

DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
Student Hearing Office
810 First Street NE, STE 2
Washington, DC 20002

[Parent], on behalf of
[Student],¹

Petitioner,

v

District of Columbia Public Schools (DCPS),

Respondent.

Date Issued: January 26, 2012

Hearing Officer: Jim Mortenson

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OSSE
STUDENT HEARING OFFICE

HEARING OFFICER DETERMINATION

I. BACKGROUND

The complaint in this matter was filed by the Petitioner on November 30, 2011.

A response to the complaint was filed on December 12, 2011. A prehearing conference was also held on December 12, 2011 and a prehearing order was issued that day. A resolution meeting was held on December 15, 2011, and no agreements were reached.

The due process hearing was convened and held on January 18, 2012, in room 2004 at 810 First Street NE, Washington, D.C. The hearing was closed to the public. The due date for this Hearing Officer Determination (HOD) is February 13, 2012. This HOD is issued on January 26, 2012.

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

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, Chap. 30.

III. ISSUE, RELIEF SOUGHT, and DETERMINATION

The issue to be determined by the Independent Hearing Officer (IHO) is: Whether the Respondent denied the Student a free appropriate public education (FAPE) when it proposed an individualized education program (IEP) on November 1, 2011 that is not reasonably calculated to provide educational benefit because the IEP lacks sufficient specialized instruction outside of the general education setting?²

The substantive requested relief at the time of hearing is:

- (1) A revision of the IEP to include increased specialized instruction outside of the general education setting;
- (2) Placement at a separate day school for children with disabilities, such as School; and
- (3) Compensatory education consisting of one to one tutoring in academics.

The Respondent denied the Student a FAPE because it failed to propose an IEP reasonably calculated to provide educational benefit because it lacks sufficient specialized instruction outside of the general education setting. The Student's special education teacher is providing more services, outside of the general education setting, than the IEP calls for because the Student needs more services and support to be involved and progress in the general education curriculum than the IEP calls for.

² The Petitioner withdrew a portion of this issue and concomitant requested relief dealing with speech and language services.

<u>Ex. No.</u>	<u>Date</u>	<u>Document</u>
P 21	December 30, 2009	Addendum to Psychological Evaluation Dated 11/8/09

Four exhibits of five of the Respondent's disclosures were admitted into evidence. The Respondent's exhibits are:

<u>Ex. No.</u>	<u>Date</u>	<u>Document</u>
R 1	November 14, 2011	IEP Progress Report – Annual Goals ⁸
R 3	December 14, 2011	Speech and Language Evaluation
R 4	November 18, 2011	Confidential Report of Comprehensive Psychological Evaluation
R 5	December 15, 2011	Summary and Score Report

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. To the extent the findings of fact do not reflect statements made by witnesses or the documentary evidence in the record, those statements and documents are not credited. Any finding of fact more properly considered a 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 a year old student in the grade at School, his neighborhood school.⁹ The Student has been receiving special education and related services

⁸ This document carries little to no weight. The reporting period is August 22, 2011 through October 28, 2011 and the report was created November 14, 2011 on the goals put in place on November 1, 2011. Furthermore, the reports on progress toward the goals merely state "progressing" with no specifics about what that means.

⁹ Testimony (T) of P, P 2, R 5.

since 4th grade when he was determined eligible under the definition of Speech or Language Impairment.¹⁰

2. The Student stopped receiving speech and language services at the end of the 2010-2012 school year and no longer requires them.¹¹
3. On November 1, 2011, an IEP team meeting for the Student was convened.¹² At that time, it was known that the Student had a learning disorder.¹³ He had borderline cognitive ability based on his 2009 psycho-educational assessment.¹⁴ He had previously demonstrated below average to borderline ability with regard to verbal reasoning, nonverbal reasoning, working memory, and processing speed.¹⁵ He exhibited a generalized perceptual motor weakness.¹⁶ It was known that math had been a relatively strong area for the Student, with average computation skills and low average math fluency and computation skills (he earned a D in math first advisory).¹⁷ When required to read for math (e.g. word problems) the Student demonstrated more difficulties.¹⁸ His basic reading skills were better than his fluency and comprehension but were all below his same-age peers.¹⁹ The Student's writing skills were limited to the low average and borderline ranges and he was not writing well.²⁰ The impact of these deficits has been difficulty in keeping up with peers in situations requiring age-appropriate thinking and reasoning abilities as they were two to three years below age and

¹⁰ T of P, P 2, undisputed fact (UF).

