

DC Office of the State Superintendent of Education
 Office of Review & Compliance
 Student Hearing Office
 1150 5th Street, SE
 Washington, D.C. 20003
 CONFIDENTIAL

<p>[Parent], on behalf of [Student],</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>District of Columbia Public Schools,</p> <p style="text-align: center;">Respondent.</p>	<p>Case</p> <p style="text-align: center;">HEARING OFFICER'S DETERMINATION</p> <p>May 15, 2009</p> <p><u>Representatives:</u></p> <p>Sarah Tomkins & Donna Wulkan, Petitioner</p> <p>Kendra Berner, Respondent</p> <p><u>Independent Hearing Officer:</u></p> <p>Jim Mortenson</p>
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 STUDENT HEARING OFFICE
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I. PROCEDURAL BACKGROUND

This matter came before Independent Hearing Officer (IHO), Jim Mortenson, at 9:00 a.m. on May 5, 2009. The hearing concluded on that date. The due date for the Hearing Officer's Determination (HOD) is May 15, 2009, in accordance with the Blackman/Jones Consent Decree. This HOD is issued on May 15, 2009.

The hearing in this matter was conducted and this decision is written pursuant to the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. § 1400 et seq., and D.C. Mun. Regs. tit. 5, Chap. 30.

Present at the due process hearing were:

Petitioner's Counsel, Sarah Tomkins, Esq.

Respondent's Counsel, Kendra Berner, Esq.

Six witnesses testified at the hearing:

1. Petitioner, Student's Surrogate Parent (P)
2. Admissions Director, (qualified as expert in special education programming)
3. Speech/Language Pathologist, The (qualified as expert in speech/language)
4. Clinical Psychologist,
5. Case Manager,
6. English Teacher,

The complaint in this matter was filed on March 31, 2009. A prehearing conference was held on April 10, 2009, and a prehearing order was issued on that date. A response was filed by the Respondent on April 10, 2009.

29 documents were disclosed and filed by the Petitioner on April 28, 2009. There were no objections raised to the admission of any of the disclosed documents, and they were all admitted into the record. (P 1 – P 29). Petitioner's exhibits are as follows:

- P 1 - Due Process Complaint, March 31, 2009
- P 2 - Due Process Hearing Scheduling Notice, rec'd April 2, 2009
- P 3 - Email from August 6, 2008
- P 4 - Letter from August 27, 2008
- P 5 - Report card, January 16, 2009
- P 6 - Prior to Action Notice, September 7, 2005
- P 7 - Individualized education program (IEP), November 15, 2006
- P 8 - Multidisciplinary Team (IEP team) meeting notes, November 15, 2006
- P 9 - IEP, March 23, 2007
- P 10 - IEP team meeting notes, March 23, 2007
- P 11 - IEP, March 4, 2008
- P 12 - IEP team meeting notes, March 4, 2008
- P 13 - IEP, February 20, 2009
- P 14 - IEP team meeting notes, March 12, 2009
- P 15 - Neuropsychological Evaluation, August 3, 2005
- P 16 - Summary and Score Report, September 5, 2006
- P 17 - Comprehensive Speech and Language Assessment, May 12, 2005
- P 18 - Speech and Language Evaluation, March 11, 2008
- P 19 - Psychological Evaluation, May 8, 2008
- P 20 - Letter from March 11, 2009
- P 21 - Program Information on
- P 22 - Resume of

- P 23 - Resume of
- P 24 - Chancellor's Directive on Compensatory Education, July 9, 2008
- P 25 - Table: Comparison of Test Scores, 2006-2009
- P 26 - Table: Comparison of IEPs, 2006-2009
- P 27 - Hearing Officer's Determination, May 18, 2005
- P 28 - Curriculum Vitae, Dr. Charles Missar, January 2009
- P 29 - Information on

Six documents were disclosed and filed by the Respondent on April 28, 2009. There were no objections raised to the admission of any of the disclosed documents, and they were all admitted into the record. (R 1 – R 6). Respondent's exhibits are as follows:

