction, role-playing situations to help increase social skills; have teacher

incorporate visual components to lessons to help facilitate learning; the teacher can break assignments into smaller parts, giving a due date for each section; allow Student to move around when needed; provide visual or verbal cues when transitioning from one activity or class to another, giving the Student time to recognize and adapt to the transition; and minimize distractions by having the Student sit close to the teacher.); and

(3) A full-time structured setting with one-on-one instruction?

2. Whether the Respondent failed to timely reevaluate the Student when his last evaluation was conducted in the fall of 2009?

The Petitioner is seeking: compensatory education to address functional problems in the classroom, consisting of 240 hours of applied behavior analysis (ABA); IEP revisions including extended school year services, a dedicated aide, and the supplementary aids and services listed under Issue 1(2); and placement at a school, to be identified by the Respondent, that can provide one-on-one instruction and has behavior accommodations and a behavioral component.

The Respondent denied the Student a FAPE when it failed to provide the Student an IEP reasonably calculated to enable the Student to be involved in and make progress in the general education curriculum, since January 2012, because it lacked a dedicated aide. The Respondent failed to timely reevaluate the Student when the time between the most recent reevaluation, completed in March 2013, and the prior evaluation, completed in 2008 with independent assessments conducted in 2009, was more than three years.

IV. EVIDENCE

Seven witnesses testified at the hearing, two for the Petitioner and five for the Respondent.

The Petitioner's witnesses were:

1) Petitioner, Student's Mother, (P)

- 2) [REDACTED] Advocate, [REDACTED]

The Respondent's witnesses were:

- 1) [REDACTED] Special education teacher, ([REDACTED])
- 2) [REDACTED], Special education teacher, [REDACTED]
- 3) [REDACTED] Dean of students, [REDACTED]
- 4) [REDACTED] Speech/language pathologist, [REDACTED]
- 5) [REDACTED] (aka [REDACTED]), Special education teacher, [REDACTED]

27 of the Petitioner's 28 disclosures were entered into evidence. The Petitioner's exhibits are listed in Appendix A. All 24 of the Respondent's 24 disclosures were entered into evidence. In addition, a 25th document requested during the course of the hearing by the Undersigned, a proposed IEP from March 18, 2013, was also entered into evidence and marked for identification as R 26.⁴ The Respondent's exhibits are listed in Appendix B.

To the extent that the findings of fact reflect statements made by witnesses or the documentary evidence in the record, those statements and documents are credited. The witnesses testified credibly except as noted. The findings of fact are the Undersigned's determinations of what is true, based on the evidence in the record. Findings of fact are generally cited to the best evidence, not necessarily the only evidence. Any finding of fact more properly considered a

² Petitioner moved that [REDACTED] opinions about compensatory education, the Student's need for a dedicated aide, his level of services, and placement, be treated as expert opinions. This was denied as [REDACTED] lacks expertise in the area of autism, and thus her opinions about programming and placement for a Student with autism are given no more weight than that of other education staff working with the Student.

³ While overall this witness testified credibly, she was evasive about questions concerning her opinion as to whether the Student required a dedicated aide. She was clear that the Student required one on one support in the classroom. Thus, the preponderance of evidence, including testimony from other witnesses and educational records, showing that the IEP team agreed the Student required a dedicated aide but did not include that requirement in the IEP in September 2012, is in the Petitioner's favor.

⁴ There is a numbering error in the Respondent's documents, and number R 19 is missing.

conclusion of law is adopted as such and any conclusion of law more properly considered a finding of fact is adopted as such.

V. FINDINGS OF FACT

After considering all the evidence, as well as the arguments of both counsel, this Hearing Officer's Findings of Fact are as follows:

1. Student is an eight year old learner enrolled at one of the Respondent's elementary schools.⁵
He was determined eligible for special education and related services under the definition of autism by the Respondent on July 29, 2008, following an initial evaluation, when he was four years of age.⁶
2. The Student's IEP for the 2008-2009 school year provided specialized instruction outside of the general education setting for 25 hours per week, and one hour per week each of occupational therapy and speech and language services, outside of the general education setting, in a group setting.⁷
3. The IEP was revised in February 2009 and provided specialized instruction outside of the general education setting for 27 hours per week, and one hour per week each of occupational therapy and speech and language services, outside of the general education setting.⁸
4. In July 2009 the Petitioner requested an independent educational evaluation (IEE) and independent occupational therapy (OT) and speech and language assessments were authorized and provided in September 2009.⁹

⁵ Testimony (T) of P.

⁶ R 1/P 14.

⁷ R1/P 14.

⁸ R1/P 14.

⁹R 1/P 14, P 19, P 20.

5. A dedicated aide was provided during the 2009-2010 school year, when the Student began attending his neighborhood school, but this service was not recorded in his IEP.¹⁰ The dedicated aide was recommended in the report for the September 2009 speech and language assessment, which stated the aide was needed for the Student to benefit from necessary speech and language services.¹¹ On or about February 2, 2010, the dedicated aide was removed from the Student's educational program.¹²
6. On March 2, 2010, the IEP was revised to provide specialized instruction outside of the general education setting for 25 hours per week, 90 minutes per week of speech and language services, one hour per week of occupational therapy and, 30 minutes per week of occupational therapy consultation.¹³ The Respondent denied the Petitioner's request for the continued use of a dedicated aide, citing the Student not meeting some undisclosed criteria and outside of the IEP team process.¹⁴
7. The parties went to hearing over several matters, including the dedicated aide, and a decision was issued on January 2, 2011, concluding the Respondent had no basis to unilaterally remove or deny the Student the dedicated aide when the evaluation data, information from the parents, and other pieces of data collected by the Respondent demonstrated the Student required a dedicated aide to access the general education curriculum and receive educational benefit, and the decision was not made by the IEP team.¹⁵ As a result, the IHO required the provision of a dedicated aide, at least through the end of the 2011 calendar year.¹⁶

¹⁰ R 1/P 14.