¹¹ UF, P 3, P 4, R 3.

¹² UF, P 3, P 4, T of J.F., T of L.H., T of P.

¹³ P 20, P 21.

¹⁴ P 18, P 20, P 21.

¹⁵ P 18.

¹⁶ P 18.

¹⁷ P 1, P 18.

¹⁸ P 18.

¹⁹ P 18.

²⁰ P 3, P 18.

grade level.²¹ The Student also demonstrated a lack of motivation in completing homework assignments.²² He is well mannered at school and tries “his best.”²³ He responds well orally to questions asked and gets frustrated when he does not understand the material and cannot do assigned work.²⁴ He responds well to encouragement.²⁵

4. At the IEP meeting on November 1, 2011, the Petitioner, through her advocate, requested the Student be provided additional resource/pull-out time, preferably for the entire school day since he is not performing on grade level.²⁶ The Student’s grades were largely passing, but they were not only based on the Student’s mastery of the curriculum material but his effort to perform, which teachers rated highly in most classes.²⁷
5. The annual academic goals in the IEP changed from being based on 5th grade standards to being based on largely 6th grade standards for reading.²⁸ The goals for writing changed from being based on mostly 5th grade standards to 3rd through 5th grade standards.²⁹ There was no statement in the IEP before or after the November 1, 2011 revision that addressed the Student’s math performance and ability or goals although the revision included specialized instruction in mathematics and his special education teacher believes he needs more help with math than with reading.³⁰ There are no functional goals in his IEP and no behavior intervention plan (BIP).³¹ Prior to the November 2011 revision, the Student was to receive seven hours per week of specialized instruction in the general education setting and 3.75

²¹ P 18, P 20, P 21.

²² T of P, T of L.H.

²³ T of P, T of L.H., P 1, P 3

²⁴ T of L.H., P 3.

²⁵ T of L.H., P 3, P 4.

²⁶ T of J.F., P 4.

²⁷ T of P, T of J.F., T of L.H., P 1, P 3, P 4.

²⁸ P 2, P 5.

²⁹ P 2, P 5.

³⁰ P 2, P 5, T of L.H.

³¹ P 2, P 5. (L.H. testified that there is a BIP, but both parties agree that if one exists, it is not part of the Student’s IEP and may be in the possession of only L.H.)

hours per week outside of the general education setting.³² The November revision changed the services to specialized instruction in reading in the general education setting for six hours per week and specialized instruction in mathematics in the general education setting for six hours per week.³³ No other specialized instruction or related services are included in the revision.³⁴ Supplementary aids and services in the November revision include repetition of directions, small group testing, and extended time on subtests.³⁵ The Student is to be academically assessed using the regular DC-CAS with accommodations (the same accommodations listed as supplementary aids and services for the classroom).³⁶

6. There is no evidence of a prior written notice explaining the reasons and bases for the changes to the IEP made in November 2011.
7. Despite the IEP, the Student's special education teacher provides instruction to the Student in the areas of math, reading, and writing.³⁷ She also assists the regular education teacher in modifying work and adapting it for the Student.³⁸ She pulls the Student out of class and provides small group interventions for up to ten hours per week.³⁹ She attends all of his classes with him except for specials, such as physical education and music.⁴⁰ The special education teacher provides much "one on one" to keep him focused in class.⁴¹ She believes the Student requires additional services after school in order to keep up.⁴² The special

³² P 5.

³³ P 2.

³⁴ P 2.

³⁵ P 2 (It is not clear what is meant by "subtests").

³⁶ P 2.

³⁷ T of L.H.

³⁸ T of L.H.

³⁹ T of L.H.

⁴⁰ T of L.H.

⁴¹ T of L.H.

⁴² T of L.H.

education teacher also has a behavior intervention plan (BIP) for the Student to address his problem of completing homework.⁴³

8. The IEP team determined, at the November 2011 IEP team meeting, to conduct a reevaluation of the Student consisting of a speech and language assessment and an “educational assessment.”⁴⁴ In addition to a speech and language assessment, the Respondent administered a Woodcock-Johnson III Normative Update Tests of Achievement (Form A) and conducted a psychological assessment.⁴⁵ The psychological assessment was completed in November 2011 and the Woodcock-Johnson III (Form A) and a speech and language assessment were completed in December 2011.⁴⁶
9. The Student’s disability currently affects his involvement and progress in the general education curriculum the following ways:
 - A) His fluency with academic tasks is within the very low range and he is performing two to three years behind in math (He has low average scores in broad math (4.8 grade equivalency (GE)), math calculation (5.3 GE), and brief mathematics (4.9 GE)), and four years behind in reading (He has low scores in broad reading (3.0 GE), and brief reading (3.2 GE)).⁴⁷
 - B) His speech and language skills are in the average range.⁴⁸
 - C) He has great difficulty grasping academic concepts and retaining information resulting in minimal academic gains.⁴⁹