- R 1 - IEP team meeting notes, March 12, 2009
- R 2 - IEP, March 12, 2009
- R 3 - IEP, March 3, 2008
- R 4 - Speech and Language Evaluation, March 11, 2008
- R 5 - Psychological Evaluation, May 8, 2008
- R 6 - Psychological Re-evaluation Report, May 28, 2008

II. ISSUE

Whether the Respondent has developed and implemented an individualized education program (IEP) for the Student to permit him to be involved in and make progress in the general education curriculum? Specifically, whether the IEP is enabling the Student to progress academically, and functionally with regard to behavior and speech? Further specifically, whether the Student's educational placement is appropriate to meet his needs?

III. FINDINGS OF FACT

1. The Student is a year old learner currently enrolled in the grade at . P 13, R 2. The Student has been identified as a child with a specific learning disability (LD). P 13, R 2¹.
2. The Respondent proposed a revised IEP in March 2009. P 13, R 2. The IEP does not include appropriate statements of the Student's present levels of academic achievement and functional performance, including how his disability affects his involvement and progress in the general education curriculum. P 13, R 2. The statements in the IEP are as follows:

Mathematics:

According to the [Woodcock Johnson III, Student's] math calculation [standard score] is 75; [grade equivalent] 3.8. [M]ath reasoning SS is 85; GE 4.4. [Student] is very low in mathematic and math calculation skills.

Needs: [Student] continues to need specialized instruction to address academic deficits in mathematic reasoning and problem solving.

Impact on the Student: [Student's] weaknesses in math concepts and applications impacts his academic progress.

Reading:

According to the WJIII, [Student's] letter word identification SS is 57; GE 2.2; his reading fluency SS is 67; GE 2.0 and passage comprehension SS is 65; GE 2.1. [Student] can read basic sight words but is very low in broad reading.

¹ Both P 13 and R 2 purport to be the March 2009 revision to the IEP. Yet the document supplied by the Petitioner is different from the document supplied by the Respondent. Because the Petitioner's document is signed and provided by her, and the Respondent uses an electronic format that cannot easily be changed by the Petitioner, it is reasonable to conclude that this is her copy of the IEP. Any changes to the document, as appear in the Respondent's version, would likely have been made following Petitioner's receipt of this document. Thus, the IHO treats the Petitioner's copy of the IEP as the IEP following the March 12, 2009, IEP team meeting.

Needs: [Student] continues to need specialized instruction to address his academic deficit in reading decoding, reading speed and the ability to comprehend connected discourse while reading.

Impact on the Student: [Student] has a sever deficit in reading.

Writing:

According to the WJIII, [Student's] spelling SS is 63; GE is 2.2; his writing fluency SS is 83; GE 4.9 and his Writing Sample SS is 54; GE 1.8.

Needs: [Student] continues to need specialized instruction to address his academic deficit in his production of written text (includes Spelling) writing fluency and quality of written expression.

Impact on the Student: [Student's] overall ability to express himself in writing and his written language is limited.

P 13, R 2. There is no statement of present levels of functional performance in the areas of communication/speech and language and emotional, social, and behavioral development². P 13. There is an emotional, social, and behavioral development goal, however. P 13.

² The Respondent's copy of the IEP includes the following statement of present level of functional performance, which does not appear in the Petitioner's copy:

Currently [Student] has mastered several goals of demonstrating appropriate social behavior in social and learning situations; ceased being provocative with peers, i.e. teasing, name calling and putting others down; and waiting his turn in talking without interrupting others during a group discussion.

Needs: He needs to work on improving his social judgment, and following commands made by instructors to perform academic tasks in the classroom; do homework assignments, projects, and take tests etc.; and self esteem about his learning problems.

Impact on the student: His lack of motivation is severely impacting academic progress.

R 2.

3. The revised IEP does not include measurable annual goals with short-term objectives or benchmarks³. P 13. The goals in the IEP are not designed to meet the Student's needs that result from his disability to enable him to be involved in and make progress in the general education curriculum. P 13. The goals as written are as follows:

Mathematics:

[Student] will demonstrate a year's growth in math computation and math application by accurately and sufficiently performing numerical operations. He will understand the meaning and properties of the operations given multiple number forms with at least 80% accuracy.

