District of Columbia
Office of the State Superintendent of Education

Student Hearing Office
810 First Street, N.E., Suite 2001
Washington, DC 20002

STUDENT[1], **By and through PARENT,** *Petitioner,*	Case No. 2012-0369
	Impartial Hearing Officer: Charles M. Carron
	Date Issued: July 6, 2012
v.	
	Representatives:
DISTRICT OF COLUMBIA PUBLIC SCHOOLS, *Respondent.*	Marlon Charles for Petitioner
	Victoria Healy for Respondent

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OSSE STUDENT HEARING OFFICE

HEARING OFFICER DETERMINATION

I. PROCEDURAL BACKGROUND

This is a Due Process Complaint ("DPC") proceeding pursuant to the Individuals with Disabilities Education Act ("IDEA"), as amended, 20 USC §§1400 *et seq.*

The DPC was filed May 15, 2012, on behalf of Student, who resides in the District of Columbia, by Petitioner, Student's Parent, against Respondent, District of Columbia Public Schools.

[1] Personally identifiable information is attached as Appendix A to this decision and must be removed prior to public distribution.

On May 17, 2012, the undersigned was appointed as the Impartial Hearing Officer ("IHO").

On May 25, 2012, Respondent timely filed its Response, stating that Respondent has not denied Student a free appropriate public education ("FAPE").

A Resolution Meeting was held on May 29, 2012, but it failed to resolve the Complaint. The statutory 30-day resolution period ended on June 14, 2012. The 45-day timeline for the Hearing Officer's Determination started to run on June 15, 2012 and will conclude on July 29, 2012.

The undersigned IHO held a Prehearing Conference ("PHC") by telephone, on June 7, 2012, at which the parties discussed and clarified the issues and the requested relief. At the PHC, the parties agreed that five-day disclosures would be filed by June 21, 2012 and that the Due Process Hearing ("DPH") would be held on June 28, 2012.

No motions were filed by either party and the DPH was held on June 28, 2012 at the Student Hearing Office, 810 First Street, NE, Room 2003, Washington, DC 20002. Petitioner elected for the hearing to be closed.

At the DPH, the following Documentary Exhibits were admitted into evidence without objection: Petitioner's Exhibits P-1 through P-11; Respondent's Exhibits R-1 through R-8; and IHO Exhibits HO-1 through HO-7.

The following Witnesses testified on behalf of the parties at the DPH: Petitioner's Witnesses: Parent and Derek Marryshow, Psychologist/Educational Advocate; and Respondent's Witness, Benjamin H. Persett, Program Manager, DCPS Office of Special Education.

The parties made oral closing arguments and did not file written closing arguments or briefs.

II. JURISDICTION

The DPH was held pursuant to the IDEA, 20 U.S.C. §1415(f); IDEA's implementing regulations, 34 C.F.R. §300.511, and the District of Columbia Code and Code of D.C. Municipal Regulations, *see* DCMR §§ 5-E3029 and E3030. This decision constitutes the Hearing Officer's Determination ("HOD") pursuant to 20 U.S.C. §1415(f), 34 C.F.R. §300.513, and §1003 of the *Special Education Student Hearing Office Due Process Hearing Standard Operating Procedures.*

III. CIRCUMSTANCES GIVING RISE TO THE COMPLAINT

The circumstances giving rise to the Complaint are as follows:

The Student is female, Current Age, and attends Current Grade at a public school (the "Attending School"). The Student has been determined to be eligible for special education and related services as a child with a disability, Emotional Disturbance (ED), under the IDEA.

Petitioner claims that Respondent has denied Student a FAPE by failing to provide "wrap-around services" and a case manager. Respondent asserts, *inter alia*, that Respondent has provided all of the services required by the Student's Individualized Education Program ("IEP"), and that the Student's IEP provides a FAPE.