¹¹ R 1/P 14, P 18.

¹² R 1/P 14.

¹³ R 1/P 14.

¹⁴ R 1/P 14.

¹⁵ R 1/P 14.

¹⁶ R 1/P 14.

8. The IEP was revised, pursuant to the January 2, 2011, HOD, on January 7, 2011, and provided the following 23 goals:¹⁷ Four goals in the area of math, including being able to: 1) represent, name, and order a set of objects up to 15; 2) count objects up to 30 when prompted; 3) sorting objects by specific attributes such as color, shape, and size; and 4) identifying basic two-dimensional and three-dimensional shapes. Five goals in the area of reading, including being able to: 1) label at least six items on command; 2) attend to an object or picture when named (without discrimination) five times; 3) touch or give at least ten re-enforcers, common objects, people, or pictures when named by an adult; 4) identifying at least ten letters of the alphabet by verbal communication, matching in a messy array, or touching the letter when asked, with limited prompting; and 5) tracing letters in his name with limited prompting. Five goals in the area of adaptive/daily living skills, including being able to: 1) spontaneously use PECS (picture exchange system) to request desired items with the sentence starter “I want,” consistently throughout the day; 2) request help or use of the bathroom by using words and/or pictures; 3) indicate that he wants or does not want an item by saying or gesturing (head movements) yes or no; 4) independently put on and take off his shoes and jacket when verbally prompted to do so; and 5) use a toothbrush and take the necessary steps required in the teeth-brushing process with limited assistance. One goal, with six objectives, in the area of communication/speech and language. The goal was developing receptive and expressive language skills to 70% mastery of the following objectives: 1) attending to activity/lesson for at least ten minutes with decreasing prompting over three nonconsecutive sessions; 2) identifying objects or pictures of objects out of a group of at

¹⁷ P 22/R 2. (Goals are summarized and are not, themselves, being adjudicated as they were not challenged. Furthermore, the January 2011 IEP is more than two years prior to the filing of the complaint in this matter and any challenges to it would not be permitted pursuant to 34 C.F.R. §§ 300.507(a)(2) & 300.511(e). Findings regarding the January 2011 IEP revision are included for purposes of comparing IEP revisions and making determinations about the appropriateness of subsequent revisions.)

least four by retrieving or pointing when requested with minimal prompting and assistance; 3) labeling objects/pictures verbally and/or with alternative/augmentative methods; 4) following one-two step directions that require motor responses with decreasing prompting; 5) imitating gross movements such as during greetings and music movement; and 6) using pictures to communicate needs and wants, imitating V, CV, and CVC sounds and words accurately. Four goals in the area of emotional, social, and behavioral development, including being able to: 1) effectively respond to greetings from others consistently throughout the day; 2) actively search for a missing or corresponding toy or part of a set of for five different items; 3) engage in at least two appropriate interactive leisure activities with peers; and 4) show variation in play by independently interacting with five different items according to their function. Finally, four goals in the area of motor skills/physical development, including: 1) improving visual motor skill of tracing and copying prewriting strokes and basic shapes independently from visual model; 2) sequencing scenes of a picture, letters, and numbers independently in correct order; 3) demonstrating a functional tripod grasp on all writing materials; and 4) attending to adult-directed activities for 15 consecutive minutes, given intervention strategies and one verbal prompt.

9. The services in the January 7, 2011, IEP included specialized instruction outside of the general education setting for 20.5 hours per week, speech and language services outside of the general education setting for four hour per week, occupational therapy outside of the general education setting for three hours per week, and the unspecified use of a dedicated aide.¹⁸ Supplementary aides and services (classroom accommodations) included (without specification of anticipated frequency, location, and duration): repetition of directions; simplification of oral directions; interpretation of oral directions; reading of test questions

¹⁸ P 22/R 2.

(math, science, and composition only); translation of words and phrases (math, science, and composition only); use of a calculator and a pencil grip; signed and/or taped responses; oral responses to tests; copying from paper/book instead of board; writing in test books; pointing responses; dictated responses; preferential seating; small group testing; individual testing; location with minimal distractions; (unspecified) adaptive or special furniture; flexible scheduling; testing administered over several days; testing administered at the best time for the Student; breaks between and during subtests; and extended time on subtests.¹⁹

10. The service of the dedicated aide continued to be implemented in September 2011 when the Respondent began using random staff people to serve as the dedicated aide.²⁰

11. When the IEP was revised in January 2012, the dedicated aide service was removed, again because of a “report” presented by a Respondent staff member [REDACTED] who had observed the Student.²¹ Frey advised the IEP team that the Student did not meet the Respondent’s “criteria” because the Student’s problematic behaviors of aggression, noncompliance, and vocal stereotypy had decreased, the Respondent was concerned the aide would inhibit daily success, the number of children in the classroom ensured the Student always had one on one assistance, and he had no medical concerns and did not require assistance in moving around the classroom.²² However, neither the aide nor the Student’s teacher saw the use of the aide hindering the Student’s progress.²³ The Parents and their Advocate noted that the Student had fallen and injured his head, he needed assistance with toileting and being sure he went to the bathroom, and that he still could not express his own needs. Despite the exchange between the Parents and [REDACTED] the report was the basis for the

¹⁹ P 22/R 2.

²⁰ T of B.W., T of E.L., T of P, R 10.

²¹ R 5, T of E.L., T of P. (The report in question was not made part of the record.)

²² T of P, T of E.L., R 5.

