

**DC OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF COMPLIANCE & REVIEW
STATE ENFORCEMENT & INVESTIGATION DIVISION
STUDENT HEARING OFFICE**

CONFIDENTIAL

Jane Dolkart, Due Process Hearing Officer
1150 5th Street, S.E.
Washington, D.C. 20003
202-698-3819; 202-698-3825 (Fax)

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STUDENT HEARING OFFICE
2009 MAR 25 AM 8:22

HEARING OFFICER'S DETERMINATION

IN THE MATTER OF:)	
)	
DOB)	DATE OF HEARING
)	March 16, 2009
Student I.D. #)	
Petitioner)	DATE OF COMPLAINT
)	February 18, 2009
V.)	
)	
The District of Columbia)	ATTENDING SCHOOL:
Public Schools,)	
Respondent)	

COUNSEL FOR PARENT/STUDENT: Christopher West
James E. Brown & Assoc.
1220 L Street, N.W.
Ste. 700
Washington, D.C. 20005

COUNSEL FOR DCPS: Linda Smalls
Office of the General Counsel
825 North Capitol Street, N.E., 9th Fl.
Washington, D.C. 20002-4232

STUDENT¹, by and through his Parent

Petitioners,

v.

DCPS

Respondent.

HEARING OFFICER'S
DETERMINATION

March 25, 2009

Representatives:

Petitioner – Christopher West
DCPS – Linda Smalls

Hearing Officer:

Jane Dolkart

¹ Personally identifiable information is attached as Appendix A to this decision and must be removed prior to public distribution.

HEARING OFFICER'S DECISION AND ORDER

I. INTRODUCTION

This is an year old student who qualifies for special education under the classification of multiple disabilities (MD). The student was first found eligible for special education in September 2007, while attending His first IEP, developed on September 7, 2008, provided for 26.5 hours of specialized instruction, 30 minutes of speech and language (S/L), and 1 hour of psychological services per week. In January 2008, the student began attending the a full time special education school. On April 29, 2009, an IEP was developed which provided for 25.5 hours of specialized instruction, 1 hour of S/L, and 1 hour of psychological services. This complaint was filed on February 18, 2009, alleging that DCPS had denied the student FAPE by failing to provide all of the S/L therapy to which he was entitled from September 7, 2007 to the present.

The hearing was held on March 16, 2009. Prior to the start of the hearing the Hearing Officer went through all of the encounter tracking forms for S/L therapy for the contested time period with the parties. These forms are found at P 15 & 16, and DCPS 4 & 5. Petitioner indicated those sessions he believed had been missed and DCPS indicated whether it agreed or disagreed that each session should be counted as a missed session. Petitioner put on his case, at the end of which the Hearing Officer urged the parties to discuss settlement. The parties were able to reach agreement on the number of hours of S/L therapy which DCPS would provide as make-up sessions for missed therapy. The parties requested that the agreement to provide the student with 12 hours of missed S/L therapy be incorporated into an HOD.

A pre-hearing conference was held on March 3, 2009, and a pre-hearing order was issued on March 4, 2009.

II. JURISDICTION

The hearing was held and this decision was written pursuant to the Individuals With Disabilities Education Improvement Act (IDEA), 84 Stat.175, as amended, 20 U.S.C. ¶ 1400 *et seq.*, 34 CFR Part 300 *et seq.*, and the D.C. Municipal Regulations, Chapter 30, Title V, Sections 3000, *et seq.*

III. ISSUES

Has DCPS denied the student FAPE by failing to provide all of the Speech and Language therapy in his IEP from September 7, 2007 to the present?

IV. DOCUMENTS AND WITNESSES

Petitioner submitted a five day disclosure letter dated March 9, 2009, containing a list of witnesses with attachments P 1-17. The disclosure was admitted in its entirety. Petitioner called as witnesses the student and the student's mother.

DCPS submitted a five day disclosure letter dated March 9, 2009, containing a list of witnesses with attachments DCPS 1-5. The disclosure was admitted in its entirety. DCPS did not call any witnesses.

VIII. ORDER

It is hereby **ORDERED** that DCPS shall provide the student with 12 additional hours of Speech and Language Therapy to make up for sessions missed from September 7, 2009 to the present, at the rate of 30 additional minutes per week.

This is the final administrative decision in this matter. Appeals on legal grounds may be made to a court of competent jurisdiction within 90 days of the rendering of this decision.

/s/ Jane Dolkart
Impartial Hearing Officer

Date Filed: March 25, 2009