

**District of Columbia**  
**Office of the State Superintendent of Education**  
Office of Dispute Resolution  
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<b>Parent, on behalf of Student,<sup>1</sup></b>	)	<b>Room: 2003</b>
	)	
<b>Petitioner,</b>	)	<b>Date Issued: August 17, 2015</b>
	)	
<b>v.</b>	)	<b>Case No.: 2015-0192</b>
	)	
<b>District of Columbia Public Schools,</b>	)	<b>Hearing Dates: August 4, 5, 2015</b>
	)	
<b>Respondent.</b>	)	<b>Hearing Officer: Michael Lazan</b>

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**HEARING OFFICER DETERMINATION**

**I. Introduction**

This is a case involving a [REDACTED] year old student who is eligible for services as a student with a Specific Learning Disability. (“the Student”)

A Due Process Complaint (“Complaint”) was received by District of Columbia Public Schools (“DCPS” or “Respondent”) pursuant to the Individuals with Disabilities Education Act (“IDEA”) on June 3, 2015 in regard to the Student. On June 19, 2015, Respondent filed a response. A resolution meeting was held on June 17, 2015. The resolution period expired on July 3, 2015.

**II. Subject Matter Jurisdiction**

This due process hearing was held, and a decision in this matter is being rendered, pursuant to the Individuals with Disabilities Improvement Act (“IDEIA”), 20 U.S.C. Sect. 1400 et seq., its implementing regulations, 34 C.F.R. Sect. 300 et seq., Title 38 of

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<sup>1</sup> Personally identifiable information is attached as Appendix A and must be removed prior to public distribution.

the D.C. Code, Subtitle VII, Chapter 25, and the District of Columbia Municipal Regulations, Title 5-E, Chapter 30.

### **III. Procedural History**

On June 22, 2015, this Hearing Officer held a prehearing conference. Alana Hecht, Esq., counsel for Petitioner, appeared. William Jaffe, Esq. counsel for Respondent, appeared.

A prehearing conference order issued on June 25, 2015 summarizing the rules to be applied and identifying the issues in the case.

Two hearing dates were held, on August 4 and 5, 2015. The HOD was due on August 17, 2015. This was a closed proceeding. Petitioner was represented by Alana Hecht, Esq. Respondent was represented by William Jaffe, Esq. Petitioner moved into evidence Exhibits 1-35. Respondent objected to Exhibit 34 on relevance grounds. This objection was sustained except for page 3 of Exhibit 34. Exhibits 1-33, Exhibit 34 page 3, and Exhibit 35 were admitted. Respondent moved into evidence Exhibits 1-9. There were no objections. Exhibits 1-9 were admitted.

The parties presented closing statements orally, on the record, after completion of testimony on August 5, 2015.

Petitioners presented as witnesses: Witness A, an educational consultant (Expert: Assessment and Program Planning for Students with Disabilities); Witness B, the director of the Washington Nationals Baseball Academy; Witness C, a center director; Witness D, a speech and language pathologist (Expert: Assessment and Program Planning for Students with Disabilities); Petitioner; the Student's grandmother; Witness E, Director,

School B; Witness F, advocate (Expert: Assessment and Program Planning for Students with Disabilities).

Respondent presented no witnesses in this case.

#### **IV. Credibility**

I found all the witnesses credible in this proceeding. There were no material inconsistencies uncovered in connection to any witness, and all witnesses presented their testimony with reasonable candor.

#### **V. Issues**

As identified in the Prehearing Conference Summary and Order and in the Due Process Complaint, the issues to be determined are as follows:

1. Did the IEP dated November 25, 2013 provide for insufficient specialized instruction for the Student? Was this IEP unreasonably calculated, pursuant to Rowley v. Hendrick Hudson CSD? If so, did DCPS deny the Student a FAPE?
2. Did DCPS fail to revise the IEP in June, 2014 based on the Student's lack of progress and interfering behaviors? If so, did DCPS violate 34 CFR Sect. 300.324? If so, did DCPS deny the Student a FAPE?
3. Did the IEP dated October 28, 2014 provide for insufficient specialized instruction for the Student? Was this IEP unreasonably calculated, pursuant to Rowley v. Hendrick Hudson CSD? If so, did DCPS deny the Student a FAPE?
4. Did DCPS fail to revise the IEP in December, 2014 based on the assessment to add a laptop for the Student? If so, did DCPS violate 34 CFR Sect. 300.324? If so, did DCPS deny the Student a FAPE?

