

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

STUDENT, ¹)	
through the GUARDIAN,)	Hearing Officer: NaKeisha Sylver Blount
<i>Petitioner,</i>)	
)	Case No: 2017-0177
v.)	
)	Date Issued: September 11, 2017
District of Columbia Public Schools)	<i>reissued,</i> September 12, 2017
<i>Respondent.</i>)	

Revised² Hearing Officer Determination

SUBJECT MATTER JURISDICTION

Subject matter jurisdiction is conferred pursuant to the Individuals with Disabilities Education Act (“IDEA”), as modified by the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. Section 1400 et. seq.; the implementing regulations for the IDEA, 34 Code of Federal Regulations (“C.F.R.”) Part 300; Title V, Chapter E-30, of the District of Columbia Municipal Regulations (“D.C.M.R.”); and D.C. Code 38-2561.02(a).

PROCEDURAL BACKGROUND

This is a due process complaint (“DPC”) proceeding pursuant to the Individuals with Disabilities Education Act (“IDEA”), as amended, 20 U.S.C. §§1400 *et seq.*

The DPC was filed on June 28, 2017 by Petitioner (Student’s parent), a resident of the District of Columbia, against Respondent, District of Columbia Public Schools (“DCPS”). On June 30, 2017, Respondent filed its timely Response, denying that Respondent denied Student a free appropriate public education (“FAPE”).

The parties convened a Resolution Session Meeting (“RSM”) in this matter on July 10, 2017. The parties did not reach an agreement during the RSM; however, they agreed to keep the resolution process open for the entire 30-day resolution period. Accordingly, the parties agree that the 45-day timeline for the Hearing Officer’s Determination (“HOD”) in this matter began to run on July 29, 2017 and concludes on September 11, 2017.

¹ Personal identification information is provided in Appendix A.

² This revised HOD removes references to Student’s gender, removes an extraneous former footnote 52, and corrects some clerical errors.

The undersigned Impartial Hearing Officer (“IHO” or “Hearing Officer”) convened a Pre-hearing Conference (“PHC”) on July 17, 2017, during which the parties discussed and clarified the issues and the requested relief. The PHC was summarized in the Pre-Hearing Conference Summary and Order (the “PHO”) issued on June 20, 2017, which ordered that five-day disclosures would be filed by August 18, 2017 and that the DPH would be held on August 25, 2017.

The DPH was held on July 20, 2017 at the Office of Dispute Resolution, 810 First Street, NE, Room 2004. Petitioner elected for the hearing to be closed. Petitioner was represented by [PETITIONER’S COUNSEL], Esq. DPCS was represented by [RESPONDENT’S COUNSEL], Esq.

Petitioner’s and Respondent’s disclosures were timely filed. At the DPH, Petitioner’s exhibits P-1 through P-27 were admitted into evidence without objection. Respondent’s exhibits R-1 through R-23 were admitted into evidence without objection.

Petitioner called the following witnesses at the DPH:

- (a) Parent
- (b) Educational Advocate³
- (c) Paralegal
- (d) Legal Assistant

Respondent called the following witnesses at the DPH:

- (a) Special Education Teacher
- (b) LEA Representative⁴

Petitioner and Respondent gave oral closing arguments.

ISSUES

As discussed at the PHC and reflected in the PHO, the following issues were presented for determination at the DPH:

- (a) Whether DCPS denied Student a FAPE by failing to provide Student with an appropriate IEP and/or placement on or about January 28, 2016.
- (b) Whether DCPS denied Student a FAPE by failing to provide Student with an appropriate IEP and/or by failing to provide Parent meaningful participation in the development of the IEP during the 2016-2017 school year (the January 5, 2017 IEP).
- (c) Whether DCPS denied Student a FAPE by failing to comprehensively reevaluate and/or timely reevaluate Student based on the written request of Parent, including in May 2016, June 2016, July 2016, September 2016 and October 2016.

³ Qualified as an expert in special education and IEP development, over Respondent’s objection.

⁴ Qualified, without objection, as an expert in special education programming and IEP development.

- (d) Whether DCPS denied Student a FAPE by failing to provide Parent access to Student's records.

