

**DISTRICT OF COLUMBIA**  
**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**  
Office of Dispute Resolution  
810 First Street, NE, 2nd Floor  
Washington, DC 20002

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PETITIONER,  
on behalf of STUDENT,<sup>1</sup>

Date Issued: October 8, 2017

Petitioner,

Hearing Officer: Peter B. Vaden

v.

Case No: 2017-0190

DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS,

Hearing Dates: August 28-29, 2017

Respondent.

Office of Dispute Resolution, Room 2006  
Washington, D.C.

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**FINAL HEARING OFFICER DETERMINATION**

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by Petitioner (the Petitioner or MOTHER), 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 (“D.C. Regs.”). In her due process complaint, Petitioner alleged that Respondent District of Columbia Public Schools (DCPS) denied Student a free appropriate public education (FAPE) by not ensuring that Student was provided appropriate Individualized Education Programs (IEPs) and educational placements beginning in January 2017 and by failing to implement the Specialized Instruction Services required by Student’s IEP in the 2016-2017 school year.

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<sup>1</sup> Personal identification information is provided in Appendix A.

The due process hearing was held before the undersigned impartial hearing officer on August 28 and 29, 2017 at the Office of Dispute Resolution in Washington, D.C. On September 19, 2017, I issued an Interim Hearing Officer Determination (the Interim HOD), in which I concluded that DCPS had denied Student a FAPE by not fully implementing Student's 2016-2017 IEP requirement for 13 hours per week of Specialized Instruction and by not timely convening Student's IEP team to consider the DCPS LRE observer's January 17, 2017 recommendation that Student's educational placement be changed to a self-contained classroom. In addition, I determined that DCPS' proposed location of services for Student for the 2017-2018 school year was not capable of implementing Student's IEP requirement for 24 hours per week of Specialized Instruction Services outside general education.

At the August 28-29, 2017 due process hearing, the only relief Petitioner sought was public funding for Student to attend NONPUBLIC SCHOOL. For the reasons explained in the Interim HOD, I concluded that Petitioner has not established that Nonpublic School was an appropriate prospective placement for Student and I declined to order DCPS to fund Student's enrollment at this private school. I further determined that Student was entitled to a compensatory education award for the denials of a free appropriate public education (FAPE) which I had found in the Interim HOD. At the due process hearing, Petitioner's Counsel had expressly declined to provide information on what would be an appropriate compensatory education remedy for Student, other than placing Student at Nonpublic School. Consequently in the Interim HOD, I kept the case open solely to complete the crafting of a compensatory education remedy and I ordered, *inter alia*, that Petitioner submit additional evidence to better inform the hearing officer of (1) what position Student would be in absent the specific denials of FAPE found in

this decision and (2) what compensatory education award would be reasonably calculated to get Student to that position. On October 3, 2017, Petitioner filed a written compensatory education proposal developed by EDUCATIONAL CONSULTANT. In this proposal, Educational Consultant recommended that Student be awarded, as compensatory education for the denials of FAPE found in the Interim HOD, the following:

1. Fifty hours of tutoring, to remedy academic deficits in reading and math;
2. Funding of up to \$5000 to fund a therapeutic summer program or social skills program, including transportation, to address social/emotional deficits that occurred due to the denials of FAPE. Petitioner's expert stated that this funding amount allowed for up to four weeks of programming.

On October 6, 2017, DCPS, by counsel, filed its response to Petitioner's compensatory education proposal. In its response, DCPS did not oppose the compensatory education proposal recommended by Educational Consultant and DCPS represented that to redress the denials of FAPE found in the Interim HOD, it had issued an independent service authorization for Petitioner to obtain 50 hours of independent tutoring services at a cost not to exceed \$65.00 per hour and funding for a therapeutic summer camp or social skills program with transportation costs not to exceed \$5000.00. By email of October 6, 2017, Petitioner's Counsel requested that "[i]n light of the filing submitted by DCPS admitting to the Compensatory Education Plan submitted by Petitioner on October 3, Petitioner requests that a final order be issued ordering the compensatory education plan as written."

I find that Educational Consultant's compensatory education proposal is "reasonably calculated to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the

first place.” *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 524 (D.C. Cir. 2005). Accordingly, I will award Student compensatory education relief as recommended by Educational Consultant in Petitioner’s October 3, 2017 proposal.

**ORDER**

My Findings of Fact and Conclusions of Law from the Interim HOD are incorporated herein by reference. Based upon those findings and conclusions of law and the post-hearing compensatory education submissions filed on behalf of Petitioner and DCPS, respectively, it is hereby further ORDERED:

- A. As compensatory education relief for the denials of FAPE determined in the Interim IEP, to the extent not already provided after the issuance of the Interim HOD, DCPS shall provide for Student,
  - 1. Funding for fifty hours of tutoring, at a rate not to exceed \$65.00 per hour, to address Student’s academic deficits in reading and math and
  - 2. Funding, in an amount up to \$5000.00, to pay for a therapeutic summer program or social skills program for Student to address social/emotional deficits that occurred due to the denials of FAPE. In addition, DCPS shall provide or fund transportation for Student to attend this program.
- B. To the extent that the provisions of my order in the Interim HOD have not yet been fully implemented, those requirements shall remain in full force and effect;
- C. All other relief requested by the Petitioner herein is denied and
- D. This is a final decision.

Date: October 8, 2017

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).

cc: Counsel of Record  
Office of Dispute Resolution  
OSSE Division of Specialized Education  
DCPS Resolution Team