5. Did DCPS fail to revise the IEP in April, 2015 based on the Student's lack of progress and interfering behaviors? If so, did DCPS violate 34 CFR Sect. 300.324? If so, did DCPS deny the Student a FAPE?

As relief, Petitioner is seeking placement in separate private day school; an amended IEP in terms of student needs, and compensatory education in the form of Lindamood-Bell instruction. The parties settled the compensatory education remedy prior to the commencement of the hearing on August 4, 2015.

## **VI. Findings of Fact**

1. The Student is a [REDACTED] year old boy who is eligible for services as a student with Specific Learning Disability. (P-12-1)

2. The Student is "very pleasant" and a teacher might not realize that he does not understand the material in class. (Testimony of Witness A)

3. He is especially sensitive about his disabilities. If his weaknesses are highlighted, he will shut down. He does not like to make mistakes in front of others. (Testimony of Witness D)

4. He would "rather be the class clown" than "the class idiot." (Testimony of Witness A)

5. His "basic "self-esteem gets in the way of him doing certain things. (R-3-2)

6. The Student feels his teachers at School A, except Teacher A, did not like him. (Testimony of Witness A)

7. His reading comprehension skills are at the first and second grade levels. (Testimony of Witness A)

8. He has a great deal of difficulty blending sounds. (Testimony of Witness A)
9. He “basically cannot read.” (Testimony of Witness A; Testimony of Witness B)
10. His math skills are low. He cannot do regrouping or basic math. (Testimony of Witness A)
11. When given a writing assignment, he will only write “maybe” one sentence. He is a “primitive” writer. (Testimony of Witness A)
12. In regard to speech, he has a hard time describing a topic, and his responses are sometimes delayed. (Testimony of Witness D)
13. He needs a small class size in order to be able to understand material. (Testimony of Witness A)
14. A teacher needs to stop and check in on him to make sure he understands the material. (Testimony of Witness A)
15. The Student needs frequent breaks. (Testimony of Witness A)
16. He needs graphic organizers to write. (Testimony of Witness A)
17. He needs specific instruction to develop phoneme awareness and symbol imagery. (Testimony of Witness C)
18. He needs individualized and small group instruction. (Testimony of Witness D)
19. He needs access to a speech and language therapist. (Testimony of Witness D)

20. He takes a single bus from his house to School A and back. He knows that route because he has done that for years. He does not know how to use others buses and is not allowed to travel on buses or subways by himself. (Testimony of Petitioner)

21. Testing was conducted of the Student in November, 2011. The testing showed a Full Scale IQ of 73 on the Wechsler Intelligence Scale for Children-IV. On the Woodcock Johnson-III Tests of Achievement, his broad reading cluster score was 54 (very low range, below first percentile), Written language score was 60 (very low range, below first percentile), and broad math score was 83 (low average range). (P-20-9-15)

22. For the 2012-2013 school year, the Student attended School A.  
(Testimony of Petitioner)

23. The IEP dated December 3, 2012 provided the Student with specialized instruction outside general education for three hours per week, and inside general education for six hours per week. Speech-Language pathology and behavioral support services were recommended for 120 minutes per month. (P-4-10)

24. At the time, as stated in the IEP, the Student required “intense” specialized instruction, including a structured program, and instruction that addresses multiple learning styles. He required a program with small group instruction, repeated and simplified directions, extended time, and breaks during instruction, and minimal distractions. (P-4-2, 4, 6)

25. The Student did not make meaningful progress during the 2012-2013 school year. (Testimony of Petitioner)

26. The Student continued at School A for the 2013-2014 school year.  
(Testimony of Petitioner)

27. He was retained as a 6<sup>th</sup> grader because his teacher, Teacher A, wanted him to be held back. (Testimony of Petitioner)

28. The Student continued to do poorly. At the November 25, 2013 IEP meeting, teachers said he was refusing to do assignments and he was not able to do his homework. (Testimony of Petitioner)

29. The IEP dated November 25, 2013 increased services in an incremental fashion. It recommended six hours per week of specialized instruction outside of general education, with nine hours per week of specialized instruction inside general education. The IEP also required repeated and simplified directions, extended time, breaks during instruction, and minimal distractions. (P-5-5, 7)

