

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

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

OSSE
Student Hearing Office
July 3, 2014

PETITIONER,
on behalf of STUDENT,¹

Date Issued: July 2, 2014

Petitioner,

Hearing Officer: Peter B. Vaden

v.

DISTRICT OF COLUMBIA
PUBLIC SCHOOLS,

Student Hearing Office,
Washington, D.C.

Respondent.

HEARING OFFICER DETERMINATION

INTRODUCTION AND PROCEDURAL HISTORY

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by Petitioner (the “Petitioner” or “GUARDIAN”), under the Individuals with Disabilities Education Act, as amended (the “IDEA”), 20 U.S.C. § 1400, *et seq.*, and Title 5-E, Chapter 5-E30 of the District of Columbia Municipal Regulations (“DCMR”). In her Due Process Complaint, Petitioner alleges that Respondent District of Columbia Public Schools (“DCPS”) denied Student a Free Appropriate Public Education (“FAPE”) by failing to implement his out-of-state IEP and failing to provide an appropriate DCPS IEP.

¹ Personal identification information is provided in Appendix A.

Student, an AGE youth, is a resident of the District of Columbia. Petitioner's Due Process Complaint, filed on April 9, 2014, named DCPS as respondent. The parties met for a resolution session on April 28, 2014 and did not reach an agreement. The 45-day period for issuance of this decision started on May 10, 2014. On May 13, 2014, I convened a telephone prehearing conference with counsel to discuss the hearing date, issues to be determined and other matters. On June 18, 2014, I granted DCPS' unopposed motion for a 10-day continuance, extending the due date for this decision to July 3, 2014.

The due process hearing was held before this Impartial Hearing Officer on June 16 and June 18, 2014 at the Student Hearing Office in Washington, D.C. The hearing, which was closed to the public, was recorded on an electronic audio recording device. The Petitioner appeared in person, and was represented by PETITIONER'S COUNSEL. Respondent DCPS was represented by DCPS' COUNSEL.

Petitioner testified and called as witnesses EDUCATIONAL ADVOCATE 1 and EDUCATIONAL ADVOCATE 2. DCPS called as witnesses SCHOOL PSYCHOLOGIST and SPECIAL EDUCATION TEACHER. Petitioner's Exhibits P-1 through P-27 and Respondent's Exhibits R-1 through R-23 were admitted into evidence without objection. Counsel for both parties made opening statements and closing arguments. Neither party requested leave to file a post-hearing memorandum.

JURISDICTION

The Hearing Officer has jurisdiction under 20 U.S.C. § 1415(f) and DCMR tit. 5-E, § 3029.

ISSUES AND RELIEF SOUGHT

The following issues for determination were certified in the May 13, 2014

Prehearing Order:

- Whether DCPS denied Student a FAPE from November 18, 2013 through February 20, 2014 by allowing his November 2012 Maryland IEP to expire and by failing to otherwise ensure that Student received services comparable to those in his previous Maryland IEP, including Speech-Language services and a full-time “Scribe”;
- Whether DCPS’ February 20, 2014 IEP is inappropriate for Student because it does not meet Student’s requirement for a full-time dedicated aide and uses grade-level common core standards as the basis for the IEP annual goals, which are not individualized to Student nor appropriate given his level of functioning; and
- Whether DCPS denied Student a FAPE by failing to implement an IEP team agreement to provide Student a dedicated aide.

For relief, Petitioner seeks an order for DCPS to convene Student’s IEP team to revise his IEP to adopt appropriate annual goals and provide for a dedicated aide, and for DCPS to provide a full-time dedicated aide for Student. In addition, Petitioner seeks an award of compensatory education to compensate Student for DCPS’ alleged denials of FAPE since November 18, 2013.

STIPULATION

The parties, by counsel, stipulated that DCPS did not provide Student speech and language related services until March 28, 2014.

FINDINGS OF FACT

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

1. Student an AGE youth, resides with Petitioner in the District of Columbia. Student is currently enrolled in GRADE at CITY MIDDLE SCHOOL. Testimony of

Guardian.