IV. ISSUE

As confirmed at the PHC and in opening statements at the DPH, the following issue was presented for determination at the DPH: "Subsequent to December 1, 2011, did Respondent deny the Student a FAPE by failing to provide her with wrap-around services and a case manager (*i.e.,* those services specified by Petitioner's counsel in the

statement served on Petitioner's counsel and the Hearing Officer on or about June 14, 2012)?"[2]

V. RELIEF REQUESTED

Petitioner requests the following relief:[3]

1. "wrap-around services";
2. services of a case manager; and
3. compensatory education, in the form of the Rites of Passage and summer youth camp programs provided by the Empowerment Center.

VI. FINDINGS OF FACT

1. Student is a female, Current Age. P-1-1.[4]

2. Student is in Current Grade. *Id.* [5]

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[2] In response to the Prehearing Order requiring Petitioner to specify these "wrap-around services and case management," on June 14, 2012, Petitioner filed a copy of a press release dated October 1, 2009 (subsequently introduced into evidence as P-7). That press release, entitled "Mayor Fenty Announces Accomplishments, New Initiatives in Special Education," contains a paragraph describing a partnership between Respondent and First Home Care: "an organization specializing in behavioral support for at-risk youth, to assist students transitioning from restrictive education environments to District public schools. FHC acts as a liaison between DCPS, parents, and schools to ensure a successful transition. The partnership provides students with wrap-around services and monitors each student's progress upon entry into their new school." That was the extent of Petitioner's description of the services and case management that Petitioner asserts Respondent failed to provide to the Student.

[3] In the DPC, Petitioner also requested an order that Respondent place the student in, and fund, a private residential school; however, Petitioner withdrew this request at the PHC.

[4] When citing exhibits, the third range represents the page number within the referenced exhibit, in this instance, page 1.

[5] However, other exhibits, P-2-1 and R-7-1, indicate that Student is in the next higher Grade. Student's Grade is not material to the issue in this case.

3. Student has been determined to be eligible for special education and related services under the IDEA as a child with Emotional Disturbance. *Id.*

4. During the 2009-2010 and 2010-2011 school years, Student attended a residential program, did not abscond, and earned all As and Bs. Parent's Testimony; R-1-4.[6]

5. At the end of the 2010-2011 school year, the staff at the residential school, Respondent's representatives, and Parent agreed that Student could "step down" from the residential placement to a less restrictive setting. R-1-4.

6. At the beginning of the 2011-2012 school year, Student began attending School W. R-1-5. Within the first two weeks, she began to regress. *Id.*

7. On October 4, 2011, Respondent convened a meeting with Parent to discuss Student's placement and location of services. *Id.*[7] Respondent offered three placements[8]: School X, School Y, and the Attending School. *Id.* Respondent offered "wrap-around services." *Id.* [9]

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[6] This finding of fact, and others citing Respondent's Exhibit 1, are taken from the HOD dated December 8, 2011, in a previous DPC proceeding involving the same parties. Whether or not the undersigned IHO would have made different findings of fact based upon the evidence presented in the instant case, the undersigned declines to permit re-litigation of findings of fact in the prior HOD.

[7] From the context of this finding of fact, it appears that the IHO meant that the October 4, 2011 meeting concerned alternative sites of service based upon the placement and location already set forth in Student's IEP. This distinction is not material to the outcome of the instant proceeding.

[8] It is apparent that the IHO meant sites. This distinction is not material to the outcome of the instant proceeding.

[9] The HOD does not specify the "wrap-around services," does not address whether the unspecified "wrap-around services" were offered at Respondent's expense, and does not state whether such services were offered to provide Student a FAPE.

8. Parent did not make a selection among the three schools offered on October 4, 2011, because she maintained that Student required a residential placement. Persett Testimony.

9. On October 25, Respondent issued a prior written notice for Student to attend School X. R-1-6.

10. As of December 1, 2011, Student did not require a residential placement. R-1-8.

11. As of December 1, 2011, School X was an appropriate site for Student. R-1-12.

12. Parent declined to allow Student to attend School X because School X is 40 miles from Parent and Student's home, which would make it difficult for Parent to get to the school during the workday if needed. Parent's Testimony; R-3-1.