Reading:

[Student] will demonstrate at least 1 year's growth in his reading comprehension, reading fluency and word recognition skills. He will understand and acquire new vocabulary and use it in reading with 80% accuracy.

Writing:

[Student] will demonstrate at least 1 years growth in the area of writing fluency and spelling skills by writing with a clear focus, coherent organization and sufficient details. He will understand the nature of Written English and the relationship of letters and spelling patterns to the sound of speech. He will organize ideas in writing in a way that makes sense for their purpose with at least 80% accuracy.

There is one functional goal, in the area of emotional, social, and behavioral development:

[Student] will demonstrate an improvement in completing academic assignments and social judgment within the school setting with 80% accuracy.

The IEP states the baseline for this goal is 50% to 60%. P 13.

³ C.D., the case manager, testified that benchmarks were created for the Student but they do not appear on the IEP form itself. Assuming this is true, the lack of benchmarks on the IEP is the relevant fact, as the IEP is the tool used by staff to know how to measure the Student's progress toward the annual goals throughout the year.

4. The IEP does not include a description of how the Student's progress toward meeting the annual goals will be measured and when periodic reports on the progress the Student is making toward meeting the annual goals will be provided. P 13.
5. The Student participates in the DC –CAS (a State-wide academic assessment) with several accommodations. P 13. While the Student has a learning disability he has the cognitive capacity to meet State education standards. T of T of P.T., T of
6. The IEP requires 19 hours per week of specialized instruction in the general education setting and 45 minutes per week of behavioral support services outside of the general education setting. P 13. Speech and language consultation was provided for 30 minutes per week in the March 2008 IEP revision and was continued, as a compromise, under the March 2009 revision. T of P, P 11, P 13, R 3. Prior to the 2008 IEP revision two hours per week of speech and language services were provided. P 9.
7. Extended school year services are not provided. P 13.
8. The Student did not cooperate in a speech and language assessment conducted in March, 2008. P 18, R 4. The evaluator determined that even though the results of testing were not likely valid due to non-cooperation, the Student "showed good pragmatic language skills and did not display speech problems[.]" P 18, R 4. "His speech skills; voice quality, speech rate, fluency and articulation were all within the normal range." P 18. As a result, no further intervention was recommended. P 18, R 4. The Student was expected to show for speech and language therapy at

school, and he often did not do so. T of P, R 4. School staff did not make sure the Student participated in speech and language therapy. T of P. Because speech and language therapy was effectively not being provided, school staff wanted those services removed from the IEP upon revision in March, 2009. T of P. A compromise was reached by the IEP team to keep speech and language services on the IEP on a consultation basis. T of P, P 13. An independent speech and language evaluation conducted in 2005 found significant delays related to speech and language and immediate and intensive therapy was recommended. P 17. "Because [the] phonologic linguistic system is crucial to learning to read, and reading is the backbone of educational instruction, the [speech-language pathology] goal area is especially important." P 17.

9. The Student requires two to three hours per week of speech and language services to help him with phonology, semantics, vocabulary, memory, auditory processing, and other speech and language skills that impact his learning. T of
10. The IEP revision from March 4, 2008, states, with regard to speech and language, that the Student "communicates well with peers and adults. Student has difficulty with phonological awareness, understanding inferences, sequencing and summarizing information." P 11, R 3.
11. The IEP revision from March 4, 2008, states, with regard to social, emotional, and behavioral areas, the Student "is eager to learn and is respectful to authority figures. [Student's] immaturity, impulsivity low frustration tolerance and distractibility impacts his learning." P 11, R 3. The IEP had no goals related to social, emotional, and behavioral skills. P 11, R 3. During the later part of the

current school year the Student has begun skipping class and being disrespectful to teachers. T of P, T of P, P 14. Older students, who lack the skills necessary to perform well in class, are at a higher risk to act out behaviorally. T of P The Student is currently very uncomfortable at school and with school staff. T of P, T of P. T of P.I.⁴