30. This IEP states that the Student lacks basic math skills, fundamental core reading skills, and basic writing skills. (P-5)

31. There is no language in this IEP indicating that student made progress the previous school year. (P-5)

32. The IEP dated was implemented in the general education classroom with resource room pullout instruction for the instruction “outside general education.” (Testimony of Witness F)

33. An additional meeting was held in June, 2014. (Testimony of Witness F)

34. At the April, 2014 meeting, Teacher A reported that the Student made limited progress in reading but his behavior was poor and he was still only at the first grade level in reading. No changes were made to the IEP. (P-7-3-4; Testimony of Witness F)

35. The Student's grades for the 2013-2014 school year were in the C and D range. (P-14-1)

36. At this time, the Student's teacher, Teacher A, was very concerned about the Student's progress. (Testimony of Witness B)

37. Teacher A initiated contact with the Washington Nationals Baseball Club on behalf of the Student. She was "at a loss" as to what to do. (Testimony of Witness B)

38. The team took interest in the Student and arranged for a program of tutoring and mentoring for him. (Testimony of Witness B)

39. Washington Nationals shortstop Ian Desmond paid for tutoring for the Student. The Student was "very agreeable" and was happy to do the work. Mr. Desmond also provided monthly mentoring to the Student. (Testimony of Witness A; Testimony of Witness B)

40. He would also read together with Witness B, who set up the program for the Student on behalf of the team. (Testimony of Witness B)

41. Testing was conducted of the Student in August, 2014. Testing on the Woodcock-Johnson-III Normative Update Tests of Achievement showed *decreases* from the already very low testing in 2011. The Student's broad reading tested at the extremely low standard score of 38, and the Student's math tested at 68. His brief writing score was 50, and his written expression standard score was 49. (P-22-2)

42. Still, for the 2014-2015 school year, he was promoted to seventh grade and continued to attend School A. (Testimony of Petitioner)

43. He had difficulties in seventh grade. He would walk out of class more, and he “started to give up” on his education. (Testimony of Petitioner)

44. It took several months for Teacher A to deal with his behaviors, which eventually became less extreme. (Testimony of Witness F)

45. The IEP dated October 28, 2014 *decreased* services. It recommended three hours of specialized instruction outside general education, and six hours of specialized instruction inside general education. This IEP contains the same language as the other IEPs in terms of Student needs. (P-8)

46. The IEP team reduced his hours even though teachers basically said that they were not able to meet his needs, his behaviors were out of control, and he was not completing tasks. They reduced the hours because this was “what they could provide.” (Testimony of Witness F)

47. At this meeting, the general education teacher said that the Student could not do the written work. She said he needed a full time general education program, that he was failing everything, and that there was a huge gap between him and his peers. (Testimony of Witness F)

48. Additionally, at this meeting, Teacher A and DCPS Representative A said that DCPS’s SLS program would not be appropriate for the student. (Testimony of Witness F)

49. An Assistive Technology Assessment dated December 8, 2014 found that the Student would benefit from the use of assistive technologies with reading, written expression, and executive functioning. A laptop is recommended, with word processing software, literacy support software, electronic books, and a pencil fidget. (P-27-4)

50. At the MDT meeting on December, 2014, a history teacher stated that the Student could not keep up with the instruction. (Testimony of Witness B)

51. Also at the meeting, the team recommended assistive technology. The IEP was not revised to add assistive technology to the IEP. (Testimony of Petitioner)

52. Another meeting was held on April, 2015 IEP meeting, during which time DCPS representatives said that the SLS program was inappropriate for the student. (Testimony of Witness F)

53. Testing by Witness C on June 26, 2015 showed that the Student continued to score very poorly on standardized tests. On the Woodcock-Johnson Reading Mastery Tests – III, Form A on Word Attack, he scored 57, at the .2 percentile. On the Slosson Oral Reading Test, his standard score was 42, below the first percentile. (P-28)

54. The Student “plateaued” in the 7<sup>th</sup> grade, during the 2014-2015 school year. He made no progress during this school year. (R-3-2)

55. A laptop was provided on the day of the resolution meeting, which was June 17, 2015. (R-3-2)

56. At the resolution meeting, Teacher A said that he did not make any progress during the year. (Testimony of Petitioner)

