

**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)

OSSE
STUDENT HEARING OFFICE
2009 SEP 21 AM 8:46

HEARING OFFICER'S DETERMINATION

IN THE MATTER OF:)	
)	
DOB)	
)	
I.D.)	DATE OF HEARING
)	August 18, September 9, 11, 2009
Petitioner,)	
)	
)	DATE OF COMPLAINT
V.)	July 8, 2009
)	
The District of Columbia)	ATTENDING SCHOOL:
Public Schools,)	
Respondent)	

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

COUNSEL FOR DCPS: **Nia Fripp**
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

September 20, 2009

Representatives:

Petitioner – Roberta Gambale
DCPS – Nia Fripp

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 case involves a year old student who is representing himself in this matter. The student received a High School Diploma from DCPS in June 2009. Prior to receipt of his high school diploma, the student was eligible for special education as a student with emotional disturbance (ED). The student's most recent IEP, dated November 6, 2007, provided for 30.5 hours of specialized instruction and 1 hour of psychological services per week, as well as .5 hours per month of speech and language (S/L) consultation services. An updated IEP was prepared on April 21, 2009, but it was never signed and was not implemented.

This due process complaint was filed on July 8, 2009, alleging that DCPS failed to provide transition services to the student for the 2007-2008 and 2008-2009 school years, had violated a September 2, 2008 HOD ordering that an MDT meeting be convened within 30 days to, *inter alia*, discuss transition services, and refused to agree to or implement a proposed compensatory education plan for transition services.

A. Previous HODs

Four previous HODs concerning this student were issued between February 1, 2008 and April 17, 2009. The September 1, 2008 HOD ordered, *inter alia*, that the parties meet within 30 calendar days to review completed evaluations and a Behavioral Intervention Plan (BIP), as well as to discuss placement.

A July 3, 2008 HOD found that DCPS had failed to hold the ordered MDT/IEP meeting to review completed evaluations and a BIP, had failed to conduct a Functional Behavioral Assessment (FBA) and revise the student's BIP, or to conduct an educational evaluation, all requested by the parent. Further, the HOD found that DCPS had failed to provide the student with a transition plan in his November 2007 IEP or thereafter and had failed to discuss placement or to provide a placement for the 2008-2009sy. DCPS was ordered to conduct FBA and vocational III assessments by July 30, 2008 (or to pay for independent evaluations if not completed), and to develop an updated BIP. DCPS was also ordered to hold an MDT meeting no later than September 15, 2008, in order to review and revise the student's IEP, develop a transition plan, and to discuss and determine placement, including the appropriateness of a vocational program for the student. The student was awarded compensatory education for the violation of the September 1, 2008 HOD pursuant to the Blackman-Jones Consent Decree in the form of level B goods or services in the Compensatory Education Catalog,

On September 2, 2008, an HOD was issued placing the student at for the 2008-2009sy. Petitioner chose as an appropriate placement for the student. The HOD found that could provide the student with the transition services he required. The

HOD also found that DCPS had violated the July 3, 2009 HOD by failing to hold the required MDT meeting. No additional compensatory education was awarded under Blackman-Jones. The HOD ordered that an MDT meeting be convened at [REDACTED] within 30 days in order to review and revise the student's IEP, including the provision of transition services.

An April 17, 2009 HOD found that DCPS had violated the September 2, 2008 HOD by failing to convene an MDT meeting at [REDACTED] and failing to deliver a copy of the Jones class Compensatory Education Catalog to Petitioner.

B. Procedural History

A pre-hearing conference was held on July 29, 2009, and a pre-hearing order was issued on August 3, 2009.

On August 18, 2009, the due process hearing was commenced in this case. The hearing was not completed in the time allotted. The parties were to confer and provide a date on which to continue the hearing and Petitioner was to file a motion for continuance. Without a continuance, the HOD in the case was due on August 28, 2009. The parties failed to propose a date to continue the hearing or to file a motion for continuance. Therefore, the case was dismissed without prejudice on August 28, 2009.