13. On December 28, 2011, Respondent offered Attending School as an alternative site, and Parent accepted. *Id.*; P-2-1.

14. Parent believed that Respondent would fund "wrap-around services" to be provided to Student by First Home Care or another private contractor. Parent's Testimony. Parent did not know what "wrap-around services" Respondent would provide. *Id.*

15. Parent uses the term "wrap-around services" to mean social services, therapeutic services, guidance, assistance staying focused, support fostering positive behavior, and help with attendance, both at school and out of school, and provided by an external "agency." *Id.*

16. Dr. Marryshow uses the term "wrap-around services" to mean services that a student receives in transition from a more restrictive placement to a less restrictive placement, such as case management, counseling to address issues around attendance, assisting the student integrate into the community, going to the student's home to pick the student up and take the student to school, and assisting in resolving family issues. Marryshow Testimony.

17. Parent believed that Respondent would fund and provide an "individual case manager" for Student, who would come to Parent/Student's home to take Student to school and otherwise assist Student in and out of school to make a successful transition from her prior residential placement to Attending School. Parent's Testimony.

18. Student's IEPs never have included any reference to "wrap-around services." P-1; Parent's Testimony; Marryshow Testimony.

19. Student's most recent IEP, dated November 23, 2011, states the special education and related services required by the Student as follows: (a) Special Education Services: 30 hours per week of specialized instruction education services outside general education; and (b) Related Services: 3 hours per week of behavior support services outside general education. P-1-6.

20. It is Respondent's practice to list the services that are needed for a student to receive a FAPE on that student's IEP. Testimony.

21. Student has not had an evaluation in which the evaluator recommended "wrap-around services," although evaluations of students do sometimes recommend such services. Marryshow Testimony.

22. Respondent provided Student a case manager, who is employed by First Home Care. Persett Testimony. primary role is to assist students in making the transition from more restrictive to less restrictive placements. *Id.* assists students in dealing with truancy issues. *Id.*

23. Respondent never stated that "wrap-around services" would be provided to Student at Respondent's expense in support of Student's FAPE. *Id.*[10]

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[10] Much of the testimony at the DPH concerned whether or not Respondent had promised to provide "wrap-around services" to Student. Parent testified that used the term "wrap-around services" in October 2011. However, she acknowledged a lack of specific recall of the conversation. Dr. Marryshow testified that Mr. Persett sent an email in November 2011 offering three choices of schools and stating that the placement would be with "wrap-around services." The email was not introduced into evidence. testified that he does not use the term "wrap-around services" when referring to educational programming or to services required to provide a student a FAPE. While the undersigned believes that Parent and Dr. Marryshow were testifying to the best of their recollection, the undersigned credits categorical denial that he uses the phrase "wrap-around services" in connection with educational programming and services required to provide a student a FAPE, particularly because clearly explained in his testimony the distinction between services funded by Respondent when required to provide a FAPE and services that may be funded by other entities and provided for other reasons such as abscondance, mental health, and community needs. Thus, in October and November, 2011, the parties apparently were talking past each other. Parent and Dr. Marryshow apparently believed that if Parent agreed to one of the three schools offered by Respondent, Respondent would fund a suite of services by First Home Care with which Dr. Marryshow was familiar based upon his experience with other students. On the other hand, Respondent apparently believed such services were not required to provide Student a FAPE, yet offered to "link" Parent and Student to First Home Care or other "core service agencies" to meet non-FAPE needs such as community reintegration and home conflict resolution, without committing Respondent to fund such services. Consistent with testimony, Parent testified that in late December 2011, advised Parent that she would assist in coordinating services for Student, including "wrap-around services." Parent interpreted statement regarding "coordinating" services to mean that Respondent definitely would fund "wrap-around services" to be provided by First Home Care or another private contractor. In response to questioning by the undersigned, Parent acknowledged that only stated that she would "look into" services and "get back to" Parent; that she would "get the process started." Notwithstanding, Parent's understanding was that "wrap-around services" would be implemented, regardless of what said. Parent's inference was unreasonable based upon the record evidence.

24. Attending School provided Student a counselor. Parent's Testimony; Marryshow Testimony.

25. Student had significant attendance problems at Attending School. *Id.*; R-4-2; R-5. She sometimes would not attend school; she sometimes would go to school but leave without permission. Parent's Testimony.