RELIEF REQUESTED

Petitioner requested the following relief:

- (a) a finding that Student has been denied a FAPE;
- (b) an Order reserving the right to request compensatory education upon completion of the requested evaluations;
- (c) an Order that DCPS amend Student's IEP to provide for not less than 15 hours of specialized instruction outside the general education setting, 120 minutes of speech therapy, 120 minutes of occupational therapy;
- (d) an Order that DCPS fund an independent comprehensive speech and language, and an independent comprehensive occupational therapy evaluation;⁵
- (e) an Order DCPS convene a meeting to review and revise Student's IEP to include recommendations of the evaluations and include Parent as a part of the IEP team.

FINDINGS OF FACT

1. Student is [AGE] years old and is in the [GRADE] grade. Student resides in Washington, D.C. with Parent and attends District School.⁶
2. Student has been determined eligible for special education and related services under the disability classification "Multiple Disabilities" - "Other Health Impairment" ("OHI") due to Attention Deficit Hyperactivity Disorder ("ADHD"), and "Specific Learning Disorder."⁷
3. Student received an initial comprehensive psychological evaluation, along with a comprehensive occupational therapy evaluation and a comprehensive speech-language evaluation in 2009.⁸
4. Following the 2009 speech and language evaluation, Student received speech and language services. However, on May 3, 2013, with Parent's signed assent, Student was exited from receiving speech and language services, on a determination that Student had achieved age appropriate speech and language (expressive and receptive).⁹
5. In April 2009, Student received a comprehensive occupational therapy evaluation that determined Student presented with: (1) some sensory processing deficits related to higher level functioning (such as following multiple steps while simultaneously processing multiple

⁵ At the start of the DPH, the parties agreed that DCPS had recently authorized an independent comprehensive psychological evaluation, and Petitioner withdrew the request for an independent comprehensive psychological from the requested relief.

⁶ Testimony of Parent; P-5-1.

⁷ P-5-1; R-3.

⁸ P-6.

⁹ R-1.

sensory information), (2) slightly impaired visual motor skills, and (3) significantly impaired visual perceptual skills.¹⁰

6. As of April 2009, Student did not present with difficulty Student's fine motor skills or controlling writing tools.¹¹ Student has continued to write legibly since this time.¹²

7. During the 2013-2014 school year, Student earned a "Proficient" grade in reading on one measure. On another measure, however, Student's reading skills measures several levels below expectations, because while Student's accuracy and fluency skills were strong, Student's comprehension, ability to make inferences/draw conclusions, and ability to determine the main idea were low.¹³

8. DCPS conducted a psychological triennial reevaluation for Student, dated January 26, 2015.¹⁴

9. As of January 2015, Student's letter-word identification fell in the "Very Low" range, and Student's fluency and comprehension fell in the "Low Average" range.¹⁵

10. As of January 2015, Student's math calculation and fluency skills fell in the "Low" range, and Student's applied problems skills fell in the "Very Low" range.¹⁶

11. Student does not generally demonstrate behavioral difficulties, and is pleasant to peers and teachers. Occasionally, Student can follow poor behavior examples and get seriously off-task, if allowed. Student's attention to tasks impacts the amount of written output Student produces.¹⁷ However, Student can accept re-direction for off task behavior and also self-correct.¹⁸

12. Student had an IEP dated February 3, 2015,¹⁹ which was amended on May 13, 2015 to add a new accommodation.²⁰ The February 2015 as amended in May 2015 ("May 2015 IEP") provided Student 10 hours per week of specialized instruction outside the general education setting, and 15 minutes per month of consultative occupational therapy services.²¹

¹⁰ R-2-4.

¹¹ R-2-4.

¹² R-4-7; R-6-6.

¹³ R-2-2 and R-2-3.

¹⁴ R-2.

¹⁵ R-2-7.

¹⁶ R-2-8.

¹⁷ P-4-8; P-5-7.

¹⁸ Testimony of Parent; testimony of Special Education Teacher; testimony of LEA Representative; P-14-1 and P-14-2; P-15-1; P-17-3; R-2-5. R-7-1.

¹⁹ R-4.

²⁰ P-3.

²¹ P-3-9.