On August 31, 2009, Petitioner filed a Motion to Reopen Case and for a Continuance. The Hearing Officer indicated to the parties via e-mail that she would reopen the case and that the parties were immediately to find a time to schedule the completion of the hearing. DCPS counsel objected to reopening the case and suggested Petitioner should file a new complaint. The Hearing Officer gave DCPS counsel the choice of reopening the case or of having Petitioner file a new complaint with the agreement of DCPS that the transcript of the August 18, 2009 hearing would be admitted into the record as Petitioner's case, and that DCPS agreed to waive a resolution session. DCPS counsel indicated that she would withdraw her objection to reopening the hearing. An Interim Order of Continuance was granted on September 8, 2009 and the hearing was completed on September 9 & 11, 2009.

II. CONDUCT OF PETITIONER'S ATTORNEY

At the time the hearing in this matter commenced, it was unknown to the Hearing Officer or Counsel for DCPS that the student had received his high school diploma in June 2009. Petitioner's attorney, Ms. Gambale, failed to disclose this information either in her document submission or in introductory statements at the start of the hearing. Indeed, Ms. Gambale represented that Petitioner was scheduled to return to the Academy for [REDACTED] Education for the 2009-1010 school year.

The compensatory education plan proposed by Ms. Gambale and her educational advocate called for 15-20 hours per week of academic tutoring, life skills training, and vocational training for a two year period. This Hearing Officer questioned the educational

advocate during her testimony as to why these services were being proposed as compensatory education when they appeared to be the very services the student should be receiving at school during the 2009-2010sy. The HO received an evasive and non-responsive answer in an effort to avoid disclosing that the student had graduated in June 2009 and would no longer be funded by DCPS at [REDACTED]

The fact that the student had graduated from high school was finally revealed when the Assistant Principal of [REDACTED] testified and explained that the student had graduated. Following the Assistant Principal's testimony, the HO questioned Ms. Gambale concerning the omission of this important fact. Ms. Gambale indicated that in April 2009, at the time of the last MDT/IEP meeting, it was not clear if the student would graduate. At that point the student spontaneously declared that he had told Ms. Gambale on the drive to the hearing that he had received his high school diploma. There is no question but that Ms. Gambale knew that the student had graduated at the commencement of this hearing. Furthermore, it is clear that Ms. Gambale knew prior to filing this complaint that there was a strong possibility that the student would graduate. She failed to inquire concerning the student's status either before filing the complaint or prior to the hearing.

Ms. Gambale's conduct constitutes a violation of Rule 3.3 of the DC Rules of Professional Conduct entitled Candor to Tribunal. The rule states that a lawyer shall not knowingly make a false statement of fact or law to a tribunal and covers statements of omission as well as commission. Rule 3.3 (a)(1).

III. 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.*

IV. ISSUES

Has DCPS denied the student FAPE by failing to develop and implement a compensatory education plan providing for transition services for the student?

V. DOCUMENTS AND WITNESSES

Petitioner submitted a five day disclosure letter dated August 7, 2009, containing a list of witnesses with attachments P 1-24. The disclosure was admitted in its entirety. Petitioner called as witnesses the student, the student's educational advocate, and [REDACTED], the Assistant Principal for the [REDACTED]

DCPS submitted a five day disclosure letter dated August 11, 2009, containing a list of witnesses with attachments DCPS 14-16. The disclosure was admitted in its entirety. DCPS 2-13 were attached to DCPS' July 17, 2009 Response. DCPS 1 is already part of the record. DCPS 14 is a more complete copy of the November 6, 2007 IEP than is P 10

and will be referred to whenever referencing the IEP. DCPS called as witnesses the Compliance Case Manager and the Program Coordinator, OSE.