26. Student's grades at Attending School were significantly lower than her grades at her prior residential school. *Id.* In the prior residential school, Student earned all As and Bs. R-7-1. At the Attending School, Student failed Spanish I, Algebra II-B and Trig 1.0, and Extended Literacy 10; and she earned Cs and Ds in her remaining courses. *Id.*

27. At the Attending School, Student sometimes did not turn in her work. P-4; R-4-2.

28. At the Attending School, Student fell asleep from working on class work. *Id.* When she feel asleep, she was prompted and redirected to stay awake but refused to wake up and be productive. *Id.*

29. On March 6, 2012, advised Parent that because Student did not qualify for Medicaid, "wrap-around services" would not be provided by First Home Care. Parent's Testimony; P-4-1. suggested that Parent go through her insurance to look into support services for Student (R-4-2) but Parent's insurance does not cover "wrap-around services" (P-4). offered to connect Parent with a mentor for Student. Parent's Testimony; Marryshow Testimony; P-4; R-4-3.

30. On March 6, 2012, Respondent agreed to provide school bus transportation, and to conduct a Functional Behavioral Assessment ("FBA") and Behavior Intervention Plan ("BIP") for Student to address her attendance and behavior issues. P-3-1; P-4;

R-4-3.

31. On March 6, 2012, Respondent agreed to conduct the Woodcock Johnson III achievement assessment for Student. *Id.*

VII. BURDEN OF PROOF

In a special education DPH, the burden of persuasion is on the party seeking relief. DCMR 5-E3030.3; *Schaffer v. Weast,* 546 U.S. 49 (2005). Through documentary evidence and witness testimony, the party seeking relief must persuade the IHO 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).

VIII. CREDIBILITY

1. The undersigned found Parent to be truthful. However, her testimony was unreliable for a number of reasons: (a) As she acknowledged, Parent lacked detailed recollection of many events. She gave inconsistent testimony as to the dates of various meetings. Moreover, she stated she had not seen Student's most recent IEP, which the undersigned finds unlikely because Dr. Marryshow attended the IEP meeting as Student's advocate and either he or Petitioner's counsel could be expected to have shared the IEP with Parent. (b) Parent made numerous assumptions that were not based on objective facts or representations by Respondent. For example, Parent assumed that "wrap-around services" would be provided regardless of what Student's case manager said and that "wrap-around services" always were to be provided by an private contractor rather than by employees of Respondent. (c) In responding to questions from Petitioner's

counsel, Respondent's counsel, and the undersigned, Parent frequently was nonresponsive (*e.g.*, when asked whether she refused to enroll Student in School X, Parent repeatedly failed to give a straight answer). Accordingly, where Parent's testimony and other evidence are in conflict, the undersigned has given more weight to the other testimony and documentary evidence.

2. The undersigned was not persuaded by the testimony of Dr. Marryshow. Dr. Marryshow, who was qualified as an expert in child psychology,[11] testified that the Student had experienced social-emotional regression and attributed that alleged regression to the lack of "wrap-around services" while Student has been attending Attending School. Dr. Marryshow also testified that Student's alleged social-emotional regression caused her truancy problem, which in turn caused her academic failures. However, Dr. Marryshow testified that he did not conduct any testing or evaluation of Student, did not review any psychological evaluation of Student more current than her 2009 comprehensive psychological evaluation (P-5), and saw Student only briefly in passing on one occasion since she began attending Attending School. Dr. Marryshow acknowledged that he could not measure Student's social-emotional regression or its "behavioral impact." Accordingly, the undersigned finds that Dr. Marryshow did not have a sufficient factual basis for his expert conclusions as to the existence, extent, cause or consequences of Student's alleged social-emotional regression.

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[11] Petitioner also sought to qualify Dr. Marryshow as an expert in school psychology, child learning psychology, special education and compensatory education plans, to which Respondent objected. In view of the lack of any factual basis in the record for an expert opinion by Dr. Marryshow, it is not necessary to determine whether he also should be found to be an expert in those areas.