²³ R 5, T of E.L.

removal of the aide and the entire IEP team did not have a substantive discussion about the impact of the aide on the Student, his involvement and progress in the curriculum, and how removing the aide would impact his functional skills.²⁴ The Special education coordinator, case manager, special education teacher, occupational therapist, and speech and language pathologist did not weigh in on whether the Student continued to require the dedicated aide.²⁵

12. In addition to the removal of the dedicated aide, the IEP, revised January 4, 2012, maintained or reduced services as follows: specialized instruction outside of the general education setting for 20.5 hours per week, speech and language services outside of the general education setting for ten hours per month, occupational therapy outside of the general education setting for four hours per month, and occupational therapy consultation for four hours per month.²⁶ The supplementary aids and services remained the same and without the required specification of frequency, location, and duration.²⁷ It was also determined that the Student did not require ESY services.²⁸

13. There were 25 goals for the revised IEP of January 4, 2012.²⁹ At least nine, and possibly ten of the previous goals were not mastered and either slightly modified, kept the same, or dropped.³⁰ The goals were as follows:³¹ Four goals in the area of math, including being able to: 1) rote count to 30; 2) counting objects up to 30; 3) sort six or more categories of items to an array of ten or 25 different items; and (peculiarly, since it appears to be a motor skills or adaptively daily living skills goal) 4) imitating at least 20 actions involving foot, leg, arm and hand movements. Four goals ostensibly in the area of reading, including being able to: 1)

²⁴ R 5, T of P, T of E.L.

²⁵ R 5, T of P.

²⁶ P 4/R 3.

²⁷ P 4/R 3.

²⁸ P 4/R 3, T of P.

²⁹ P 4/R 3.

³⁰ P 22/R 2, P 4/R 3, R 11.

³¹ P 22/R 2.

label 30 common objects and pictures of common objects; 2) follow instructions to receptively identify 25 different objects and pictures of common objects in a field of three; 3) perform ten specific motor actions on command; and 4) identify the letters in his name, plus the first 15 letters of the alphabet. (This last goal is clearly a reading goal). Four goals in the area of adaptive/daily living skills, including being able to: 1) request help or use of the bathroom by using words and/or real life pictures; 2) independently put on and take off his shoes and jacket and also pack and unpack his bag when verbally prompted; 3) use a toothbrush and take the necessary steps required in the teeth-brushing process with limited assistance; and 4) eat appropriately by chewing and swallowing small portions of food completely and waiting two seconds before putting more food in mouth. Six goals in the area of communication/speech and language, including: 1) to increase expressive language skills, using attributes in utterances using PECS Phase 5 to sequence “I want” plus attribute (color, size, number) and reinforcement onto sentence strip, handing it to a listener and pointing to each picture while vocalizing; 2) to increase intelligibility, by producing final sound approximations in CVC words; 3) to increase intelligibility, by producing multisyllabic words (2-3 syllables) given tactile prompts and delayed models; 4) to increase receptive language skills and vocabulary, by identifying pictures/objects from a field of four; 5) to increase expressive language skills, by labeling pictures/objects given delayed modeling; and 6) to increase expressive language skills, by answering basic what questions using PECS. Three goals in the area of emotional, social, and behavioral development, including being able to: 1) actively search for a missing or corresponding toy or part of a set for five different items; 2) engage in sustained social play with a peer for three minutes without adult prompts and reinforcement; and 3) sit in a group of three children for ten minutes, attend to the

teacher or material for 50% of the period, and responding to five of the teacher's SD's.³²

Four goals in the area of motor skills/physical development, including being able to: 1) copy diagonal lines, square, and X with no more than three verbal prompts; 2) maintain a functional pencil grasp in order to copy all four letters in his name with appropriate letter formation and line orientation; 3) color a four inch shape using a functional grasp ; and 4) attending to an adult-directed table top activity for 15 minutes with no more than three verbal prompts. The goals were expected to be reached by January 3, 2013.³³

14. Following the removal of the dedicated aide in January 2012, the Student's behaviors remained relatively low until they "spiked" in May 2012, with more aggression toward adults.³⁴

15. The Student began attending a different elementary school in the fall of 2012, and was in the 3rd grade, in the self-contained autism classroom with seven to eight students, three classroom aides and one teacher.³⁵ An IEP team meeting was convened on September 27, 2012, and the IEP was again revised.³⁶ The IEP team agreed that the Student required support in the classroom, and that a dedicated aide was necessary.³⁷ The Respondent's staff have been directed by the Respondent to not permit IEP teams to make determinations about dedicated aides, and that such determinations must be made by the Respondent's "central office," so the dedicated aide was not added back to the Student's program.³⁸ ESY services were "not yet determined" and it was determined the Student would participate in alternate

³² It is not known what "SDs" are.

³³ P 4/R 3.

³⁴ T of E.L.

³⁵ T of P, T of C.M., T of K.V.

³⁶ P 3/P 16/R 6, R 7, T of C.M., T of K.V.

³⁷ T of P, T of C.M., T of K.V., R 7.

³⁸ T of P, T of C.M., T of K.V., P 3/P 16/R 6.

State-wide assessments.³⁹ The other services included in the revised IEP were: specialized instruction outside of the general education setting for 24 hours per week, speech and language services outside of the general education setting for ten hours per month, occupational therapy outside of the general education setting for four hours per month, and occupational therapy consultation for one hour per month.⁴⁰

16. There were 21 goals for the revised IEP of September 27, 2012.⁴¹ 14 of the goals from the January 2012 revision were kept, but the time to reach them was extended from January 2013 to September 2013, and two additional goals were not likely met, based on the last progress report prior to the September IEP team meeting.⁴² All of the academic goals in math and reading were revised, with one math goal being removed.⁴³ The goals were as follows:⁴⁴ Three goals in the area of math, including being able to: 1) rote count to 45; 2) complete a number line with missing numbers to 45; and 3) add and subtract single digit numbers within ten with manipulatives. Four goals in the area of reading, including being able to: 1) match words to pictures; 2) answer WH questions from text dependent questions; 3) complete cloze exercises; and 4) spell words magnetic letters with 90% accuracy. Three goals in the area of adaptive/daily living skills, including being able to: 1) request help or use of the bathroom by using words and/or real life pictures; 2) use a toothbrush and take the necessary steps required in the teeth-brushing process with limited assistance; and 3) eat appropriately by chewing and swallowing small portions of food completely and waiting two seconds before putting more food in mouth. Six goals in the area of communication/speech and language,

³⁹ P 3/P 16/R 6. (While the IEP states “not yet determined,” the notes of the meeting state “did not qualify SY 2012-2013.” Since there is no “qualification” for ESY services, other than whether the IEP team determines it is necessary to provide a FAPE, the finding of fact here is that the IEP means what it says.)