VI. FINDINGS OF FACT

1. This case involves a 19 year old student who is representing himself in this matter. The student received a High School Diploma from DCPS in June 2009. Prior to receipt of his high school diploma, the student was eligible for special education as a student with emotional disturbance (ED). The student's most recent IEP, dated November 6, 2007, provided 30.5 hours of specialized instruction and 1 hour of psychological services per week, as well as .5 hours per month of speech and language (S/L) consultation services. An updated IEP was prepared on April 21, 2009, but it was never signed and was not implemented. (DCPS 14, P 9, Testimony of the student, Testimony of Mr. [REDACTED])

2. A July 3, 2008 HOD found that the student's November 6, 2007 IEP failed to provide him with a transition services plan. The student was 17 when the 2007 IEP was developed. DCPS was ordered to hold an MDT meeting no later than September 5, 2008 at which a transition plan was to be developed. The meeting was not held. A September 2, 2008 HOD ordered that the meeting be held no later than October 1, 2009. The meeting was not held until April 21, 2009. (P 9, 20, 21)

3. The student received compensatory education as part of a July 3, 2008 IEP. The compensatory education was for failure to hold an MDT meeting no later than March 3, 2008, as ordered by a February 1, 2008 HOD. The meeting was to review evaluations, discuss placement and discuss revising the student's BIP. No compensatory education has previously been ruled on or ordered for failure to develop a transition plan or provide transition services. (P 19, 20, 21, 22)

4. The student's final report card for the 2007-2008sy indicates that the student completed a one semester course entitled "On the Job Training" in which he received a D, and a one-half semester course entitled "Widening Horizons Career Orientation" in which he received a D. (DCPS 15)

5. The student testified concerning transition services he received from DCPS and about summer jobs he has held. The student was not forthcoming and could not remember many things he would be expected to remember. However, where the student was able to supply answers to questions, his testimony was credible. The student testified that he took more than one job preparedness/training class and attended 1 career fair during the 2007-2008sy. The student held a summer job as a janitor in a DCPS school one year and testified that he has held other summer jobs that he cannot remember. (Testimony of student)

6. The student was administered a Woodcock Johnson III (W-J III) test of educational achievement on 1/5/2005. At that time the student's reading, writing, and math scores were in the 2.1-3.5 grade range.

The student was administered the CTONI and the RIAS tests of cognition in October 2007. The student was uncooperative during the CTONI test and indicated that he was going to click on anything. The results of this test are not useful. It is not clear if the student fully cooperated when completing the RIAS. The student's cognitive abilities were determined to be below average, although his nonverbal intelligence was average.

The student was administered a W-J III test of achievement on February 18, 2009. The examiner reported that the results of the test may not be accurate because the student provided only minimal effort for most of the testing process. Most of the student's test scores were actually lower than those achieved on the same test in 2005.

(DCPS 14, P 14, 15)

7. [REDACTED] the Assistant Principal at [REDACTED] testified concerning the student's academic program at [REDACTED] and those services the student needed for transition into the workforce. Mr. [REDACTED]'s testimony is deemed credible. Mr. [REDACTED] indicated that when the student arrived at [REDACTED] in September 2008, he needed only three English credits to receive his high school diploma. The school worked with the student for the entire year to enable him to receive the 3 credits. The student's English teacher indicated that the student could do 9-10th grade work with modifications.

Mr. [REDACTED] testified that although the student had been given sufficient Carnegie units to graduate, he could not do the work and had a low capacity for employment.

(Testimony of Mr. [REDACTED] P 8)

8. It is impossible to accurately assess the student's level of academic achievement from the available information. It is clearly higher than his 2009 W-J III would suggest. However, it is also clearly far lower than the level of achievement expected of someone with a high school diploma.

9. Pursuant to the July 3, 2008 HOD, DCPS funded an independent Vocational III Assessment of the student. The evaluation report was completed on August 18, 2008. The assessment determined that the student had interests in animals, the building trades, and in automotive work. The student is a visual and auditory learner. The student was observed performing a subtest of the Skills Assessment Module and scored in the average range in all but Block Design. A list of possible careers was generated.

The recommendations included student research into the indicated careers, shadowing of employees in these careers, possible enrollment in a vocational high school, community based vocational training, assignment of the student to a linking agency, the development of a transition plan, career counseling in the school setting, and functional instruction in reading, math, and written language.

(P 16)

10. [REDACTED] did not convene an MDT meeting for the student to revise his IEP or develop a transition services plan until April 2009. [REDACTED] did not provide the student with any of the recommended transition services during the 2008-2009sy, although the student needed only 3 credits worth of academic instruction in English in order to receive his high school diploma. It is not clear what instruction was provided to the student during the 2008-2009sy other than English.