13. Student's February 3, 2015 IEP includes goals in math, reading, written expression, and motor skills/physical development.²²

14. The most recent i-Ready math assessment reflected for Student in the record is from the beginning of the 2015-2016 school year (September 8, 2015), and reflects Student at least one grade level below expectations.²³

15. During the 2015-2016 school year, Student earned all "As" and "Bs" in reading, and all "Fs" and "Ds" (with a final grade of "F") in math. Student passed all other classes, with grades from "A" to "D."²⁴

16. Student had an IEP dated January 28, 2016 which provided Student 6 hours per week of specialized instruction inside the general education setting and 4 hours per week of specialized instruction outside the general education setting, along with 15 minutes per month of consultative occupational therapy services.²⁵

17. Student's January 28, 2016 IEP includes goals in math, reading, written expression and motor skills/physical development. One of Student's math goals repeats from the February 3, 2015 IEP, along with two of Student's three reading goals, and Student's one written expression goal.²⁶

18. The sections of the IEP labeled "Baseline" for math, reading and written expression are blank in Student's January 28, 2016 IEP. The present levels of performance section includes some information about how Student was performing.²⁷

19. Student's January 28, 2016 IEP indicates that Student's behavior does not impede Student's learning or that of others, and does not include behavioral goals or provide behavioral support.²⁸

20. During the first three terms of the 2016-2017 school year (through May 26, 2017), Student earned a "B+" and two "C-"s in English and two "Ds" and a "D+" in math. Student passed all other classes except history/geography with grades from "A" to "D."²⁹

21. During the 2016-2017 school year, Student's Scholastic Reading Inventory ("SRI") scores reading assessment scores increased from below grade level to above grade level, reflecting several years reading growth during the 2016-2017 school year.³⁰

²² P-3.

²³ P-4-4; R-5-3.

²⁴ R-7.

²⁵ P-4.

²⁶ P-4.

²⁷ P-4-4.

²⁸ P-4.

²⁹ P-20.

³⁰ P-20-4; R-17; R-16-3.

22. On December 14, 2016, District School mailed a letter of invitation to Parent for a January 5, 2017 IEP meeting conduct the annual review of Student's IEP.³¹ On December 13, 2016, District School had left a voicemail for Student's other parent (Parent's spouse) with an invitation to the upcoming IEP meeting.³²

23. Parent was not able to attend the January 5, 2017 IEP team meeting, and the meeting proceeded in Parent's absence.³³

24. Student's current IEP is dated January 5, 2017, and continued to provide Student 6 hours per week of specialized instruction inside the general education setting and 4 hours per week of specialized instruction outside the general education setting, along with 15 minutes per month of consultative occupational therapy services.³⁴

25. Student's January 5, 2017 IEP indicates that Student's behavior does not impede Student's learning or that of others, and does not include behavioral goals or provide behavioral support.³⁵

26. Student's January 5, 2017 IEP includes goals in math, reading, written expression and motor skills/physical development. The motor skills goal ("[Student] will produce 4/5 written classroom and homework assignments legibly every month with strategies as needed") repeats from the January 28, 2016 IEP, but the other goals are different.³⁶

27. The sections of the IEP labeled "Baseline" for math, reading and written expression are blank in Student's January 5, 2017 IEP. The present levels of performance section includes some information about how Student was performing.³⁷

28. On May 27, 2016, Petitioner's representatives submitted on Petitioner's behalf to City School a request that Student be evaluated with a comprehensive psychological evaluation.³⁸

29. On July 15, 2016, Parent's representative submitted on Parent's behalf a request that Student be evaluated with a comprehensive psychological evaluation, an occupational therapy evaluation, and a speech-language evaluation.³⁹

³¹ Testimony of Parent; R-11.

³² R-12.

³³ Testimony of Parent; testimony of Special Education Teacher.

³⁴ P-5.

³⁵ P-5.

³⁶ P-5.

³⁷ P-5.

³⁸ P-21;

³⁹ P-22.