⁴⁰ P 3/P 16/R 6.

⁴¹ P 3/P 16/R 6.

⁴² P 3/P 16/R 6, P 4/R 3, R 11.

⁴³ P 3/P 16/R 6, P 4/R 3.

⁴⁴ P 3/P 16/R 6.

including: 1) to increase expressive language skills, using attributes in utterances using PECS Phase 5 to sequence “I want” plus attribute (color, size, number) and reinforcement onto sentence strip, handing it to a listener and pointing to each picture while vocalizing; 2) to increase intelligibility, by producing final sound approximations in CVC words; 3) to increase intelligibility, by producing multisyllabic words (2-3 syllables) given tactile prompts and delayed models; 4) to increase receptive language skills and vocabulary, by identifying pictures/objects from a field of four; 5) to increase expressive language skills, by labeling pictures/objects given delayed modeling; and 6) to increase expressive language skills, by answering basic what questions using PECS. Two goals in the area of emotional, social, and behavioral development, including being able to: 1) engage in sustained social play with a peer for three minutes without adult prompts and reinforcement; and 2) sit in a group of three children for ten minutes, attend to the teacher or material for 50% of the period, and responding to five of the teacher’s SD’s. Three goals in the area of motor skills/physical development, including being able to: 1) copy diagonal lines, square, and X with no more than three verbal prompts; 2) maintain a functional pencil grasp in order to copy all four letters in his name with appropriate letter formation and line orientation; 3) attending to an adult-directed table top activity for 15 minutes with no more than three verbal prompts. All of the goals were expected to be reached by September 26, 2013, despite many of them remaining the same from the January 2012 IEP revision.⁴⁵

17. During the course of the 2012-2013 school year, the Respondent used teachers and classroom aides to assist the Student and deal with his behaviors.⁴⁶ The Student’s aggressive incidents decreased over the course of the year, but continued to remain severe, including incidents

⁴⁵ P 3/P 16/R 6, P 4/R 3.

⁴⁶ T of P, T of K.V.

where he pulled hair from the head of his speech and language therapist, and broke his teacher's thumb.⁴⁷ The Student continued to be involved in and make progress in the general education curriculum in the areas of math and reading, and was performing at a basic level, overall, in all of the academic areas, but for social studies in which he was performing below basic overall.⁴⁸

18. On January 31, 2013, the Petitioner consented to a reevaluation of the Student.⁴⁹ The following assessments were conducted as part of the reevaluation: occupational therapy; speech and language; social work; and psychological.⁵⁰ Based on those assessments, the Student's present levels of functional performance are as follows⁵¹: The Student's autism symptoms are in the severe range. He has strength in non-verbal cognitive skills and gross motor agility. The Student communicates in three modes: verbal; sign language; and via assistive technology, currently an iPad. The Student likes to seek out proprioceptive input to self-regulate and modulate throughout his school day. He is able to cooperate with school tasks and focus up to a certain point, usually 10 to 15 minutes at a time. He likes breaks and enjoys his favorite "stim" activity of watching blocks, marbles, and/or any other small object fall in a linear fashion to the floor. He is making progress with visual motor and handwriting tasks given visuals, and hand over hand assistance as needed. He responds well to deep pressure and encouragement during work tasks. He has the ability to understand words, phrases and sentences, and can identify several basic concepts including: color; body parts; object function; shape; quantity; and responding to routine commands. He is able to produce four-word sentences using speech and/or visual communication device, and interacts with

⁴⁷ T of P, T of L.J., T of K.V., R 13.

⁴⁸ T of K.V., P 2.

⁴⁹ R 14.

⁵⁰ R 15, R 16, R 17, R 18.

⁵¹ R 15, R 16, R 17, R 18.

objects for cause and effect. He is also able to use total communication expressively including speech, picture, AAC device, facial expressions, and pointing/gestures. His language ability is enhanced using visual communication methods. He has demonstrated improved ability to comply with behavioral expectations when given one on one behavioral intervention as outlined in his behavior intervention plan. He is showing moderate academic growth.

The Student has deficits in verbal interaction, comprehending and using language, self-care, and adaptive living skills. His behavioral concerns, including aggression and non-compliance, interfere with his success in the classroom setting and with communication, on a daily basis. His decreased visual motor, visual perceptual, sensory, and fine motor skills impact his ability to complete classroom assignments independently and successfully. His relative communication weaknesses include expressive language and vocabulary, initiating communication, and articulation/intelligibility. His decreased abilities in receptive and expressive language, speech articulation, and pragmatic deficits, directly affect his ability to comprehend and communicate effectively in the classroom and impede his access to the curriculum.

19. In addition to the services currently provided, including the BIP, the Student requires maximum support in a self-contained classroom.⁵² He requires significant assistance in developing and maintaining daily living skills.⁵³ He requires positive reinforcement in the classroom, consistency with rules and expectations, one on one instruction for assignments, outside movement breaks for proprioceptive feedback, proprioceptive input throughout the day to help modulate, frequent breaks between tasks, 10 to 15 minutes work increments,

⁵² R 17, R 18, T of K.V.