2. Petitioner, Student's maternal aunt, is his legal guardian. Testimony of Guardian.

3. Prior to the 2013-2014 school year, Student resided in Prince George's County, Maryland and attended MARYLAND ELEMENTARY SCHOOL, A Prince George's County public school. Student moved with Guardian to Washington, D.C. on August 21, 2013. He stopped attending Prince George's County Schools at the end of the 2012-2013 school year. Testimony of Guardian.

4. Prior to moving to the District, Student was determined eligible for special education and related services. Student's last Maryland IEP, dated November 26, 2012 (the PGCPs IEP), identified his primary disability as Other Health Impairment (OHI) and the areas affected by the disability as Math Calculation, Reading Comprehension, Speech and Language Expressive Language and Written Language Expression. For Special Education services, the PGCPs IEP provided Student full-time special education, taught by a Special Education classroom teacher, outside general education. For related services, the PGCPs IEP provided Student three 30-minute Speech-Language sessions monthly to address expressive language skills. Exhibit P-3.

5. As Instructional and Testing Accommodations, the PGCPs IEP provided, *inter alia*, verbatim reading to assist Student to perform general education curriculum reading skills and state assessments, and a "Scribe" to "finish writing tasks" because Student cannot write independently. His progress reports showed that he continuously struggled with vocabulary and spelling, which is why the Scribe accommodation was needed to complete his writing assignments on time. Exhibit P-3. Usually the classroom teacher served as the Scribe. Testimony of School Psychologist.

6. DCPS delayed enrolling Student after Guardian and Student moved to the District. In a previous due process proceeding (Case No. 2014-0013), Hearing Officer Coles B. Ruff found that DCPS denied Student a FAPE by failing to provide him a placement and special education services from a few days prior to October 8, 2013 to November 18, 2013, when Student began attending City Middle School. In his Hearing Officer Determination (the March 26, 2014 HOD), Hearing Officer Ruff awarded Student compensatory education to compensate for this denial of FAPE. Exhibit P-27.

7. DCPS attempted to schedule an IEP team meeting for Student on January 21, 2014, but Petitioner's Counsel informed DCPS that the Guardian and counsel were not available on that date. After some communications back and forth, the meeting was rescheduled by agreement for February 20, 2014. Exhibit P-2.

8. Student's IEP team met at City Middle School on February 20, 2014 to review a draft IEP proposed by DCPS. Guardian, Petitioner's Counsel and Educational Advocate 2 attended the meeting. There was agreement that Student required full-time specialized instruction outside general education and 120 minutes per month of Speech-Language services. The Guardian's representative requested a dedicated aide for Student. The DCPS attorney informed the team that there was a process to be followed for Student to get a dedicated aide. Exhibit P-6. On March 6, 2014, Special Education Teacher completed the IEP discussed at the February 20, 2014 IEP team meeting. On the March 6, 2014 IEP document, Special Education Teacher checked the "Yes" response as to whether Student required the support of a dedicated aide. Exhibit P-8. Special Education Teacher thought that the IEP team was going to have further discussion about the dedicated aide question and did not complete the IEP section on the "Plan for Dedicated Aide," including amount of time and the begin date. Testimony

of Special Education Teacher.

9. School Psychologist and the DCPS social worker, who attended the February 20, 2014 IEP meeting, both indicated that Student did not need a dedicated aide. Special Education Teacher did agree at the meeting that Student needed a dedicated aide. Testimony of School Psychologist, Special Education Teacher. To the extent that Educational Advocate 2 implied in her testimony that School Psychologist and the DCPS social worker agreed that Student required a dedicated aide, I found the testimony of School Psychologist and Special Education Teacher to be more credible, because, unlike Educational Advocate 2, they testified without equivocation on this point.

10. The March 6, 2014 IEP provided academic annual goals for Mathematics, Reading and Written Expression and annual goals for Communication/Speech and Language. The Mathematics annual goals were:

Student will be able to determine the difference between sales tax and discounts in order to solve word problems with 80% accuracy in 4 out of 5 trials.

Student will be able to analyze a set of data given to find the mean, median and mode and create a graphic representation of the data with 80% accuracy in 4 out of 5 trials.