57. The Student’s grades for the 2014-2015 school year were in the F, D and C range. (P-14-2)

58. At School B, there are 185 students, with 25 students per grade. They are split up according to their academic levels. (Testimony of Witness E)

59. The school specializes in children with specific learning disability and Attention Deficit Hyperactivity Disorder. (Testimony of Witness E)

60. There is a special education teacher in each class, related services in and out of the classroom, and there is a licensed counselor on each floor. (Testimony of Witness E)

61. The school does “sweeps” of the hallways, and students who are in the halls are required to have a pass. (Testimony of Witness E)

62. The Student would be placed in a self-contained 9<sup>th</sup> grade classroom, which currently has five children. It is a program to remediate basic skills. This class is set up for students who are extremely low functioning in reading and math. The average ability is low to high second grade level in the class. The intervention includes work on basic reading and math skills. Word recognition systems, people who serve as readers, and calculators are used. (Testimony of Witness E)

63. Instruction is provided on a multi-sensory basis. (Testimony of Witness E)

64. There is a speech and language pathologist in the class who works hand in hand with the content teacher in English and Social Studies. (Testimony of Witness E)

65. The speech and language therapist provides instruction on writing and vocabulary. (Testimony of Witness E)

66. The school provides Wilson reading instruction. This is a highly structured, routinized, word analysis program. The teacher and the speech and language pathologist are certified in Wilson instruction. It is implemented at the school on a 2-1 or individual basis for thirty minutes in English. (Testimony of Witness E)

67. A token economy system is used for behavior. (Testimony of Witness E)

68. The speech teacher is in the English class every day for ninety minutes and in the history class every day for fifty minutes. (Testimony of Witness E)

69. Four of the core subject teachers have either a special education certification or are certified in both their content area and in special education. (Testimony of Witness E)

70. The school offers a transition class, taught by a guidance counselor, which teaches students how to participate in the development of the IEP, self-advocacy skills, how to identify their style of learning, and career interests. (Testimony of Witness E)

71. The SLS class is a DCPS class for low functioning students, with an emphasis on more functional tasks such as money activities and time telling. (Testimony of Witness F)

72. Other Students from the SLS classes tend to be low functioning. The classes have lunch and specials with non-disabled peers. They serve the 6<sup>th</sup> through the 8<sup>th</sup> grade. (Testimony of Witness F)

## **VII. Conclusions of Law**

Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

The burden of proof in a special education due process hearing lies with the party seeking relief. 5-E DCMR 3030.3; Schaffer v. Weast, 546 U.S. 49 (2005).

The central purpose of the IDEA is to ensure that all children with disabilities have available to them special education and related services designed to meet their unique needs and provided in conformance with a written IEP (i.e., free and appropriate

public education, or “FAPE”). 20 U.S.C. Sects. 1400(d)(1(A), 1401(9)(D), 1414(d); 34 C.F.R. Sects. 300.17(d), 300.320; Shaffer v. Weast, 546 U.S. 49, 51 (2005).

Pursuant to the Supreme Court's decision in Board of Education of the Hendrick Hudson Central School District, Westchester County v. Rowley, 458 U.S. 176, (1982), the IEP must, at a minimum, “provid[e] personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.” Branham v. District of Columbia, 427 F.3d 7 (D.C. Cir. 2005).

In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies: (i) Impeded the child's right to a FAPE; (ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) Caused a deprivation of educational benefit. 34 CFR Sect. 300.513(a).

#### 1. IEPs/Revisions.

Petitioner alleges that DCPS fail to provide the Student with reasonably calculated educational services in the Student’s IEPs dated November, 2013, and October, 2014. Petitioner also alleges that DCPS failed to revise the Student’s IEPs pursuant to 34 CFR Sect. 300.324 after triggering events in or about June, 2014, December, 2014, and April, 2015.

This Student is apparently a charming boy who tries to conceal his inability to read and write. However, his reading and writing issues are quite severe. The most recent testing by DCPS shows that the Student’s received a 38 standard score in broad reading, which is at the six years, ten months age equivalent. His standard score for writing was not much better. He received a score of 45, which is at the seven years, two

months age equivalent. These scores represent decreases from 2011, when the Student tested higher in all areas including math, reading and writing.

Accordingly, the Student's December, 2012 IEP stated that the Student needs "intense" specialized instruction, including a structured program, and instruction that addresses multiple learning styles. He required a program with small group instruction, repeated and simplified directions, extended time, and breaks during instruction, and minimal distractions. This was required in math, reading and writing, presumably the bulk of the student's day.