12. The Student requires a learning structure where he is closely monitored and held accountable for his actions. T of P.I. His poor reading skills create considerable frustration for him which he is not readily able to tolerate. T of P.I. The Student requires positive reinforcement as he wants to be recognized for his accomplishments. T of P.I. There are not adequate staff at to provide the special education and related services the Student requires. T of P.I. Dr. P.I., the school's clinical psychologist, provided a list of 14 recommendations for special education and related services programming in her May 8, 2008, psychological assessment report.
13. No written notices of proposals and refusals in the IEP were provided as evidence of the Respondent's rationale for its proposals and refusals.
14. The IEP, revised March 2009, does not include appropriate measurable post-secondary goals based upon age appropriate transition assessments. P 13. None of the three purported post-secondary goals are measurable and at least one,

⁴ The IHO finds the testimony of P.I. particularly credible because she has provided weekly counseling to the Student for the last two years and interacts with him more consistently than even the Petitioner, who is his surrogate parent, not a foster parent. She is also an employee of the Respondent.

concerning post-secondary education and training, is not based on an assessment.

P 13.

15. The Student has been accepted to attend P 20.

is a special education day school for children with learning disabilities.

T of T.S., P 21. There are approximately ten to twelve students per class. T of

T.S., P 21. In addition to specially designed instruction, there are related services offered including speech and language services and one on one or group therapy.

P 21. One form of specially designed instruction offered for students with reading disability is the system of intensive one-on-one instruction. T of

T.S. The approach is sought by the Petitioner. T of P.

IV. CONCLUSIONS OF LAW

1. Federal regulations at 34 C.F.R. § 300.17 define a free appropriate public education (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 SEA, including the requirements of this part;

(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and

(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324.

2. One component of special education is specially designed instruction. The Federal Regulations at 34 C.F.R. § 300.39(b)(3) states:

Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction —

- (i) To address the unique needs of the child that result from the child's disability; and
- (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

3. The District of Columbia has educational standards in many areas including, but not limited to, mathematics and reading and English language arts. *See:*

<http://www.seo.dc.gov/seo/cwp/view,a,1222,q,561249,PM,1,seoNav,%7C31195%7C.asp>.

4. An IEP must include the following components:

- (1) A statement of the child's present levels of academic achievement and functional performance, including —
 - (i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
 - (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
- (2)(i) A statement of measurable annual goals, including academic and functional goals designed to —
 - (A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
 - (B) Meet each of the child's other educational needs that result from the child's disability;
- (ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;
- (3) A description of —
 - (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and
 - (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- (4) A statement of the special education and related services and supplementary aids and services, based on peer reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child —
 - (i) To advance appropriately toward attaining the annual goals;
 - (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and
 - (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;

(6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and

(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why —

(A) The child cannot participate in the regular assessment; and

(B) The particular alternate assessment selected is appropriate for the child; and

(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

34 C.F.R. § 300.320(a).

5. District of Columbia law additionally requires, with regard to IEP goals:

A statement of measurable annual goals, including benchmarks or short-term objectives related to:

(1) Meeting the child's needs that result from the child's disability, to enable the child to be involved in and progress in the general curriculum; and

(2) Meeting each of the child's other educational needs that result from the child's disability.

D.C. Mun. Regs. tit. 5, § 3009.1(c).

6. Before a Student turns 16 years of age the IEP must include:

(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

34 C.F.R. § 300.320(b).

7. The statements of present levels of academic achievement and functional performance are inadequate because they do not describe how the Student's learning disability affects his involvement in and progress in the general curriculum. For example, for mathematics the purported "impact" is "[Student's] weakness in math concepts and applications impacts his academic progress." This

statement is no more informative than the knowledge that the Student has an IEP due to a disability. The statement for math does tell the reader the Student's current grade level of functioning, which is important to know, but one cannot discern *why* the Student is behind. Thus, the development of appropriate measurable goals may be impossible. If goals do exist, as they do in this case, they are suspect. In fact, the goals in the 2009 IEP revision are so vague as to have applicability to any student in almost any grade, whether they are disabled. The statements of academic achievement in the March 2009 revision of the IEP tell the reader nothing more than the Student's grade level performance. The reader is left to assume these academic deficits are the result of a disability as opposed to some other factor. Furthermore, the statements of the Student's present levels of functional performance are completely absent. Thus, the statements of the Student's present levels of academic achievement and functional performance (or lack thereof) do not state how the Student's disability affects his involvement and progress in the general curriculum.