The Reading annual goals were:

When text is read and with significant prompting, Student will be able to identify the chronological sequence of a plot in a literary story by first determining the beginning, middle and end of the story, and then determining the sequence of events as it relates to each, with 80% or higher accuracy in 4 out of 5 trials.

When text is read and with significant prompting, Student will be able to identify the key details of an informational text as they relate to the main idea with 80% accuracy or higher in 4 out of 5 trials.

The Written Expression Annual Goal was:

When text is read, Student will be able to respond to a text dependent question in

written format and employ the requirements for writing a sentence by correct spelling, punctuation, grammar and mechanics with 80% accuracy in 4 out of 5 trials.

Exhibit P-8.

11. On February 20, 2014, DCPS issued to Guardian an Independent Services Authorization for Student to obtain 30 hours of Speech and Language services, at DCPS expense, for missed services from the beginning of the 2013-2014 school year until February 20, 2014. Exhibits P-2, P-7.

12. On March 28, 2014, DCPS issued to Guardian a Missed Services Authorization for Student to obtain 100 hours of Tutoring and three hours of Speech and Language services, at DCPS expense, to implement the requirements of the March 26, 2014 HOD for compensatory education for services missed prior to November 18, 2013. Exhibits R-9, P-27.

13. In February and March 2014, DCPS conducted special education reevaluation assessments of Student, including a Psychological Reevaluation, an Occupational Therapy (OT) Screening, a Speech/Language Reevaluation and an Assistive Technology (AT) Assessment. Exhibits P-19, P-20, P-21, R-12. On April 28, 2014, Student's Multidisciplinary team (MDT) at City Middle School determined that Student continued to be a child with a disability and changed his disability classification to Multiple Disabilities (MD) based upon the underlying impairments, Speech-Language Impairment and OHI. Guardian agreed with the MDT team's eligibility determination. Exhibit R-14.

14. On March 19, 2014, School Psychologist conducted a battery of cognitive, educational and behavioral assessments of Student. The cognitive results indicated that Student was able to engage in intellectual problem solving and general reasoning tasks

at a level that significantly exceeded his ability to use immediate recall and working memory functions. His verbal intelligence index score indicated severe deficits in the development of verbal cognitive ability relative to others at his age. His nonverbal intelligence index score indicated mild deficits in overall development of visual/spatial ability relative to others at his age. Student's composite memory Index score fell within the significantly below average range and indicated severe difficulties with recall of verbal and visual/spatial information. School Psychologist reported that Student has a significant history of speech and language impairment that stems back to the age of three. His overall intellectual functioning is also underscored by a previously identified language processing disorder, which has severely compromised his social understanding and interactions. Current testing further indicated that Student's cognitive and adaptive function both fall within the sub-average range. An extensive review of records consisting of report cards, educational assessments, interviews, classroom assignments revealed that Student is academically functioning in the Very Low to Low range. Student's nonverbal abilities appeared to be better developed than his verbal abilities. Based upon the information obtained in the psychological report, School Psychologist expected that Student would continue to experience academic difficulty in the classroom. School Psychologist recommended that interventions should include, but not limited to, academic interventions to address reading, writing, and mathematics and that interventions should also be provided in the areas of behavior to address deficits in language, and low cognitive functioning. Exhibit P-18.

15. At City Middle School, Student still cannot write independently and he continues to need someone to write things down for him. Special Education Teacher or

one of the other adults in the classroom, writes text for Student. Testimony of Special Education Teacher.

16. On April 28, 2014, Student's IEP team reconvened at City Middle School to revise Student's IEP following his IDEA reevaluation and the change in his disability classification to MD. Guardian, Petitioner's Counsel, Educational Advocate 1 and Educational Advocate 2 all attended the meeting. In the revised April 28, 2014 IEP, Student was provided new annual goals for a "Cognitive" Area of Concern and his Communication/Speech and Language annual goals were revised. The first Mathematics annual goal was revised to clarify that word problems would be read to Student. In this IEP, the IEP team decided, over the objection of Guardian's representatives, that Student did not require the support of a dedicated aide. This IEP provides Student Extended School Year (ESY) services. Exhibit P-10.

