

**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 5<sup>th</sup> Street, S.E.  
Washington, D.C. 20003  
202-698-3819; 202-698-3825 (Fax)

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STUDENT HEARING OFFICE  
2009 OCT 23 AM 10:08

**HEARING OFFICER'S DETERMINATION**

IN THE MATTER OF: )



Petitioner, )

V. )

**The District of Columbia  
Public Schools,  
Respondent** )

DATE OF HEARING  
October 21, 2009

DATE OF COMPLAINT  
August 18, 2009

ATTENDING SCHOOL:



**COUNSEL FOR PARENT/STUDENT:**

**Domiento Hill  
James E. Brown & Assoc.  
1220 L Street, N.W.  
Ste. 700  
Washington, D.C. 20005**

**COUNSEL FOR DCPS:**

**Harsharen Bhuller  
Office of the General Counsel  
825 North Capitol Street, N.E., 9<sup>th</sup> Fl.  
Washington, D.C. 20002-4232**



STUDENT<sup>1</sup>, by and through his Parent

Petitioners,

v.

DCPS

Respondent.

HEARING OFFICER'S  
DETERMINATION

October 23, 2009

Representatives:

Petitioner – Domiento Hill  
DCPS – Harsharen Bhuller

Hearing Officer:

Jane Dolkart

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<sup>1</sup> 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 [REDACTED] year old child whom DCPS has determined is eligible to receive special education and related services under the category of Learning Disabled (LD). The student attended [REDACTED] ES during the 2008-2009sy, where he received 20 hours of specialized instruction and related services. The student aged out of [REDACTED] at the end of the school year. In an August 6, 2009, IEP meeting the student was placed at [REDACTED] for the 2009-2010sy. Approximately three weeks after the start of the 2009-2010sy, Petitioner transferred the student to City Collegiate PCS because Petitioner did not believe Sousa was an appropriate placement for the student. This due process complaint was filed on August 18, 2009, alleging that DCPS had denied the student FAPE because the student's IEP and placement were inappropriate. The complaint also alleged that DCPS had failed to provide agreed upon assistive technology and an assistive technology plan. This issue has been resolved and is no longer part of the complaint.

Pre-hearing conferences were held on September 29, 2009 and October 7, 2009, and pre-hearing orders were issued on October 5, 2009 and October 13, 2009.

DCPS filed a Motion to Dismiss on September 1, 2009, arguing that as of the time the complaint was filed the student had suffered no harm because the 2009-2010sy had not yet begun. The motion was denied on September 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

1. Failing to provide an appropriate IEP in that the student's specialized instruction should be increased from 20 to 27 hours per week?
2. Failing to provide the parent a meaningful opportunity to participate in the student's placement decision?
3. Failing to provide an appropriate placement in that [REDACTED] MS is not an appropriate placement.?

#### **IV. DOCUMENTS AND WITNESSES**

Petitioner submitted a five day disclosure letter dated October 14, 2009, containing a list of witnesses with attachments P 1-26. The disclosure was admitted in its entirety. No witnesses were called because the parties settled the case.

DCPS failed to provide the Hearing Officer with a copy of its five day disclosure in violation of the Hearing Officer's October 5, 2009 Pre-Hearing Order. Therefore, per the pre-hearing order, DCPS' disclosure was not admitted into evidence.

#### **V. FINDINGS OF FACT**

The parties settled this complaint prior to the commencement of the hearing.

#### **VI. DISCUSSION AND CONCLUSIONS OF LAW**

The parties reached a settlement agreement in this matter which shall be memorialized in an HOD order.

#### **VII. ORDER**

It is hereby **ORDERED** that

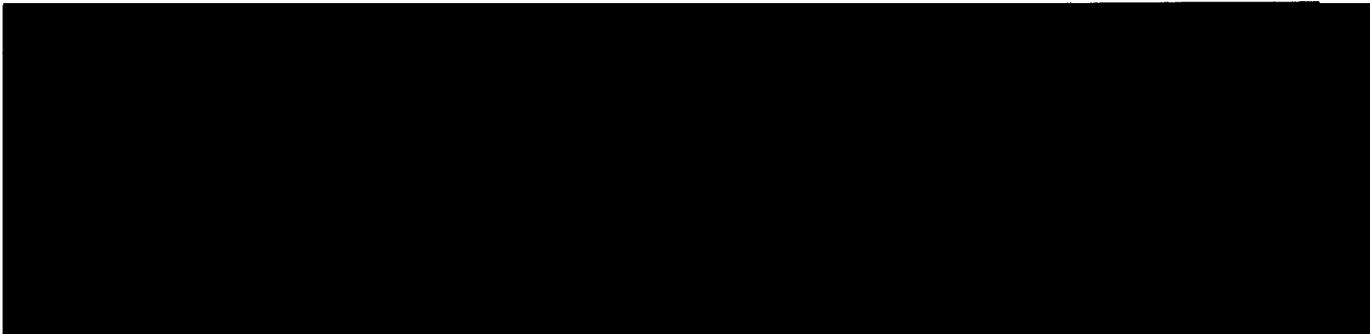
1. DCPS shall fund a Lindamood Bell reading assessment of the student at the prevailing rates under the Chancellor's Cost Guidelines. The assessment and the report thereof shall be completed within 45 days of the issuance of this HOD.
2. Upon completion of the assessment and report, Petitioner shall, within 48 hours of receipt of the report, fax and e-mail a copy of the report to [REDACTED] the Compliance Case Manager for this case, at the Office of the State Superintendent of Education Legal Unit.
3. DCPS shall reconvene the student's MDT meeting upon receipt of the report. DCPS shall send a Letter of Invitation to Petitioner with three proposed dates to reconvene the MDT meeting within 15 business days of receipt of the report from Petitioner.
4. At the reconvened MDT meeting, the parties shall review the Lindamood Bell report, review and revise the IEP if appropriate, discuss and determine placement for the student, order any additional evaluations which may be appropriate, and determine any additional supplemental services the student may require.
5. 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: October 23, 2009



\*\* NOTE: Please do not modify subject line when replying \*\*  
\*\* This email was sent by Jane Dolkart <mailto:jane.dolkart@dc.gov> \*\*

Attached is the HOD in the above case.

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HEARING OFFICE  
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