⁵³R 17, R 18, T of P.

floor time breaks, and the use of visuals for communicating and learning.⁵⁴ The Student also requires the instructor or service provider to be near him, using visuals when giving instructions, breaking down directions into three to four word sentences, asking him to repeat/restate the instructions, and prompting him when necessary.⁵⁵ The Student requires visual cues on the blackboard, and a chart paper on his desk to aid in his ability to follow directions.⁵⁶ He requires visual materials (pictures and print) to support all learning, the use of modeling to encourage the use of targeted vocabulary in phrases and sentences, and the modeling of the use of picture communication and voice-output devices in the classroom and home.⁵⁷ The Student requires opportunities, such as shopping, going for a walk, and play, to increase vocabulary usage, asking questions, and using total communication.⁵⁸ The Student should use a family photo album to increase communication and story-telling.⁵⁹ He requires re-enforcers that do not include food.⁶⁰

20. The Student's IEP is currently being revised with an amendment and the draft, created, March 18, 2013, does not include the services the evaluation data shows the Student requires.⁶¹ At hearing the Undersigned requested the prior written notice explaining the proposals and refusals related to the March 2013 revision of the IEP, and this was not provided. The IEP revision does include ESY services, from July 8, 2013, through August 2, 2013.⁶²

⁵⁴ R 15.

⁵⁵ R 15.

⁵⁶ R 15.

⁵⁷ R 15.

⁵⁸ R 15.

⁵⁹ R 15.

⁶⁰ R 17, T of K.V.

⁶¹ R 26.

⁶² R 26.

21. The Petitioner provided, at hearing, an Educational Report and Recommendations, authored by her Advocate, [REDACTED].⁶³ The Report and Recommendations include a “Proposed Compensatory Education Plan.”⁶⁴ The proposal is for 240 hours of applied behavioral analysis (ABA) to bolster skill acquisition, severe behavior management, academic improvement, and social and communicational functioning.⁶⁵ The recommendation is based on the Advocate’s determination that the Student missed 600 hours of service from a dedicated aide since January 2011 until the present, and that the delayed reevaluation of the Student “impaired determination of appropriateness of [Student’s] programming and designation and provision of essential related services according to his current needs[.]”⁶⁶ The proposal includes no analysis of where the Student would have been academically and functionally, but for the denial of services and delayed reevaluation, and moreover, is based on the false assumption that the Student has been denied any services from a dedicated aide from January 2011 through January 2012.⁶⁷

VI. 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:

1. The burden of persuasion in a special education due process hearing is on the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49 (2005), *See also* D.C. Mun. Regs. 5-E3030.14. “Based solely upon the evidence presented at the hearing, an impartial hearing officer shall determine whether the party seeking relief presented sufficient evidence to meet the burden

⁶³ P 26.

⁶⁴ P 26.

⁶⁵ P 26, T of L.D. (The proposal includes a typo indicating 180 hours rather than 240 hours, in one sentence.)

⁶⁶ P 26.

⁶⁷ P 26, T of L.D.

of proof.” D.C. Mun. Regs. 5-E3030.14. The recognized standard is a 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); 34 C.F.R. § 300.516(c)(3).

2. The stated purpose of the IDEA is “to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.” 20 U.S.C. § 1400(d)(1)(A). To achieve this guarantee, the statute requires states and the District of Columbia to, at a minimum, “provid[e] personalized instruction with sufficient support services to permit the child to benefit educationally.” *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester Cty. v. Rowley*, 458 U.S. 176, 203 (1982). The special instruction and services “must be provided at public expense, must meet the State’s educational standards, must approximate the grade levels used in the State’s regular education, and must comport with the child’s [individualized educational program].” *Id.* In *Rowley*, the Supreme Court held that courts in the position of assessing whether a child is receiving FAPE must focus on whether the child has “access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child.” *Rowley*, 458 U.S. at 201. The Court noted further that there existed “no additional requirement that the services so provided be sufficient to maximize each child’s potential commensurate with the opportunity provided other children.” *Id.* 198. However, “[a]cademic success is an important factor ‘in determining whether an IEP is reasonably calculated to provide education benefits.’ *Roark ex rel. Roark v. District of Columbia*, 460 F.Supp.2d 32, 44 (D.D.C. 2006) (emphasis added). *Accord*

Walczak v. Fla. Union Free Sch. Dist., 142 F.3d 119, 130 (2d Cir.1998) (“An appropriate public education under IDEA is one that is ‘likely to produce progress, not regression.’ ”) (citations omitted); *Danielle G. v. N.Y. City Dept. of Educ.*, 2008 WL 3286579, at *7 (E.D.N.Y. Aug. 7, 2008) (“A school district will fulfill its substantive obligations under the IDEA if the student is likely to make progress, not regress, under his IEP, and if the IEP affords the student with an opportunity ‘greater than mere trivial advancement.’ ”) (citations omitted); *P.K. v. Bedford Cent. Sch. Dist.*, 2008 WL 2986408, at *11 (S.D.N.Y. Aug. 1, 2008) (“[I]n determining whether a school district has met its obligations under the IDEA, a court must look for objective evidence in the record indicating whether the student would likely have progressed or regressed under the challenged IEP). *See Hunter v. District of Columbia*, 2008 WL 4307492 at *7 (D.D.C. 2008).

3. In this case, the Student’s IEP was revised in January 2011, following and implementing a HOD. When the terms of that HOD were over, the Respondent did the same thing it was found in violation for in the prior HOD, it removed the Student’s dedicated aide without consideration of all of the available data, including the educational progress the Student had made with the aide (and the teacher’s opinion that the aide was not hampering the Student’s progress, as the Respondent purportedly feared), and effectively made a unilateral determination to remove the aide because it used a report one staff member, not one of his teachers or service providers, made following an observation of the Student, as the basis for its determination. The IEP team did not fully discuss and consider all the team members’ input, including the Parents. In fact, there was very little input from team members. Nevertheless, the Student performed satisfactorily for a few months until May, 2012, at which time his behaviors again began to interfere with his instruction and related services.