CONCLUSIONS OF LAW

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

Burden of Proof

The burden of proof in a due process hearing is normally the responsibility of the party seeking relief – the Petitioner in this case. *See* DCMR tit. 5-E, § 3030.3. *See, also, Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62, 126 S.Ct. 528, 536, 163 L.Ed.2d 387 (2005); *Hester v. District of Columbia*, 433 F.Supp.2d 71, 76 (D.D.C. 2006).

Analysis

1. Did DCPS deny Student a FAPE from November 18, 2013 through February 20, 2014 by allowing his November 2012 Maryland IEP to expire and by failing to otherwise ensure that Student received services

comparable to those in his previous Maryland IEP, including Speech-Language services and a full-time “Scribe”?

Petitioner alleges that DCPS denied Student a FAPE by allowing the PGCPSS IEP to expire, and by failing to provide services comparable to those in the PGCPSS IEP from November 18, 2013 until the February 20, 2014 IEP meeting when DCPS proposed a new DCPS IEP. Petitioner’s starting date for this alleged violation, November 18, 2013, is the date, determined by Hearing Officer Ruff in the March 26, 2014 HOD, that Student began attending City Middle School.

When a child with a disability, who had an IEP that was in effect in another state, transfers to an LEA in the District within the same school year, the new LEA in the District must provide the child with FAPE, including services comparable to those described in the child’s IEP from the other state. See 34 CFR § 300.323(f).² However this IDEA interstate transferee requirement is generally not applicable when children transfer between jurisdictions over summer vacation. When Student moved to the District on August 21, 2013, it was not in the same school year as when he had the PGCPSS IEP. I conclude, therefore, that the IDEA’s interstate transferee provision was not applicable. Notwithstanding, an LEA needs to have a means for determining

² IEPs for children who transfer from another State. If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child’s IEP from the previous public agency), until the new public agency—

(1) Conducts an evaluation pursuant to §§300.304 through 300.306 (if determined to be necessary by the new public agency); and

(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§300.320 through 300.324.

34 CFR § 300.323(f).

whether children who move into the LEA's jurisdiction during the summer are children with disabilities and for ensuring that an IEP is in effect at the beginning of the school year. See Department of Education, *Assistance to States for the Education of Children with Disabilities*, 71 Fed. Reg. 46682 (August 14, 2006). As Hearing Officer Ruff concluded in the March 26, 2013 HOD, DCPS was obligated to provide Student a FAPE after the Guardian attempted to enroll Student at City Middle School in October 2013.

i. Failure to timely revise the PGCPs IEP

The Petitioner contends that Student was denied a FAPE by DCPS' failure to conduct a timely annual review of the PGCPs IEP. The IDEA regulations require that a child's IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revises the IEP, as appropriate, to address—

- (A) Any lack of expected progress toward the annual goals described in § 300.320(a)(2), and in the general education curriculum, if appropriate;
- (B) The results of any reevaluation conducted under § 300.303;
- (C) Information about the child provided to, or by, the parents, as described under § 300.305(a)(2);
- (D) The child's anticipated needs; or
- (E) Other matters.

See 34 CFR § 300.324(b); *Assistance to States for the Education of Children with Disabilities*, 71 Fed. Reg. at 46685. The failure to timely convene an IEP annual review meeting constitutes a procedural violation of the IDEA. See, e.g., *Metropolitan Bd. of Public Educ. of the Metropolitan Government of Nashville and Davidson County v. Bellamy*, 116 Fed.Appx. 570, 578 (6th Cir. 2004). Procedural violations of the IDEA do not, in themselves, mean a student was denied a FAPE. See *Schoenbach v. District of*

Columbia, 309 F.Supp.2d 71, 80 (D.D.C.2004). Although a procedural violation may rise to the level of a denial of a FAPE, an IDEA claim is viable only if procedural violations affected the student's substantive rights. See *Lesesne ex rel. B.F. v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006). See, also, *K.E. v. District of Columbia*, 2014 WL 242986, 6 (D.D.C. Jan. 13, 2014) (Procedural violation is actionable under the IDEA only if it results in a loss of educational opportunity for the student, seriously deprives parents of their participation rights, or causes a deprivation of educational benefits.)