30. Between June 22, 2016 and July 15, 2016, Petitioner's representatives exchanged various correspondence with City School in which Petitioner inquired about the status of the evaluation, clarified that a reevaluation rather than an initial evaluation was being sought, and stated on July 15, 2017 that "[i]t appears that the last time [Student was] evaluated was back in 2009."⁴⁰

31. On September 15, 2016, Petitioner's representatives wrote to the principal of District School to provide a copy of the evaluation request previously submitted to City School.⁴¹

32. On October 19, 2016, Petitioner's representatives wrote to the special education coordinator and the principal to provide a copy of the evaluation request previously submitted to City School.⁴²

33. The special education coordinator wrote back on October 19, 2016 to propose meeting dates to discuss the evaluation process, and followed up with Petitioner's representatives on November 3, 2016 to propose additional dates, but did not hear back from Petitioner's representatives regarding availability.⁴³

34. On January 25, 2017, Petitioner's representatives again wrote to the special education coordinator to inquire as to the status of the evaluation request.⁴⁴

35. On January 25, 2017, the special education coordinator wrote back to Petitioner's representative to propose additional dates for a meeting to discuss the evaluation process and asking whether there were specific concerns (since a triennial was not yet due), but did not hear back from Petitioner's representative's regarding availability.⁴⁵

36. On May 27, 2016, Parent's representative submitted on Parent's behalf a records request to City School, requesting various forms of records.⁴⁶

37. City School indicated that it was mailing the documents as of June 24, 2016.⁴⁷

38. On May 19, 2017, Parent's representative submitted on Parent's behalf a records request to District School, requesting various forms of records.⁴⁸

39. On May 26, 2017, District School provided to Parent's representatives several categories of documents.⁴⁹

⁴⁰ P-22.

⁴¹ P-23.

⁴² R-9-2.

⁴³ R-9-2.

⁴⁴ R-10.

⁴⁵ R-10.

⁴⁶ P-21.

⁴⁷ P-22-2.

⁴⁸ P-25; R-18.

40. Petitioner has a copy of Student's 2016-2017 attendance logs through May 26, 2017.⁵⁰

41. On June 1, 2017, Parent's representatives wrote to District School, indicating that certain categories of documents had not been provided, including full attendance records or logs for the 2016-2017 school year, behavior support service logs for the 2015-2016 and 2016-2017 school year, and an updated functional behavior assessment for the 2016-2017 school year.⁵¹

CONCLUSIONS OF LAW

"Based solely upon 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 that the action and/or inaction or proposed placement is inadequate or adequate to provide Student with a FAPE." 5 D.C.M.R. E-3030.3. The burden of proof in an administrative hearing is properly placed upon the party seeking relief, except that once Petitioner has established a prima facie case, Respondent shall carry the burden of persuasion on issues regarding the appropriateness of an IEP or placement (issues (a) and (b)). The burden of persuasion shall be met by a preponderance of the evidence. *Schaffer v. Weast*, 546 U.S. 49 (2005). Through documentary evidence and witness testimony, the party with the burden of persuasion must persuade the impartial hearing officer by a preponderance of the evidence. DCMR 5-E3022.16; *see also, N.G. v. District of Columbia*, 556 F.Supp.2d 11, 17 n.3 (D.D.C. 2008).

A hearing officer's determination of whether a child received a FAPE must be based on substantive grounds. In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies (i) impeded the student'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).

(a) Whether DCPS denied Student a FAPE by failing to provide Student with an appropriate IEP and/or placement on or about January 28, 2016.

An "IEP must, at a minimum, 'provide personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.'" *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 519 (D.C.Cir.2005), quoting *Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist., Westchester County v. Rowley*, 458 U.S. 176, 203, 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982). While an LEA is not required to maximize a student's educational potential, it also cannot "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).

⁴⁹ P-26-1.

⁵⁰ P-18.

⁵¹ P-26-1.

In order for an IEP to be appropriate, (1) the LEA must have complied with IDEA's administrative procedures and (2) the IEP must be reasonably calculated to provide some educational benefit to Student. See *N.T. v. District of Columbia*, 839 F.Supp.2d 29, 33 (D.D.C.2012), quoting *Loren F. v. Atlanta Indep. Sch. Sys.*, 349 F.3d 1309, 1312 (11th Cir.2003); *J.N. v. District of Columbia*, 677 F.Supp.2d 314, 322 (D.D.C. 2010). The appropriateness of an IEP must be assessed as of the time the IEP was developed. *S.S. ex rel. Shank v. Howard Road Academy*, 585 F.Supp.2d 56, 66 (D.D.C. 2008), quoting *Thompson R2-J Sch. Dist. v. Luke P.*, 540 F.3d 1143, 1149 (10th Cir.2008) ("Because the question . . . is not whether the IEP will guarantee some educational benefit, but whether it is reasonably calculated to do so, . . . the measure and adequacy of an IEP can only be determined as of the time it is offered to the student. . . . Neither the [IDEA] nor reason countenance 'Monday Morning Quarterbacking' in evaluating the appropriateness of a child's placement.") Petitioner does not assert that the LEA failed to comply with the administrative procedures attendant to developing Student's January 2016 IEP. Rather, Petitioner claims that Student's January 2016 IEP is not reasonably calculated to provide Student educational benefit.