3. With regard to Dr. Marryshow's compensatory education plan,[12] upon questioning by the undersigned, Dr. Marryshow acknowledged that this plan would not remediate Student's academic deficits allegedly caused by her truancy. Dr. Marryshow's subsequent testimony that the compensatory education plan would remediate the Student's social-emotional regression and better prepare her to access education in the next school year suffers the same lack of factual basis as his conclusions that there was such a regression and that it was caused by a lack of "wrap-around services."

4. Finally, Dr. Marryshow's testimony that "wrap-around services" provided and funded by Respondent to provide a student a FAPE typically are documented in IEP Team meeting notes, rather than in the IEP itself (a) was not supported by any documentary examples, (b) is inconsistent with IDEA and its implementing regulations, (c) was contradicted by Mr. Persett's testimony, and (d) is counterintuitive. Accordingly, the undersigned has given no weight to Dr. Marryshow's testimony on this point.

5. The undersigned found Mr. Persett to be entirely credible and reliable.

IX. CONCLUSIONS OF LAW

Purpose of the IDEA

1. The IDEA is intended "(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living [and] (B) to ensure that the rights of

[12] Specifically, Dr. Marryshow recommended the Empowerment Center's Rites of Passage summer program. P-6. This program builds self-esteem to assist students in resisting negative peer pressure; assists students in setting and achieving goals; and comprises field trips. Marryshow Testimony.

children with disabilities and parents of such children are protected…" 20 U.S.C. § 1400(d)(1). *Accord*, DCMR 5-E3000.1.

FAPE

2. The IDEA requires that all students be provided with a FAPE. FAPE means:

> special education and related services that –
>
> > (A) have been provided at public expense, under public supervision and direction, and without charge;
> >
> > (B) meet the standards of the State educational agency;
> >
> > (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and
> >
> > (D) are provided in conformity with the individualized education program required under section 1414(d) of this title.

20 U.S.C. §1401(9); *see also*, 34 C.F.R. §300.17 and DCMR 5-E3001.1.

IEP

3. The "primary vehicle" for implementing the goals of the IDEA is the individualized education program ("IEP") which the IDEA "mandates for each child." *Harris v. District of Columbia*, 561 F. Supp. 2d 63, 65 (D.D.C. 2008) (citing *Honig v. Doe*, 484 U.S. 305, 311-12 (1988)).

4. The IDEA defines IEP in relevant part as follows:

> (i) In general The term "individualized education program" or "IEP" means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—
>
> > (I) a statement of the child's present levels of academic achievement and functional performance, including—

(aa) how the child's disability affects the child's involvement and progress in the general education curriculum;

* * *

(II) a statement of measurable annual goals, including academic and functional goals, designed to—

(aa) 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

(bb) meet each of the child's other educational needs that result from the child's disability;

* * *

(IV) a statement of the special education and related services[13] 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 for the child—

(aa) to advance appropriately toward attaining the annual goals;

(bb) to be involved in and make progress in the general education curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and

(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this subparagraph;

(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications . . . .

20 U.S.C. §1414(d)(1)(A).

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[13] "Related services" is defined in 20 U.S.C. § 1401(26) to include "such developmental, corrective, and other supportive services (including . . . psychological services, ... social work services, ... counseling services ...) as may be required to assist a child with a disability to benefit from special education."

5. "Wrap-around services" is not a term used in the IDEA, 20 U.S.C. §1400 *et seq.* or IDEA's implementing regulations, 34 C.F.R. Part 300.

6. To be sufficient to provide FAPE under the IDEA, an "IEP must be 'reasonably calculated' to confer educational benefits on the child ... but it need not 'maximize the potential of each handicapped child commensurate with the opportunity presented non-handicapped children.'" *Anderson v. District of Columbia*, 606 F. Supp. 2d 86, 92 (D.D.C. 2009), quoting *Board of Ed. of Hendrick Hudson Central School Dist., Westchester Cty. v. Rowley,* 458 U.S. 176, 200, 207 (1982)("*Rowley*").