However, the IEP did not provide the services that it said the Student needed. The Student instead placed in a general education class for most of the day. The IEP dated December 3, 2012 provided the Student with specialized instruction outside general education for just three hours per week. He was provided specialized instruction inside general education for just six hours per week, meaning that the bulk of his instruction was provided with no support at all. The Student therefore did not understand the instruction during the 2012-2013 school year, which led his teacher, Teacher A, to encourage him to be held back for sixth grade.

Matters did not really improve thereafter. In sixth grade again for 2013-2014, the services did increase, however incrementally. The November, 2013 IEP provided six hours per week of specialized instruction outside of general education and nine hours per week of specialized instruction inside general education. Still, much of the Student's instruction was to be provided in a general education classroom, without a special education teacher in the room.

I do not find this decision to incrementally increase services to be reasonable. There is nothing in the record that suggests that instruction could be differentiated enough to allow this this Student to succeed in a general education classroom. The testimony of Witness A, who I found particularly credible, is that the Student cannot really read and could not possibly succeed in general education classes, all of which require reading. She also testified that the Student needs close monitoring in the classroom to make sure he is understanding the material. Teacher A apparently agreed, and was forced to try to get outside help for the Student on her own. No meaningful progress was reported during the 2013-2014 school year, as discussed at the forthcoming IEP meeting in October.

Since no meaningful progress was reported, one might have expected that IEP team to intensify the Student's program. However, in October, 2014, the IEP team actually reduced services for the Student. The reason given in the record, which was not rebutted by DCPS, is that School A simply did not have the resources to address the Student's needs. The Student now received pull-out services for six hours per week, and specialized instruction inside general education for only four hours a week.

Of course, this is not the way it is supposed to work. A school district is not supposed to offer a Student a program on what is available, especially when it is a very large district with many different schools to choose from.

Compounding the difficulties for this relative non-reader functioning in the general education environment, the Student's classes did not include any supplemental aids and services that might have allowed him to get something out of the classes. There was no assistive technology even considered until December, 2014, when DCPS

received an assistive technology evaluation that recommended a laptop for the Student. DCPS agreed with the evaluation and agreed to provide the laptop, but did not until the date of the resolution meeting of this case, when the school year was basically over.

Underscoring all this, Witness F testified that Teacher A admitted, at the October, 2014 IEP meeting, that the Student's IEP was inappropriate. Nevertheless, the Student was not provided with a new program, a new school, or any other sort of new approach at that or any of these meetings until after this litigation ensued.

It is noted that DCPS did not call Teacher A to rebut her statement that the Student's IEP in October, 2014 was inappropriate. I agree that DCPS denied the Student a FAPE by providing the Student with an inappropriate program in his IEPs dated November, 2013, and October, 2014. I also find that DCPS also failed to revise the Student's IEPs pursuant to 34 CFR Sect. 300.324 after triggering events in or about June, 2014, December, 2014, and April, 2015. Further, I find that the IEP should have been amended to include assistive technology in December, 2014, as promised by DCPS.

## 2. Remedy

Petitioner asserts that appropriate relief in this matter is to order placement of the Student at School B.

When school districts deny Students a FAPE, courts have wide discretion to insure that students receive a FAPE going forward. As the Supreme Court stated:

The statute directs the court to “grant such relief as [it] determines is appropriate.” The ordinary meaning of these words confer broad discretion on the court. The type of relief is not further specified, except that it must be “appropriate.” Absent other reference, the only possible interpretation is that the relief is to be “appropriate” in light of the purpose of the Act. As already noted, this is principally to provide handicapped children with “a free

appropriate public education which emphasizes special education and related services designed to meet their unique needs.

School Committee of the Town of Burlington v. Dep't of Education, Massachusetts, 471 U.S. 359, 371 (1985).