Student's PGCPS IEP was due for annual review by November 26, 2013. However, Student only began attending a DCPS school on November 18, 2013. DCPS attempted to schedule an IEP team meeting for Student on January 21, 2014, but Petitioner's Counsel informed DCPS that the Guardian and counsel were not available on that date. After some communications back and forth, the meeting was rescheduled by agreement for February 20, 2014. Considering that Student had only recently enrolled in City Middle School, and that Student received special education services throughout this period, I conclude that the two-month delay in convening Student's IEP annual review meeting did not affect Student's substantive rights or seriously deprive the Petitioner of her participation rights. Student was, therefore, not denied a FAPE by this procedural violation of the IDEA.

- ii. Failure to ensure that Student received services comparable to those in his previous Maryland IEP, including Speech-Language services and a full-time "Scribe."

Until DCPS developed a new IEP for Student in February 2014, the District purported to follow the PGCPS IEP. The Petitioner alleges that DCPS denied Student a FAPE because it failed to implement the PGCPS IEP's provision for Speech-Language

services and supposed requirement for a full-time “Scribe.” The PGCPS IEP provided that Student would receive 90 minutes per month of Speech/Language (S/L) Therapy. DCPS has stipulated that it failed to provide S/L services to Student until March 28, 2014. In the March 26, 2014 HOD, Hearing Officer Ruff awarded Student compensatory S/L services for services missed through November 18, 2013. From that date until March 26, 2014, a period of just over four months, DCPS failed to provide Student some six hours of S/L services specified in the PGCPS IEP.

The IDEA is violated when a school district deviates materially from a student’s IEP. *See Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 822 (9th Cir. 2007). I find that the failure to provide Student S/L services for four months would be a material deviation. However, by an Independent Services Authorization dated February 20, 2014, DCPS authorized Guardian to obtain 30 hours of make-up S/L services. I find that these compensatory S/L services offered by DCPS were sufficient to remedy the shortcoming. *See Houston Independent School Dist. v. Bobby R.*, 200 F.3d 341, 348 (5th Cir. 2000). *See, also, Johnson v. District of Columbia*, 962 F.Supp.2d 263, 268 (D.D.C.2013) (Courts focus on the proportion of services mandated to those actually provided.)

Petitioner also contends that DCPS failed to follow the PGCPS IEP requirement for a Scribe to assist Student. The PGCPS IEP provided a “Scribe” as an Instructional and Testing Accommodation for Student. Petitioner mistakenly characterizes the Scribe as a full-time dedicated aide. According to the PGCPS IEP, Student required the Scribe to “finish writing tasks” because he could not write independently. The PGCPS IEP team explained that Student’s progress reports showed that he continuously struggled with vocabulary and spelling, which is why he needed the Scribe accommodation to

assist him to complete his writing assignments. Usually the classroom teacher fulfilled the Scribe role. At City Middle School, Student still cannot write independently and he continues to need someone to write things down for him. As at the Maryland school, Special Education Teacher or one of the other adults in the classroom, writes text for Student. I conclude that at City Middle School, Student is receiving Scribe services comparable to those provided in the PGCPS IEP.

2. – Was DCPS' February 20, 2014 IEP inappropriate for Student because it did not meet his requirement for a full-time dedicated aide and used grade-level common core standards as the basis for IEP annual goals, which were not individualized to this student nor appropriate given his level of functioning?
 - Did DCPS deny Student a FAPE by failing to implement an IEP team agreement to provide Student a dedicated aide?

Petitioner contends that DCPS' February 20, 2014 IEP (finalized on March 6, 2014) is inappropriate because it did not meet Student's alleged need for a full-time dedicated aide and included academic annual goals which are inappropriate for Student. The March 6, 2014 IEP was revised at an April 28, 2014 IEP team meeting. Petitioner maintains that the April 28, 2014 IEP has the same shortcomings.