Student's January 2016 IEP repeats a number of goals from the May 2015 IEP (amended from a February 2015 IEP). Additionally, the IEP lacks specified baseline data, though some of the information in the present levels of performance could be used to inform a reader about roughly where Student's baselines lay. Student's January 2016 IEP changes the mix of instruction provided inside and outside the general education setting. Though Student had shown progress by some measures, Student's performance was greatly uneven, and Student's attentional issues occasionally had impact on Student's level of work output. For these reasons, at a minimum, Student's team should have specified in the IEP the academic subjects and/or times of day when Student would be educated outside the general education setting. For example, Student had great struggles in math at that time, and it would be important to know whether with the attentional issues and math difficulties, Student could access math in the general education setting with support, or whether the mathematics instruction should be outside the general education setting. Respondent did not meet the burden of proving that the January 2016 IEP was appropriate.

(b) Whether DCPS denied Student a FAPE by failing to provide Student with an appropriate IEP and/or by failing to provide Parent meaningful participation in the development of the IEP during the 2016-2017 school year (the January 5, 2017 IEP).

As stated above, in order for an IEP to be appropriate, (1) the LEA must have complied with IDEA's administrative procedures and (2) the IEP must be reasonably calculated to provide some educational benefit to Student as of the time the IEP was created. See *N.T. v. District of Columbia*, 839 F.Supp.2d 29, 33 (D.D.C.2012), quoting *Loren F. v. Atlanta Indep. Sch. Sys.*, 349 F.3d 1309, 1312 (11th Cir.2003); *J.N. v. District of Columbia*, 677 F.Supp.2d 314, 322 (D.D.C. 2010). With respect to the January 2017 IEP, Petitioner does assert that the LEA failed to comply with the relevant administrative procedures, in that Petitioner asserts that the LEA did not permit Parent meaningful participation in the development of the IEP. Testimony on this score was divergent in significant respects within Parent's testimony, and between Parent's and Special Education Teacher's testimony. Both parties agree that Parent received an invitation and

could not attend the meeting; however, Respondent asserts that Parent initially expressed an intention to attend the meeting, on the day of the meeting the team called Parent and Parent indicated an inability to attend that day, the team asked Parent if they should reschedule for the following week, and Parent indicated that the team should proceed with the meeting rather than rescheduling. Special Education Teacher's testimony was less equivocal and the undersigned does not find Parent's testimony to be more credible than Special Education Teacher's testimony. However, taking the LEA's version of events to be the more accurate version, confirming with Parent's counsel, with whom District School was already in contact, that Parent in fact intended the team to proceed with the meeting without Parent or Parent's representatives present would have been important. For this reason, the undersigned finds it to be more likely than not that Parent was not afforded a full and meaningful opportunity to participate in the January 2017 IEP meeting. Additionally, the January 2017 IEP does not specify how Student's specialized instruction should be structured, given the specifics of Student's academic challenges and attentional difficulties.⁵² Respondent does not meet the burden of persuasion on this issue.

(c) Whether DCPS denied Student a FAPE by failing to comprehensively reevaluate and/or timely reevaluate Student based on the written request of Parent, including in May 2016, June 2016, July 2016, September 2016 and October 2016.