> [T]he "basic floor of opportunity" provided by the Act consists of access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child.

Rowley, 458 U.S. at 201.

7. The Local Educational Agency ("LEA") "has ultimate responsibility to ensure that the IEP includes the services that the child needs in order to receive FAPE." *Schoenbach v. District of Columbia,* 36 IDELR 67, 106 LRP 46342 (D.D.C. 2006). IEP decisions are not made by majority vote. Rather, "[i]f the team cannot reach consensus, the public agency must provide the parents with prior written notice of the agency's proposals or refusals, or both, regarding the child's educational program, and the parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing." *Id., citing* 34 C.F.R. Part 300, Appendix A -- Notice of Interpretations, 64 Fed. Reg. 12,473 (1999).

8. Student's IEP does not mention any of the services sought by Petitioner; accordingly, Respondent has not failed to provide the services in the IEP.

9. Even if the DPC is read broadly as challenging the adequacy of Student's IEP due to the omission of "wrap-around services" and an "individual case manager"—presumably under the category of "related services"—Petitioner still failed to meet the burden of establishing the necessity of those services for Student to receive a FAPE. There is no factual basis in the record to conclude that Student's truancy, absconding, and other behavioral problems resulted from the lack of "wrap-around services" and "individual case manager" Parent sought versus the counselor and case manager that Respondent provided to Student.[14]

10. The services specified in Student's latest IEP are reasonably calculated to provide her with educational benefit and therefore are sufficient to provide her a FAPE, without the "individual case manager" and "wrap-around services" sought by Parent.

Compensatory Education

11. Because the undersigned finds no denial of FAPE, the issue of compensatory education is moot.[15]

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[14] Petitioner and Dr. Marryshow may be correct that Student's truancy, absconding and misbehavior were due to her disability; that she would not have been truant, absconded, or misbehaved to the same extent if she had been provided with additional support services; and that she would not have regressed academically if she had not been truant, absconded, or misbehaved. However, the burden is on Petitioner to establish these causal relationships by a preponderance of competent evidence, not by mere conjecture.

[15] However, even if there were a denial of FAPE, the compensatory education requested by Petitioner would be denied. Compensatory education must be qualitative, fact-intensive, and "above all tailored to the unique needs of the disabled student." *Branham v. District of Columbia*, 427 F.3d 7 (D.C. Cir. 2005). Compensatory awards "should aim to place disabled children in the same position they would have occupied but for the school district's violation of IDEA." *Reid v. District of Columbia*, 401 F.3d 516, 521-24 (D.C. Cir. 2005). The hearing officer must base a compensatory education award on evidence regarding the student's "specific educational deficits resulting from his loss of

X. ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby ORDERED:

Petitioner's Due Process Complaint dated May 15, 2012, is dismissed in its entirety, with prejudice.

Dated this 6th day of July, 2012.

Charles Carron
Impartial Hearing Officer

FAPE and the specific compensatory measures needed to best correct those deficits." *Stanton v. District of Columbia*, 680 F. Supp. 2d 201, 206-207 (D.D.C. 2010). A student who was denied a FAPE may not be entitled to an award of compensatory education because "the services requested, for whatever reason, would not compensate the student for the denial of a FAPE." *Gill v. District of Columbia*, 751 F. Supp. 3d 104, 44 IDELR 191 (D.D.C. 2010)). When, as in the instant case, Petitioner's request for compensatory education is "untethered" to the student's "educational deficit or to the necessary and reasonable education reasonably calculated to elevate [the student] to the approximate position he would have enjoyed had he not suffered the denial of FAPE," the hearing officer cannot award compensatory education. *Id.* In his oral closing, Petitioner's counsel characterized Dr. Marryshow's compensatory education plan as "holistic," apparently conceding that it was not calculated to correct the Student's specific educational deficits allegedly resulting from her alleged denial of FAPE.

NOTICE OF APPEAL RIGHTS

The decision issued by the Impartial Hearing Officer is final, except that any party aggrieved by the findings and decision of the Impartial Hearing Officer shall have 90 days from the date of the decision of the Impartial 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).