Mr. [REDACTED] testified that even after the April 2009 MDT/IEP meeting at which a transition plan was developed, it was not implemented for the remainder of the school year. Mr. [REDACTED] that this was because he was awaiting resolution of due process complaints. However, a September 2, 2008 HOD had clearly ordered that an MDT meeting be held by October 3, 2008, and that a transition plan be developed. The only other due process complaint and HOD outstanding during the time the student was at [REDACTED] concerned the failure to convene the MDT meeting at [REDACTED] and another issue irrelevant to the provision of services at [REDACTED]

(P 19, 20, Testimony of Mr. [REDACTED])

11. At the April 21, 2009 IEP meeting, the educational advocate proposed that DCPS agree to a compensatory education plan she had prepared which called for the student to receive 220 hours of life skills training, 450 hours of vocational skills training, 100 hours of social skills training, and 770 hours of academic tutoring. The services were to be provided 15-20 hours per week over a 24 month period and were to prepare the student for a career in auto mechanics. The plan was adopted as the transition services plan proposed by [REDACTED]. The plan was based on the failure to provide transition services to the student since he turned 16 (2 years and 8 months), and represented services necessary for the student to receive a high school diploma and a functional independence. The DCPS representative at the MDT meeting did not agree to adopt the proposed plan. To the extent that the educational advocate or Mr. [REDACTED] suggested otherwise, their testimony is not credible. (P 7, 8)

12. [REDACTED] a Program Coordinator at OSE testified. She is assigned to a resolution team specializing in the resolution of compensatory education disputes. She provides technical support assisting case managers and others in investigating and evaluating claims of denial of FAPE and requests for compensatory education. Ms. [REDACTED] has assisted in the development of several hundred compensatory education plans in the one year she has been in her present position.

Ms. [REDACTED] first became aware of this case following the April 21, 2009 MDT meeting, when the student's case manager presented her with the compensatory education proposal submitted by the educational advocate at the meeting. Ms. [REDACTED] has never attended a meeting for the student, has never spoken with the educational advocate or any of the student's teachers, and had never met the student until the present hearing.

In evaluating the need for and scope of a compensatory education plan for the student, [REDACTED] reviewed the November 7, 2007 and April 21, 2009 IEPs, the meeting notes

from meetings held in April 2008 and 2009, the student's transcript, the August 2008 vocational assessment, and the student's other recent evaluations. Ms. [REDACTED] spoke with the evaluator who completed the student's vocational III assessment and consulted with a DCPS teacher who specializes in transition needs.

Ms. [REDACTED] developed a compensatory education plan consisting of 2 hours per week of life skills training from a special education teacher or social worker and 1 hour per week of direct transition counseling, both to be provided for 6 months. The plan was based on what Ms. [REDACTED] believed to be the gaps in services that had been provided to the student. This plan was sent to Ms. Gambale on August 11, 2009. No response was received from Ms. Gambale.

Ms. [REDACTED] testified that even if DCPS were to accept that no transition services were provided to the student over the past two years, Petitioner's proposed plan is excessive. Ms. [REDACTED] testified concerning what transition services would usually be provided to a student who was on a diploma track. These included counseling to set goals for the student, career exploration, career fairs, life skills training and a referral to the Rehabilitative Services Agency upon graduation. (RSA) If the student was on a certificate track, there would be a greater focus on vocational exploration, visits to job sites, and functional academics in a school based setting.

(Testimony of Ms. Fogliano)

VII. DISCUSSION AND CONCLUSIONS OF LAW

The Individuals with Disabilities Act (IDEA), 20 U.S.C. ¶ 1400 *et seq.*, guarantees "all children with disabilities" "a free appropriate public education [FAPE] that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living." 20 U.S.C. ¶ 1400 (d)(1)(A). The IDEA defines FAPE 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 State educational agency..., (c) Are provided in conformity with an IEP that meets the requirements of 34 CFR 300.320 – 300.324.