8. The IEP lacks annual goals that meet the Student's needs that result from his disability to enable him to be involved in and make progress in the general education curriculum. By expecting only one year of growth, each academic goal falls far short of the requirement to enable the Student to be involved in and make progress in the general education curriculum because the Student performs at an early elementary school grade level in the core academic areas of reading, writing, and math. One year of growth will not close the gap between the educational standards (defining what the Student is expected to know and be able to do) in

reading, math, and writing and what his current level of academic performance is.⁵ “With regard to the alignment of the IEP with the State’s content standards, § 300.320(a)(1)(i) clarifies that the general education curriculum means the same curriculum as all other children. Therefore, an IEP that focuses on ensuring that the child is involved in the general curriculum will necessarily be aligned with the State’s content standards.” Fed. Reg. Vol. 71, No. 156, Monday, August 14, 2006, p. 46662. Thus, more aggressive goals, for this Student who is so far behind yet not severely disabled, and the services necessary to propel the Student to reach them are required.

9. The lack of any benchmarks or short-term objectives violates the requirements of local law with regard to IEP content and fails to provide a gauge of the Student’s progress toward reaching each annual goal. *See*, Fed. Reg. Vol. 71, No. 156, p. 46663 (Monday, August 16, 2006) (“[B]enchmarks and short-term objectives were originally intended to assist parents in monitoring their child’s progress toward meeting the child’s annual goals[.]”). In fact, the revised IEP lacks any description of how the Student’s progress toward the annual goals will be measured, as required by 34 C.F.R. § 300.320(a)(3). Proper monitoring of progress which can lead to programming changes cannot occur without some form of required measures.

⁵ Some students are so severely disabled they cannot reasonably be expected to perform at grade level even with special education and related services. These students are so identified by their IEP teams and their educational progress is measured using alternate assessments based on alternate or modified academic achievement standards, if adopted by the State. *See*, 34 C.F.R. §§ 300.160, 300.320(a)(2)(ii), and 34 C.F.R. § 200.1(e)(2)(iii).

10. The Student's need for speech and language services was not appropriately addressed and denied the Student a FAPE. The speech and language assessment conducted in 2008 demonstrates that the evaluator either did not fully comprehend the relationship between the Student's speech and language issues and his ability to read (thus, his ability to succeed in his grade-level curriculum) or did not make the effort to make the analysis. Furthermore, given this important relationship (speech and language to reading is a well known relationship in the education field) it was imperative for the educational authorities to ensure the Student was participating in speech and language services. By essentially making speech and language services optional for the Student by not requiring and ensuring his participation, the Respondent left the Student behind educationally. There seems to have been no genuine concern to elevate the Student's reading skills to a level that would provide him with access to the general curriculum for his grade level. No IEP team meeting was called to review and revise the IEP to address his behavior of refusing to participate. Furthermore, dropping speech and language services for this Student effectively deprived him of his primary opportunity to learn to read and, thus, be involved in and progress in the general curriculum. The Student continues to require intensive speech and language services.
11. The IEP does not include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and independent living skills. This failure deprives the IEP, thus the Student, from a direction for which his education is driving him.

12. A child's placement must be determined at least annually, be based on the IEP, and be as close as possible to the child's home. 34 C.F.R. § 300.116(b). "Unless the IEP requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled." 34 C.F.R. § 300.116(c). "In selecting the [least restrictive environment] LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs[.]" 34 C.F.R. § 300.116(d).
13. The Student's placement at _____ is not appropriate to meet his needs because there are not sufficient staff to provide the services necessary and because the Student has become significantly frustrated with some of the staff whose services are essential to meeting his needs. These harmful effects preclude continued attendance in this placement.
14. Because the Student continues to read at a low elementary level, despite being provided special education and related services in the Respondent's schools for several years, placement at a specialized private school, such as _____

_____ is appropriate to implement the IEP which must be revised pursuant to this order. There is not sufficient evidence to require the provision of a specific reading or teaching methodology, such as _____. This does not preclude the IEP team from determining _____ is appropriate specially designed instruction for the Student.