⁴³ T of L.H. (L.H. testified that this BIP was discussed at the IEP meeting in November 2011 but there is no corroborating evidence, J.F. testified no BIP was discussed, and both Counsel agree that L.H. must be mistaken on this point.)

⁴⁴ P 3, P 4.

⁴⁵ UF, R 4, R 5.

⁴⁶ R 3, R 4, R 5.

⁴⁷ R 5.

⁴⁸ R 3.

⁴⁹ R 4.

- D) The Student likes school and is well behaved.⁵⁰
- E) The Student has difficulty with working memory, planning, and organization resulting in inattentiveness.⁵¹
- F) He has little motivation to perform academic tasks and engages in escape avoidance behaviors and displays low academic confidence resulting in poor school performance.⁵²
- G) He has a limited vocabulary and considerable academic skill area losses that are related to poor metacognition.⁵³
- H) The Student has difficulty with work that requires use of language and writing for 8th graders.⁵⁴

10. The Student requires:

- A) Direct specialized instruction in core academic subjects by a special education teacher outside of the mainstream setting, designed for a student who is language challenged, utilizing a multisensory approach and repetition, several times if necessary, from patient teachers, and assistance in mainstream classes from a special education teacher.⁵⁵
- B) Clear, simple instructions.⁵⁶
- C) To be kept on task, including by starting on work he has already been successful with to give him momentum toward completion of class and homework.⁵⁷
- D) To be permitted to dictate answers in some circumstances, while still working on building writing skills.⁵⁸

⁵⁰ R 4.

⁵¹ R 4.

⁵² R 4.

⁵³ R 4.

⁵⁴ R 4.

⁵⁵ R 4, T of L.H., T of J.F.

⁵⁶ R 4.

⁵⁷ R 4, T of L.H.

⁵⁸ R 4.

- E) Psychological counseling services to buoy self-confidence and increase assertiveness.⁵⁹
 - F) A BIP to address motivation for academic tasks that link home benefits to school performance and allows for tangible and non-tangible awards to be earned, as well as positive reinforcement before, during, and after successful completion of a task.⁶⁰
 - G) Weekly monitoring of academic work.⁶¹
 - H) Use of concrete visual cues and mnemonic devices to help the Student establish meaningful associations when learning new material.⁶²
 - I) A mentor in the school environment.⁶³
11. The Student was attacked and injured by fellow students in November 2011.⁶⁴ He was also subject to an extortion attempt by two other students in November 2011 in front of a staff member who stopped the assault.⁶⁵
12. The Petitioner does not want the Student to remain at the present school.⁶⁶ She has researched and had the Student spend two days at School.⁶⁷ School is a non-public day school for children with language-based and executive functioning disabilities, in Silver Spring, Maryland.⁶⁸ There are no non-disabled students at the school and the annual tuition is school can provide the Student with educational benefit.⁷⁰

⁵⁹ R 4.

⁶⁰ R 4, T of L.H.

⁶¹ R 4.

⁶² R 4.

⁶³ R 4.

⁶⁴ T of P, R 4.

⁶⁵ R 4.

⁶⁶ T of P.

⁶⁷ T of P, T of D.L.

⁶⁸ T of D.L.

⁶⁹ T of D.L.

⁷⁰ T of D.L. (Uncontroverted.)

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 of proof." D.C. Mun. Regs. 5-E3030.14. The recognized standard is preponderance of the evidence. *See, e.g., N.G. v. District of Columbia*, 556 F. Supp. 2d 11 (D.D.C. 2008); Holdzclaw v. District of Columbia, 524 F. Supp. 2d 43, 48 (D.D.C. 2007); 34 C.F.R. § 300.516(c)(3).

2. A free appropriate public education (FAPE) for a child with a disability under the IDEA is defined as:

special education and related services that –

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA, including the requirements of this part;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324.