Central to the IDEA's guarantee of FAPE "is the requirement that the education to which access is provided be sufficient to confer some educational benefit upon the handicapped child." *Bd. Of Educ. Hendrick Hudson Central Sch. Dist. V. Rowley*, 458 U.S. 176, 200 (1982). The educational agency must provide a "basic floor of opportunity" for students with disabilities. It need not provide the best education possible, but the educational benefit must be more than de minimus or trivial. *Polk v. Central Susquehanna Intermediate Unit 16*, 331 IDELR 10 (3rd Cir. 1988).

As a condition of receiving funds under the Act, IDEA requires school districts to adopt procedures to ensure appropriate educational placement of disabled students. *See*, 20

U.S.C. ¶ 1413. In addition, school districts must develop comprehensive plans for meeting the special education needs of disabled students. *See*, 20 U.S.C. ¶ 1414(d)(2)(A). These plans or Individualized Education Programs (IEPs), must include “a statement of the child’s present levels of educational performance, ... a statement of measurable annual goals, [and] a statement of the special education and related services ... to be provided to the child....” 20 U.S.C. ¶ 1414(d)(1)(A).

A. Transition Services

The IDEA and its implementing regulations state that “Beginning not later than the first IEP to be in effect when the child turns 16..., and updated annually, thereafter, the IEP must include

1. Appropriate measurable post secondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills.
2. The transition services...needed to assist the child in reaching those goals. 34 CFR § 300.320 (b)(1, 2).

The IDEA and its regulations do not further define what an age appropriate transition assessment should include. However, one definition of transition assessment is an “...ongoing process of collecting data on the individual’s needs, preferences, and interests as they relate to the demands of current and future working, education, living, and personal and social environments. Assessment data ... form the basis for defining goals and services to be included in the Individual Education Program (IEP)” Sitlington, Neubert, & Leconte, “Transition Assessment: The position of the Division on Career Development and Transition, 1997, p. 70-71. This definition has been approved by the OSEP, US Department of Education.

There is no evidence in the record concerning whether the student had a transition plan in place during the 2006-2007sy, when the student was 16. Therefore Petitioner has failed to meet his burden of proof concerning a lack of a transition plan or transition services for the 2006-2007sy. The issue of a transition plan and services for the 2007-2008sy has already been litigated. The July 3, 2008 HOD explicitly found that the student was denied FAPE because DCPS had failed to provide a transition services plan. This issue cannot be relitigated. The HOD did not provide for compensatory education for this violation.

There is ample evidence in the record that the student did not have a transition services plan in place from July 3, 2008 until the end of the 2008-2009sy. Further, the student did not receive a vocational III assessment until August 2008, and none of the recommendations in the assessment were implemented during the 2008-2009sy.

The student received absolutely no transition services or vocational training during the 2008-2009sy. However, the failure to provide these services cannot be laid entirely at the feet of DCPS. DCPS paid the full cost of sending the student to a private school of

Petitioner's choice, based on representations from the school and petitioner that the school could provide appropriate educational services for the student. The student needed to complete only 3 credits during the entire school year in order to graduate. [REDACTED] should have been spending most of its resources on providing precisely the transition services it failed to provide. [REDACTED] offered no satisfactory explanation for its failure to provide the needed services. Petitioner cannot now turn around and place the entire blame on DCPS for this failure.

Nevertheless, the July 3, 2008 HOD ordered DCPS to hold an IEP meeting and develop a transition plan for the student no later than September 5, 2008. This was not done. In fact the ordered IEP meeting was not held until April 21, 2009, following the issuance of yet another HOD. And, DCPS did not ensure that transition services were provided to the student even after the April 21, 2009 meeting. The student has not received any applied academic skills development, he has not received any vocational skills training and given his depression and poor social skills, he has received insufficient social skills training.

There is no evidence that the student missed any academic instruction. Indeed the student received his high school diploma. However, DCPS can be faulted for having allowed the student to graduate when his reading skills in particular are far below those expected from a high school graduate. Had DCPS not passed the student along in spite of academic deficiencies, the student would be entitled to several more years of special education and would doubtless have received additional transition and vocational services.