When the IEP team met in the fall of 2012, they agreed the Student required support, and the staff “requested” an aide from the Respondent, because the Respondent had communicated to the staff the IEP team was not permitted to make such a determination. This was in violation of 34 C.F.R. §§ 300.320 through 300.324. *See Letter to Veazey*, 37 IDELR 10 (OSEP 2001), (“Only the child's IEP team may determine the content of the child's IEP, and only the group of individuals specified in §300.552 may determine the educational placement of a child with a disability based on that child's IEP. Thus, a school board may not unilaterally make decisions about the content of a child's IEP or the educational placement of the child.”) The teaching staff attempted to compensate for the Respondent’s failure to provide the aide. The Student’s behaviors decreased somewhat with the ad hoc services, but the Student’s functional performance was not progressing to meet most annual goals by January 2013 and the anticipated completion of the goals was extended over eight months. The Student also was not demonstrating adequate progress in the curriculum and was below basic in social studies at mid-year.

4. Procedural violations can result in a determination of a denial of FAPE when the violations “(i) Impeded the child’s right to a FAPE; (ii) Significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent’s child; or (iii) Caused a deprivation of educational benefit.” 34 C.F.R. § 300.513(a)(2). The Respondent’s action of unilaterally removing the aide in January 2012 was a procedural defect that impeded the Student’s right to FAPE because even though the Student had a period of doing well, functionally, without the aide, this period ended in May 2012, and the aide was never replaced. Furthermore, the unilateral removal in January 2012 significantly impeded the Parent’s opportunity to participate in the decision-making process

regarding the provision of FAPE. The Respondent sent a representative to the IEP team meeting with a report that concluded the aide was not necessary, based on unilaterally created criteria, and there was not real discussion among the team about the Student's continued need for the aide, how the aide was assisting his involvement and progress in the general education curriculum and his functional skills progress, and what the ramifications of removing the aide would be. Even the Student's teacher opined that the use of the aide was not hindering the Student's progress, as the Respondent theorized. The Respondent's report on its observation of the Student was not a basis, alone, to remove the aide in light of other evidence that should have been considered and discussed by the IEP team, including the Parents. Furthermore, the Parents, and the rest of the IEP team, were also cut out of the decision-making process when the Respondent refused to permit the team to make a determination about the aide in September 2012. The support of an aide was necessary, according to the IEP team (and subsequent objective assessment data), and the teaching staff attempted to overcome the Respondent's illegal interference in the team's decision making authority with ad hoc services, but this procedural violation both impeded the Student's right to FAPE and significantly (and completely) impeded the Parent's opportunity to participate in the decision-making process because the team was not permitted to make the decision to provide the Student a dedicated aide.

5. The Student had a list of supplementary aids and services in the IEP since at least January 2011. Seven of those services are what the Petitioner has challenged as not being part of the IEP. While all of the IEP revisions examined are procedurally deficient with regards to supplementary aids and services because they do not include the anticipated frequency, location and duration of the listed services, the Petitioner has not shown that this procedural

problem impeded the Student's right to a FAPE, significantly impeded his Parents' opportunity to participate in the decision-making process regarding FAPE, or caused a deprivation of educational benefit. The IEP must be corrected, nevertheless, to be procedurally compliant.

6. The Student is in a structured full-time self-contained classroom for Student's with autism. The Petitioner has not shown this has not been part of the Student's program.
7. Students with disabilities must be reevaluated in accordance with 34 C.F.R. §§ 300.304 through 300.311 if the Respondent determines a student's educational or related service needs, including improved academic achievement and functional performance, of the student warrants a reevaluation. 34 C.F.R. § 300.303(a)(1). A reevaluation must also occur if the student's teacher or parent requests it. 34 C.F.R. § 300.303(a)(2). A reevaluation may not occur more than once per year, unless the Respondent and parent agree otherwise. 34 C.F.R. § 300.303(b)(1). A reevaluation must occur at least once every three years, unless the Respondent and parent agree that a reevaluation is unnecessary. 34 C.F.R. § 300.303(b)(2).
8. The Respondent evaluated the Student in September 2008, and some additional independent assessments were provided for in September 2009. There is no evidence of a reevaluation, or agreement that a reevaluation was not necessary, until March 2013, when a reevaluation was completed. Thus, the Respondent failed to ensure the Student was reevaluated at least once every three years. The Petitioner has not shown that this procedural violation impeded the Student's right to a FAPE, significantly impeded his Parents' opportunity to participate in the decision-making process regarding FAPE, or caused a deprivation of educational benefit.
9. This hearing officer has broad discretion to grant relief appropriate to ensure the Student is provided a FAPE. *See* 34 C.F.R. § 300.516(c)(3), Sch. Comm. of Burlington v. Dep't of

Educ., 471 U.S. 359, 369 (1985). The Petitioner has requested placement at a school that can provide one on one instruction and has behavior accommodations, specific IEP revisions, and compensatory education consisting of 240 hours of ABA therapy. The Student's current placement and school can provide the instruction and supports the Student requires. The Student's IEP already includes ESY for about half of the next significant break in programming, the summer of 2013. The supplementary aids and services in the IEP must be updated to address those recommended in the most recent reevaluation, conducted in 2013, and the use a dedicated aide.