34 C.F.R. § 300.17. A "determination of whether a child received FAPE must be based on substantive grounds." 34 C.F.R. § 300.513(a)(1). Involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children) is core to the IDEA's purpose. *See*: 34 C.F.R. §§ 300.39, 300.304, 300.305, 300.311, 300.320, 300.321, 300.324, 300.530, 300.704. "[A]n IEP that focuses on ensuring that the child is involved in the general education curriculum will necessarily be aligned with the State's content standards." 71 Fed. Reg. 46662 (2006). "An IEP may not be reasonably calculated to provide

benefits if, for example, a child's social behavior or academic performance has deteriorated under his current educational program, *see Reid v. District of Columbia*, 401 F.3d at 519-20; the nature and effects of the child's disability have not been adequately monitored, *see Harris v. District of Columbia*, 561 F. Supp. 2d at 68; or a particular service or environment not currently being offered to a child appears likely to resolve or at least ameliorate his educational difficulties. *See Gellert v. District of Columbia Public Schools*, 435 F. Supp. 2d 18, 25-27 (D.D.C. 2006).” *Suggs v. District of Columbia*, 679 F. Supp. 2d 43, 53 IDELR 321 ((D.D.C.2010).

3. Federal regulations at 34 C.F.R. § 300.320 lists the required contents of an IEP:

- (a)(1) A statement of the child’s present levels of academic achievement and functional performance, including—
 - (i) How the child’s disability affects the child’s involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
 - (ii) For preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities;
- (2)(i) A statement of measurable annual goals, including academic and functional goals designed to —
 - (A) 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
 - (B) Meet each of the child’s other educational needs that result from the child’s disability;
- (ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;
- (3) A description of— (i) How the child’s progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and
- (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- (4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child —
 - (i) To advance appropriately toward attaining the annual goals;
 - (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and
 - (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;
- (5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;
- (6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and
- (ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why—
 - (A) The child cannot participate in the regular assessment; and

- (B) The particular alternate assessment selected is appropriate for the child; and
- (7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

4. The child in this case is mainstreamed, according to his IEP, and the Petitioner believes this is not appropriate. She argues for a more restrictive educational placement. The Respondent has, in fact, been providing the Student with a more restrictive educational placement by pulling him out of classes even though this is not permitted by the current revision to his IEP. Furthermore, the data available to the IEP team at the time the IEP was revised in November 2011 indicated the Student's disability impacted his performance not only in reading and writing but also in mathematics, even though this is an area of relative strength for the Student. The Student continues to work on education standards that are significantly below his grade level, despite the special education services that have been provided in the past, and his Parent, Advocate, Special Education Teacher, and the recent assessment reports (which were subsequent to the IEP revision in November and so are not, of themselves, determinative) all clearly indicate he requires significantly more special education and related services than the November 2011 revision to the IEP calls for.⁷¹ Thus, because services are not being provided in conformity with the IEP, the overwhelming evidence shows additional services in a more restrictive setting (pull out from the mainstream class) were necessary for the Student to be involved in and progress in the general education curriculum than what the November 2011 IEP calls for, and the IEP lacked accurate statements of the Student's present levels of academic achievement and subsequent academic goals concerning mathematics, the Student was denied a FAPE.

⁷¹ It must be acknowledged that the speech and language services the Student received have aided him to the extent were they are no longer required. Unfortunately, the Student has had more than just speech and language needs.

5. This hearing officer must 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). When considering prospective nonpublic placement as a remedy, the following factors must be considered: a) the nature and severity of the Student's disability; b) the Student's specialized educational needs; c) the link between those needs and the services offered by the private school; d) the reasonableness of the placement's cost; and e) the extent to which the placement represents the least restrictive environment. Branham v. District of Columbia, 427 F. 3d 7, ___, 44 IDELR 149, ___ (pdf pg. 5) (D.C. Cir. 2005). "Because placement decisions implicate equitable considerations, moreover, courts may also consider the parties' conduct." *Id.*, *citing Reid v. District of Columbia*, 401 F.3d 516, 524, 43 IDELR 32, ___ (D.C. Cir. 2005).
6. The evidence does not support a nonpublic placement in a segregated day school for children with disabilities as a remedy. While the Student requires more intensive services in a more restrictive setting, that placement may be in his current school or another public school as determined by the IEP team. Placement must be determined following revision of the IEP. *See*, 34 C.F.R. § 300.116(b)(2)(Placement based on IEP).
7. 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, ___, 43 IDELR 32, (p 5, p 6) (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).