An LEA must ensure that a student is reevaluated when a parent requests reevaluation, provided that a reevaluation must not occur more than once per year (unless the parties agree otherwise), and must occur at least every three years. There is not an IDEA mandated deadline for completing a parentally requested reevaluation, provided the reevaluation is completed within a reasonable time of the request. *See Herbin ex rel. Herbin v. District of Columbia*, 362 F.Supp.2d 254, 259 (D.D.C. 2005). Given that Student had been reevaluated with a comprehensive psychological evaluation a little more than a year before the May 2016 request, given that the May 2016 request came at the end of the school year and just as Student was about to transition to a new school, and given the speed and consistency with which the special education coordinator sought to begin the reevaluation process once she learned of the request in October 2016, the undersigned does not find there to have been an unreasonably delay. The evaluations likely would have been completed long ago; however, the special education coordinator was unable to secure a response from Petitioner's representatives regarding their and Parent's availability for meeting to review existing data, discuss Parent's specific concerns for which the evaluation should seek answers to, and to begin the process. Petitioner does not meet the burden of proof on this issue, because from October 19, 2017, DCPS has demonstrated willingness to begin the evaluation process.

(d) Whether DCPS denied Student a FAPE by failing to provide Parent access to Student's records.

⁵² The undersigned does not find sufficient support in the record to conclude that Student's behavior was impeding Student's learning or that of others to the extent that either the January 2016 or January 2017 IEPs are deficient for lack of behavioral support services.

Pursuant to 34 C.F.R. §300.501(a), “[t]he parents of a child with a disability must be afforded, in accordance with the procedures of §§300.613 through 300.621, an opportunity to inspect and review all education records with respect to . . . (2) The provision of FAPE to the child.” 34 C.F.R. § 613(a) provides that “[t]he agency must comply with a [parent’s] request to inspect and review any education records relating to their children . . . without unnecessary delay and before any . . . hearing pursuant to §300.507 or §§ 300.530 through 300.532, or resolution session pursuant to § 300.510.” Petitioner indicated that Respondent did not provide full attendance records or logs for the 2016-2017 school year, behavior support service logs for the 2015-2016 and 2016-2017 school year, and an updated functional behavior assessment for the 2016-2017 school year.

The undersigned finds credible the testimony of Respondent’s witnesses that behavioral service logs and a functional behavior assessment do not exist for Student, because Student’s behavior is not problematic enough to warrant them. The attendance logs Petitioner has disclosed are dated through the date on which Respondent provided documents to Petitioner, May 26, 2017. If Petitioner desired updated attendance records, that would have warranted a new request, rather than a follow up on the existing request as is included in the record, because it is understandable why Respondent believed it had already responded to that request. At the DPH as at the RSM (held after the DPC was filed), Petitioner mentioned that IEP meeting notes were missing; however, those notes are not listed in the follow up correspondence from June 1, 2017 in which Petitioner outlines the missing documents. Therefore, Petitioner does not meet the burden of proof on this issue.

ORDER

Based on the Findings of Fact and Conclusion of Law above, it is hereby **ORDERED** that:

- A. Within 10 school days of this Order, DCPS shall fund an independent comprehensive occupational therapy evaluation;⁵³
- B. Within 15 school days of being provided the report from the independent comprehensive occupational therapy evaluation referenced in Order A above, DCPS shall reconvene Student’s IEP team to review the evaluation report and revise Student’s IEP as appropriate;
- C. As compensatory education for the lack of an appropriate January 2016 and January 2017 IEP (including Parent’s lack of opportunity to participate in

⁵³ The independent comprehensive occupational therapy evaluation shall be funded at the OSSE rate, and is being awarded as an equitable matter: (1) as relief for Parent’s lack of opportunity to participate in the January 2017 IEP meeting, as Parent may have signed the consent for DCPS to conduct the evaluation at that meeting, had Parent been able to attend and (2) because the record reflects a potential tension between the type of occupational therapy services Student has been receiving and the types of occupational therapy needs identified in the 2009 evaluation (see Finding of Fact #5). The undersigned does not find in the record a justification for awarding an independent speech and language evaluation, as no specific speech language deficits were noted, and Student was discharged from the service with Parent’s consent.

2017-0177
Hearing Officer Determination

developing the January 2017 IEP), Respondent shall fund 25 hours of tutoring services for Student.⁵⁴

All other relief Petitioner requested in the complaint is **DENIED**.

IT IS SO ORDERED.

Date: September 11, 2017 (reissued September 12, 2017)

/s/ NaKeisha Sylver Blount
Impartial Hearing Officer

Copies to:
Petitioner (by U.S. mail)
Petitioner's Attorney (electronically)
Respondent's Attorney (electronically)
OSSE-SPED (electronically)
ODR (electronically)

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).

⁵⁴ The tutoring hours shall be funded at the OSSE rate.