10. Compensatory education is an equitable remedy that may be provided as relief in disputes under the IDEA. Reid ex rel. Reid v. District of Columbia, 401 F.3rd 516, 523, (D.C. Cir. 2005), *citing* G. ex rel. RG v. Fort Bragg Dependent Schs., 343 F.3d 295, 308 (4th Cir. 2003), and Florence County Sch. Dist. Four v. Carter, 510 U.S. 7, 15-16 (1993). If, in the hearing officer's broad discretion, compensatory education is warranted, the "goal in awarding compensatory education should be 'to place disabled children in the same position they would have occupied but for the school district's violations of IDEA.'" Wilson, at p 9, *citing* Reid, 401 F.3d at 518, and Carter at 15-16. "Once a student has established a denial of the education guaranteed by the IDEA, the Court or the hearing officer must undertake 'a fact-specific exercise of discretion' designed to identify those services that will compensate the student for that denial." Id., *citing* Reid, 401 F.3d at 524; *see* Stanton ex rel. K.T. v. District of Columbia, 680 F. Supp. 2d 201, 207 (D.D.C. 2010); Phillips ex rel. T.P. v. District of Columbia, 736 F. Supp. 2d 240, 247 (D.D.C. 2010). The Petitioner has not shown that the requested compensatory education of 240 hour of ABA will put the Student in the place he would have been but for the denial of FAPE as it is based on faulty facts and analysis.

However, the record provides evidence of where the Student would have been but for the denial: performing at basic in social studies and fewer behavioral incidents. The addition of a dedicated aide will address the latter. To compensate for the slow-down in progress in the curriculum, this may reasonably be addressed over the course of the summer of 2013, with additional ESY services which start a week after school is out, continue through the summer in addition to the currently scheduled ESY services, and end a week before the 2013-2014 school year begins. The services will be designed to bring the Student up to basic performance in social studies, while continuing to enable his involvement and progress in the general education curriculum by addressing his functional skills and needs.

VII. DECISION

1. The Respondent denied the Student a FAPE when it failed to provide the Student an IEP reasonably calculated to enable the Student to be involved in and make progress in the general education curriculum, since January 2012, because it lacked a dedicated aide.
2. The Respondent failed to timely reevaluate the Student when the time between the most recent reevaluation completed in March 2013 and the prior evaluation was completed in 2008, with independent assessments conducted in 2009.

VIII. ORDER

1. The Student's IEP will be amended to include a dedicated aide for the remainder of the 2012-2013 school year and for the following school year. The dedicated aide will be for the purpose of assisting the Student, his teachers, and services providers, in all aspects of his educational program, including, but not limited to, behavioral functioning. The IEP will also

be amended to include the services the Student requires, as listed under finding of fact 19, herein, to the extent those services are not already part of the Student's program. The IEP will also reflect the frequency, location, and duration of all special education and related services, and supplementary aids and services, and program modifications or supports for school personnel.

2. The Student will be provided compensatory education in the form of additional extended school year services to address both functional performance and social studies standards. The additional ESY services will begin July 1, 2013, and end August 16, 2013. The IEP must be fully implemented during the ESY services.
3. Nothing in this order will be interpreted to permit the removal or reduction of current services and supports without specific written and supported rationale explaining the proposed removal or reduction, as required to be documented in a proper prior written notice pursuant to 34 C.F.R. § 300.503 and D.C. Mun. Regs. 5-E3025.1.

IT IS SO ORDERED.

Date: April 8, 2013



Independent Hearing Officer

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 USC §1415(i).

APPENDIX A – Petitioner’s Exhibits

<u>Ex. No.</u>	<u>Date</u>	<u>Document</u>
P 1	3/12/13	Attendance Summary 20 Aug 2012 to 12 Mar 2013
P 2	Undated	3 rd Grade Report Card SY 2012
P 3	9/27/12	IEP
P 4	1/4/12	IEP
P 5	10/1/12	DC CAS Alternate Assessment Participation Criteria Form
P 6	2/19/13	IEP Progress Report – Annual Goals
P 7	1/17/13	BIP
P 8	Undated	FBA
P 9	3/19/13	Email chain ending from [REDACTED]
P 10	1/15/13	Email chain ending from [REDACTED]
P 11	2/1/13	Notice of Prehearing Conference & Order
	2/5/3013	District of Columbia Public Schools’ Response and Notice of Insufficiency
P 12	2/19/13	Prehearing Order
P 13	1/7/13	Notice of Hearing Officer Appointment [Case #2013-0005]
P 14	1/2/11	Hearing Officer Determination [Case #2010-1417]
P 15	1/8/13	Service Tracker
	11/21/12	Service Tracker
	11/19/12	Service Tracker
	11/2/12	Service Tracker
	10/2/12	Service Tracker
	5/29/12	Service Tracker
	5/1/12	Service Tracker
	3/30/12	Service Tracker
	6/14/12	Service Tracker
	3/1/12	Service Tracker
	2/1/12	Service Tracker
	12/27/11	Service Tracker
	12/4/11	Service Tracker
	11/1/11	Service Tracker
	10/4/11	Service Tracker
	9/6/11	Service Tracker
	6/29/11	Service Tracker
	6/2/11	Service Tracker
	5/5/11	Service Tracker
	4/4/11	Service Tracker
	3/1/11	Service Tracker
	2/1/11	Service Tracker
	12/31/10	Service Tracker
	12/31/12	Service Tracker
	12/5/12	Service Tracker
	12/3/12	Service Tracker
	10/19/12	Service Tracker

	6/12/12	Service Tracker
	6/6/12	Service Tracker
	5/7/12	Service Tracker
	4/10/12	Service Tracker
	3/4/12	Service Tracker
	2/6/12	Service Tracker
	1/4/12	Service Tracker
	11/30/11	Service Tracker
	11/6/11	Service Tracker
	10/4/11	Service Tracker
	9/14/11	Service Tracker
	6/16/11	Service Tracker
	5/31/11	Service Tracker
	4/5/11	Service Tracker
	3/15/11	Service Tracker
	2/4/11	Service Tracker
	1/5/11	Service Tracker
P 16	9/27/12	IEP
P 17	Undated	[Student] Academic Program Data Through January
P 18	Undated	[Appears to be FBA, same as P 8]
P 19	Undated	Speech-Language Evaluation [Conducted September 2009]
P 20	Undated	Occupational Therapy Evaluation [Conducted September 25, 2009]
P 21	Undated	[Student] – Behavior Intervention Plan
P 22	1/7/11	IEP
P 23	9/14/11	Service Tracker
	10/4/11	Service Tracker
	11/6/11	Service Tracker
	11/30/11	Service Tracker
	1/4/12	Service Tracker
	2/6/12	Service Tracker
	3/4/12	Service Tracker
	4/10/12	Service Tracker
	5/7/12	Service Tracker
	6/6/12	Service Tracker
	6/12/12	Service Tracker
	10/19/12	Service Tracker
	12/3/12	Service Tracker
	12/5/12	Service Tracker
	12/31/12	Service Tracker
P 24	9/6/11	Service Tracker
	10/4/11	Service Tracker
	11/1/11	Service Tracker
	12/4/11	Service Tracker
	12/27/11	Service Tracker
	2/1/12	Service Tracker