8. Compensatory education is not an appropriate remedy in this case because the denial of FAPE based on the IEP proposed in November 2011 has not been shown to have resulted in immediate harm to the Student. The denial of a FAPE based on a recently proposed IEP which was not reasonably calculated to ensure the Student had the opportunity to be involved in and progress in the general education curriculum is appropriately remedied by revisions to the IEP designed to ensure the Student has the opportunity to be involved in and progress in the general education curriculum. A new assessment of the Student was conducted after the IEP was revised in November and before the due process hearing, and the IEP team has not yet considered the results of that assessment. The IEP team will be ordered to incorporate many of the recommendations of the November 2011 comprehensive psychological assessment report into the IEP. The statement of the Student's present levels of academic achievement and functional performance will also be revised to be accurate, including the results of the recent assessments, as well as current information about how the Student's disability impacts his involvement in and progress in the general education curriculum as found in this HOD. Measurable annual goals concerning mathematics will be added, as well as functional goals based on the November 2011 psychological assessment recommendations.

VII. DECISION

The Petitioner prevails because the Respondent denied the Student a FAPE when it failed to propose an IEP reasonably calculated to provide educational benefit. The IEP proposed on November 2011 lacks sufficient specialized instruction outside of the general education setting to ensure the Student can be involved in and progress in the general education curriculum and will be revised to include a most recent data about the Student to ensure he is provided a FAPE for the remainder of the school year.

VIII. ORDER

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

1. The IEP team will meet and revise the Student's IEP consistent with the findings of fact, conclusions, and this order of this HOD, as well as the requirements of 34 C.F.R. § 300.320(a).
2. The IEP team will meet to revise the IEP no later than February 10, 2012.
3. The Respondent will offer the Petitioner three alternative dates and times to meet, not all consecutive, and will advise the Petitioner of the date and time the meeting will occur if she declines to choose one of the proposed dates and times.
4. The IEP team will revise the IEP, at a minimum, as follows:
 - A) The statement of the Student's present levels of academic achievement and functional performance will state how the Student's disability is affecting his involvement and progress in the general education curriculum at the present time. The most recent data, including assessment reports, evaluation reports, teacher and grade reports, and teacher and parent observations will be utilized.

- B) The measurable annual goals will be revised to include goals relating to the Student's academic achievement in mathematics, and functional goals relating to his self-confidence, assertiveness, and motivation. If the IEP team determines the current or new goals cannot be reasonably met by the end of the current school year, extended school year services will be included in the IEP for breaks, as determined appropriate by the IEP team, to ensure the goals can be met by November 2012 when a revised IEP must be in place.
- C) The statement of special education and related services, and supplementary aids and services, and program modifications or supports for school personnel will be revised to include special education services, outside of the general education setting, to aid the Student in reaching all of his goals. These services will include, at a minimum:
1. Specialized instruction, outside of the general education setting, in reading, math, and writing, for a class period of each area daily.
 2. The inclusion of a special education teacher in the remaining mainstream classes in order to assist the Student in reading, math, writing, and functional goals. It is not necessary this teacher be provided exclusively to the Student, but must be present in the Student's classrooms and proactively assist and engage with the Student.
 3. Psychological counseling provided during, before, or after the school day, to assist the Student in meeting functional goals pertaining to self-confidence and assertiveness.
 4. A behavior intervention program (BIP) that will address his low motivation for academic tasks with a system of positive reinforcements that links specific home

benefits to school performance and allows for tangible and non-tangible awards to be earned.

5. Academic work will be monitored at least weekly by all teachers and alerts made to the Parent and special education teacher(s) when expectations are not being met to permit changes to instruction to be made.
 6. All teachers will use visual cues and encourage the Student to form visual representations of material to assist the Student in establishing meaningful associations in new material. Mnemonic devices will also be employed when practical.
 7. An adult mentor will be provided to provide support for the Student in the school environment. The mentor will meet with the Student weekly and will be reasonably available for the Student to access when the Student desires.
- D) The IEP team will determine the Student's educational placement based on the IEP and least restrictive environment considerations.
- E) The anticipated start date for the services will be February 21, 2012. If services start before or after this date, within a reasonable time, that will not be a violation of this order.
- F) All other requirements of 34 C.F.R. § 300.320 will be complied with.
5. The proposed IEP will be accompanied by a written notice that meets the requirements of 34 C.F.R. § 300.503.

IT IS SO ORDERED.

Date: January 26, 2012



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).