DCPS has denied the student FAPE by failing to develop a transition services plan or provide transition services for the 2008-2009sy.

B. Compensatory Education

It is well settled that if properly graduated from high school with a regular high school diploma, a student's right to prospective services as a special education student terminates, including his right to transition planning and services. However, a student's graduation does not extinguish all claims for compensatory education. *See Zobrest v. Catalina Foothills School Dist.*, 509 U.S. 1 (1993) (a claim for reimbursement of expenses incurred while the student was attending high school is valid despite the student's graduation from high school), *Capistrano Unified Sch. Dist. V. Wartenberg*, 59 F.3d 884 (9th Cir. 1995) (the same), *Maine School Administrative Dist. No. 35 v. Mr. and Mrs. R.*, 32 F.3d 9 (1st Cir. 2003) (an actionable claim for compensatory education is not moot even after the child's eligibility for special education services ends), *Independent School Dist. No. 284 v. A.C.*, 258 F.3d 769 (8th Cir. 2001) (claim for compensatory education not moot despite student's move out of district), *San Dieguito Union High School District v. Guray-Jacobs*, 44 IDELR 189 (S.D. Ca. 2005) (awarding a high school diploma does not moot claim for compensatory education for failure to provide transition services.

The issue at this hearing is the extent to which the student should be awarded compensatory education. Pursuant to the Hearing Officer's equitable powers to fashion appropriate relief, she can order compensatory education as a replacement for services

the child should have received in the first place. *Reid v. DCPS*, 401 F.3d 516, 518 (D.C.Cir. 2005). Such an award must rely on an individualized assessment. *Id.* at 524. A compensatory award “must be 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.” *Id.* While an IEP need only provide some benefit to the student going forward, a compensatory award must do more – it must compensate the student for the full loss of educational benefit the student should have received. *Id.* at 525.

In determining a compensatory education award in this case, it is useful to first indicate what time periods will not be covered by any such award. The student is not entitled to compensatory education for the 2006-2007 or 2007-2008sy. Any award he is entitled to pertains to the failure to provide services during the 2008-2009sy. This immediately limits Petitioner’s proposed plan by excluding all by 9 months from any potential relief. Further, the student was not denied academic instruction, thus striking the 770 hours designated for academic tutoring. Lastly, Petitioner’s plan includes as its goals helping the student obtain a high school diploma. The student has obtained a high school diploma. This leaves compensatory education for the 2008-2009sy for failure to provide job readiness skills, vocational skills training, and social skills training.

The plan proposed by Petitioner is wildly unrelated to the services missed by the student. The plan proposed by DCPS more closely resembles the services to which the student should have been entitled and which he was denied. However, the DCPS plan fails to fully acknowledge the extent of the student’s deficits in skills and academic preparedness for entry into the workforce. Based on the testimony of Ms. Fogliano and the evidence of the student’s present functioning and services missed, the student is entitled to 2 hours per week of life skills instruction, 2 hours per week of functional academic instruction, and 2 hours per week of transition counseling and on the job training for 9 months.

VIII. SUMMARY OF RULING

DCPS failed to provide the student with a transition services plan or any transition services for the 2008-2009sy. Such denial constitutes a denial of FAPE. The student shall be provided with compensatory education for the denial.

IX. ORDER

It is hereby **ORDERED** that

1. The student shall receive compensatory education in the form of 2 hours per week of life skills instruction, 2 hours per week of functional academic instruction, and 2 hours per week of transition counseling and on the job training, per week, for a period of 9 months to commence on October 1, 2009 and to be completed by June 30, 2010. The services shall be provided by a certified special education teacher, social worker, and/or a transition counselor of the student’s choice. The costs for such services shall not exceed \$90/hour.

2. In light of Petitioner's attorney's misconduct in this matter it is the recommendation of the hearing officer that Petitioner not be awarded attorney's fees.

3. Any delay in meeting any of the deadlines in this Order because of Petitioner's absence or failure to respond promptly to scheduling requests, or that of Petitioner's representatives, shall extend the deadlines by the number of days attributable to Petitioner or Petitioner's representatives.

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: September 20, 2009