	3/1/12	Service Tracker
	3/30/12	Service Tracker
	5/1/12	Service Tracker
	5/29/12	Service Tracker
	6/14/12	Service Tracker
P 26	3/19/13	Educational Report and Recommendations
P 27	Undated	Curricula Vitae for [REDACTED]
P 28	1/14/13	Systematic Adaptive Behavior Characteristics Checklist
	1/14/13	Systematic Observation – Adaptive Behavior
	1/14/13	[Assorted Student work samples]
	Undated	What is the number of recommended hours of intervention per week?

APPENDIX B - Respondent's Exhibits

<u>Ex. No.</u>	<u>Date</u>	<u>Document</u>
R 1	1/2/11	Hearing Officer Determination [Case #2010-1417]
R 2	1/7/11	IEP
R 3	1/4/12	IEP
R 4	1/4/12	Meeting Participants
R 5	1/4/12	Multi-Disciplinary Team Meeting Notes
R 6	9/27/12	IEP
R 7	9/27/12	Meeting Notes
R 8	9/27/12	Consent for Medicaid Reimbursement
	9/27/12	Prior Written Notice – Decision Not to Proceed with Amendment Request
	9/27/12	Prior Written Notice – IEP Amendment
R 9	1/8/13	Service Tracker
	11/21/12	Service Tracker
	11/19/12	Service Tracker
	11/2/12	Service Tracker
	10/2/12	Service Tracker
	5/29/12	Service Tracker
	5/1/12	Service Tracker
	3/30/12	Service Tracker
	6/14/12	Service Tracker
	3/1/12	Service Tracker
	2/1/12	Service Tracker
	12/27/11	Service Tracker
	12/4/11	Service Tracker
	11/1/11	Service Tracker
	10/4/11	Service Tracker
	9/6/11	Service Tracker
	6/29/11	Service Tracker
	6/2/11	Service Tracker
	5/5/11	Service Tracker
	4/4/11	Service Tracker
	3/1/11	Service Tracker
	2/1/11	Service Tracker
	12/31/10	Service Tracker
	11/6/11	Service Tracker
	10/4/11	Service Tracker
	9/14/11	Service Tracker
	6/16/11	Service Tracker
5/31/11	Service Tracker	
4/5/11	Service Tracker	
3/15/11	Service Tracker	
2/4/11	Service Tracker	
1/5/11	Service Tracker	

	2/4/13	Service Tracker
	2/4/13	Service Tracker
	3/14/13	Service Tracker
	3/5/13	Service Tracker
R 10	1/13/11- 9/30/11	Invoices (Dedicated Aide)
R 11	2/3/11	IEP Progress Report – Annual Goals
	4/4/11	IEP Progress Report – Annual Goals
	6/16/11	IEP Progress Report – Annual Goals
	7/24/11	IEP Progress Report – Annual Goals
	11/14/11	IEP Progress Report – Annual Goals
	2/6/12	IEP Progress Report – Annual Goals
	4/20/12	IEP Progress Report – Annual Goals
	6/13/12	IEP Progress Report – Annual Goals
	11/9/12	IEP Progress Report – Annual Goals
	2/19/13	IEP Progress Report – Annual Goals
R 12	Undated	Student worksheets
R 13	8/31/12- 1/16/13	Behavior Reduction Data Sheet-Baseline
	1/17/[13?]- 3/18/13	Frequency Data Sheet
R 14	1/31/13	Consent for Initial Evaluation/Reevaluation
R 15	3/13/13	Occupational Therapy Assessment Report
R 16	3/17/13	Speech and Language Re-Evaluation
R 17	3/15/13	Social Work Assessment
R 18	3/17/13	Psychological Re-Evaluation
R 20	3/13/13	[Student] Academic Data through 3/13/2013
R 21	Undated	2012-2013 DC CAS-Alt Portfolio
R 22	2/5/13	Analysis of Existing Data
R 23	1/7/11	Email chain ending from [REDACTED]
	9/25/12	Email from Gaines to Petitioner
	11/11/12	Email from Gaines to Petitioner
	11/16/12	Email from Gaines to Petitioner
	Undated	Behavior Intervention Plan
	3/18/13	Email from Gaines to Petitioner
R 24	9/17/12	Parent/Guardian Letter of Invitation
R 25	3/6/13	Letter of Invitation
R 26	3/18/13	Amended Individualized Education Program (IEP)

APPENDIX C

[REDACTED] on behalf of [REDACTED] v. District of Columbia
Public Schools (DCPS). Case No: 2013-0049

Child	[REDACTED]
[REDACTED]	[REDACTED]
Student ID Number	[REDACTED]
[REDACTED]	Elementary School
Petitioner (specific relationship)	[REDACTED]

[REDACTED]

■ NOTE: Please do not modify subject line when replying **

** This email was sent by Jim Mortenson [mailto: Jim.Mortenson@dc.gov] **

Attached and served upon you electronically, on behalf of your respective clients, please find the HOD for case #2013-0049.

If you cannot open the attachment, please contact me at 202-536-3180.

Jim Mortenson
Independent Hearing Officer