V. DECISION

The Student has been denied a free appropriate public education. The Student's IEP is not reasonably calculated to provide educational benefit and the Student's failure to progress in the general education curriculum requires a revised IEP. The Student's placement is not appropriate to meet his needs and he requires a more segregated specialized special education setting in order to aid him in learning the skills necessary to be involved in and progress in the general education curriculum.

VI. ORDER

1. The Respondent must convene the IEP team no later than June 5, 2009. The Respondent must provide the Petitioner with at least three alternative times to meet (not all consecutive) and inform her of the date the IEP team will meet if she fails to select one of the proposed times. Her attorney must be copied on any correspondence or other notices sent or delivered to the Petitioner, unless directed otherwise by the Petitioner. A staff person from _____ must be invited to, and attend, the IEP team meeting as well. If a _____ staff member does not agree to attend the IEP team meeting, the Respondent may contact another, comparable, special education day school and invite that school to send a staff member to the IEP team meeting.
2. The IEP team must revise the IEP consistent with the findings and conclusions of this Hearing Officer's Decision (HOD) including but not limited to:
 - A) Statements of present levels of academic achievement and functional performance including how the Student's disability affects his involvement in and

progress in the general education curriculum (the same curriculum as for nondisabled children)(these statements must provide a clear picture of all the ways the Student's disability affects his involvement in and progress in the general education curriculum, including those that are indirectly attributable to his learning disability, such as behavior);

B) Measurable annual academic goals, including short-term objectives or benchmarks, designed to meet his needs that result from his disability to enable him to be involved in and make progress in the general education curriculum and meet each of his other educational needs that result from his disability (the goals must be specific and measurable and expect a level of progress greater than one year of progress expected for a typical student functioning at grade level);

C) A description of how the Student's progress toward meeting the annual goals will be measured and when periodic reports on the progress he is making toward meeting the annual goals will be provided (this may be handled by a reference to the benchmarks or short-term objectives if those include sufficient information to meet this requirement);

D) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the Student, or on behalf of the Student, and a statement of the program modifications or supports for school personnel that will be provided to enable the Student to advance appropriately toward attaining the annual goals and to be involved in and make progress in the general education curriculum (The IEP must incorporate the 14 recommendations made in the May 2008 psychological

assessment report) as well as the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications (specifically, but not exclusively, the speech and language services must be provided for at least 2.5 hours per week, and all specially designed instruction and related services must be provided on an extended school year (ESY) basis for the next calendar year and subsequently or until the Student is involved in and progressing in the general curriculum and the IEP team determines ESY is no longer required); and

E) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and independent living skills (this will require the completion of said assessments not yet completed, which are hereby authorized).

All IEP requirements not specifically mentioned here must also be adhered to.

3. If the Petitioner believes the resulting proposed IEP has not complied with this order, she is directed to enforce this order, including by filing a complaint with the Office of the State Superintendent of Education pursuant to 34 C.F.R. §§ 300.151-300.153.
4. The Student's placement will be changed to a special education day school beginning June 15, 2009, or sooner if agreed to by the IEP team.

will be given first opportunity to be a placement for the Student, in accordance with this order.

IT IS SO ORDERED.

Dated this 15th day of May, 2009.

A handwritten signature in black ink, appearing to be 'Jim Mortenson', written over a horizontal line.

Jim Mortenson, Esq.
Office of the State Superintendent of Education
Independent Hearing Officer

NOTICE OF APPEAL RIGHTS

The decision issued by the Hearing Officer is final, except that any party aggrieved by the findings and decision of the Hearing Officer shall have 90 days from the date of the decision of the hearing officer to file a civil action with respect to the issues presented at the due process hearing in a district court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. §1415(i)(2).