The IDEA's FAPE requirement is satisfied "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." *Smith v. District of Columbia*, 846 F.Supp.2d 197, 202 (D.D.C.2012) (citing *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 203, 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982).) The minimum standard set out by the Supreme Court in determining whether a child is receiving a FAPE, or the "basic floor of opportunity," is whether the child has "access to specialized instruction and related services which are individually designed to provide educational benefit to the

handicapped child.” *A.I. ex rel. Iapalucci v. District of Columbia*, 402 F.Supp.2d 152, 167 (D.D.C.2005), quoting *Rowley*, 458 U.S. at 201. The IDEA imposes no additional requirement that the services so provided be sufficient to maximize each child’s potential commensurate with the opportunity provided other children. *Id.* at 198 (internal quotations and citations omitted.) Congress, however, “did not intend that a school system could discharge its duty under the [IDEA] by providing a program that produces some minimal academic advancement, no matter how trivial.” *Hall ex rel. Hall v. Vance County Bd. of Educ.*, 774 F.2d 629, 636 (4th Cir.1985).

Petitioner’s claim that Student’s IEP should provide for a full-time dedicated aide is rooted in the erroneous contention that the “Scribe” accommodation in the PGCPs IEP equated to a dedicated aide. As discussed above in the decision, the PGCPs Scribe accommodation was for intensive adult assistance to help Student complete his writing tasks – not for a dedicated aide. Neither is it correct that at the February 20, 2014 IEP team meeting, all of the DCPS IEP team members agreed that Student required a dedicated aide. School Psychologist and the DCPS social worker, who attended the meeting, both indicated that Student did not need a dedicated aide. Special Education Teacher did agree at the February 20, 2014 meeting that Student needed an aide. However, she testified at the due process hearing that Student does not currently require a dedicated aide because she, her teaching assistant and a dedicated aide assigned to another student in her class are able to provide the 1-on-1 assistance with writing that Student needs. I find that Petitioner has not established that Student requires a dedicated aide in order to receive educational benefit from his instruction at City Middle School.

Petitioner also contends that the March 6, 2014 IEP was inappropriate because

the plan used grade-level common core state standards in English Language Arts/Literacy and Mathematics as the basis for IEP annual goals and because the goals were neither individualized to Student nor appropriate for Student's level of functioning. The IDEA requires the IEP to include "a statement of measurable annual goals, including academic and functional goals, designed to . . . meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum . . . [and] meet each of the child's other education needs that result from the child's disability." 20 U.S.C. § 1414(d)(1)(A)(i)(II).

Petitioner is incorrect in asserting that in the March 6, 2014 IEP, the Common Core state standards were used as the basis of Student's annual goals. The Common Core standards are stated in the IEP for each academic Area of Concern. However, the Common Core standards are distinct from, and not identified as, Student's annual goals. With regard to the claim that the IEP annual goals were not individualized for Student, Special Education Teacher testified that she identified parts from the "lower end" of the Common Core standards that were most appropriate for Student and then drafted specific goals for Student based upon what he is capable of doing. Parent's witness, Educational Advocate 2, opined to the contrary that the DCPS IEP goals were above what Student could do. However, Special Education Teacher testified that Student had shown growth and was making progress on his annual goals, even though he continues to have a lot of retention problems. To the extent that Educational Advocate and Special Education Teacher differ as to the whether the IEP annual goals are calculated "to enable the child to be involved in and make progress in the general education curriculum," I credit the testimony of Special Education Teacher, who has worked with Student since he began attending City Middle School in fall 2013. In sum, I conclude

that Petitioner has not met her burden of proof to establish that the March 6, 2014 IEP was inappropriate for Student because of defective annual goals or failure to provide Student a dedicated aide.

Summary

In this decision, I have found that Petitioner has not established that Student was denied a FAPE by DCPS failure to provide services comparable to those specified in the PGCPs IEP. DCPS has already offered make-up S/L services as compensation for those services missed prior to March 28, 2014. Contrary to Petitioner's assertion, the PGCPs IEP did not provide a dedicated aide or full-time Scribe services. Petitioner has also failed to prove that March 6, 2014 City Middle School IEP is inappropriate because it does not provide Student a dedicated aide or includes inadequate annual goals. Petitioner's request for relief in this case must be denied.

ORDER

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

All relief requested by Petitioner herein is denied.

Date: July 2, 2014

s/ Peter B. Vaden
Peter B. Vaden, 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 U.S.C. § 1415(i).