In Branham v. District of Columbia, 427 F.3d 7 (D.C. Cir. 2005), the Circuit laid forth rules for determining when it is appropriate for IHOs to order funding of non-public placements. First, the court indicated that “(i)f no suitable public school is available, the [school system] must pay the costs of sending the child to an appropriate private school.” Id. At 9 (citing Jenkins v. Squillacote, 935 F.2d 303, 305 (D.C.Cir.1991)). The Circuit then explained that such relief “must be tailored” to meet a student’s “unique needs.” Id. At 11-12 (citing to Florence County School Dist. v. Carter, 510 U.S. 7, 16 (1993)). To inform this individualized assessment, courts must consider “all relevant factors” including the nature and severity of the student's disability, the student's specialized educational needs, the link between those needs and the services offered by the private school, the placement's cost, and the extent to which the placement represents the least restrictive educational environment. Id. at 12.

Going forward, the District has proposed the SLS Program at School A. Witness F testified that the SLS class does not emphasize academic tasks and that other students in the classroom tend to be much lower functioning than the Student. Moreover, Witness F testified that DCPS personnel, including Teacher A, have stated that the SLS program is inappropriate for this Student.

DCPS fail to call a witness to rebut this contention. Accordingly, I have no way of knowing if this SLS class would provide the Student with any of the interventions he requires. In particular, there is nothing in the record to indicate that the class is

“structured” as required by all IEPs since December, 2012. There is also nothing in the record to indicate that this class employs any particular reading methodology that might help the Student finally make progress in reading and writing.

School B, however, seems like a good fit for the Student. It specializes in children with specific learning disabilities, and there is a special education teacher in each class. The Student would be placed in a self-contained 9<sup>th</sup> grade classroom, which currently has five children. The classroom is set up to remediate basic skills, which is appropriate for the Student. Word recognition systems, people who serve as readers, and calculators are used.

Importantly for this Student, and as required by IEPs going back to December, 2012, instruction is provided on a multi-sensory basis. In particular, the school provides Wilson reading instruction, a “highly structured, routinized,” program, daily for thirty minutes. This is provided individually or in a dyad. There is a speech teacher in the class in addition to a special education teacher in the English class every day for ninety minutes and in the history class every day for fifty minutes.

Respondent argued that it has already agreed to provide the Student with a significant compensatory education award, but this does not take away from the Student’s right to a FAPE. At this point in his academic career, this Student needs a program that is focused on teaching him how to read and write. School B suits this Student’s needs, there is no issue raised in terms of cost, and I find that there is no real issue here in regard to whether this school would provide the Student with an education in the least restrictive environment. While the mandate for a Least Restrictive Environment (LRE) is an important one, it does not trump a student’s right to a FAPE. Maintaining a less

restrictive placement at the expense of educational benefit or safety is not appropriate or required. Hartmann by Hartmann v. Loudoun County Bd. of Educ., 118 F.3d 996 (4th Cir. 1997); see also Clyde K. v. Puyallup Sch. Dist., 35 F.3d 1396 (9th Cir. 1994); MR v. Lincolnwood Bd. of Educ., 843 F. Supp. 1236 (N.D. Ill 1994). Moreover, a parental placement need not be the least restrictive environment for a Student. N.T. v. District of Columbia, 839 F. Supp.2d 29 n.3 (D.D.C. 2012).

It is noted that the record makes it clear that this Student may actually benefit from being educated *without* typically developing peers. The testimony of numerous witnesses establishes that the Student is very self-conscious about his abilities and would do better in an environment where he did not have to compete with those who are not disabled.

Accordingly, I will order that the Student be placed at School B by DCPS for the 2015-2016 school year.

Finally, there is an issue remaining in this case in regard to the Student's compensatory education remedy. Petitioner is requesting that the Student, who is [REDACTED] be transported to and from his Lindamood-Bell tutoring sessions. Respondent argued that the Student does not need transportation because he took a bus to and from School A.

Petitioner credibly testified that the Student only went on a bus to and from School A because it is a simple commute and because he has had to do it for several years. Petitioner stated that the Student is only [REDACTED] and is not able to ride other District of Columbia buses and trains by himself. There is no witness to the contrary,

and I found the mother credible in this matter. I will therefore order that DCPS arrange to transport the Student to and from his Lindamood-Bell tutoring sessions as requested.

### **VIII. Relief**

As a result of the foregoing, Respondent is hereby ordered:

1. The Student shall be placed by DCPS in School B for the 2015-2016 school year;
2. Suitable transportation shall be provided by Respondent to and from School B, and to and from the Lindamood-Bell tutoring sessions that were agreed to by the parties as compensatory education for the FAPE denial in this case;
3. The Student's IEP shall be amended to reflect the program at School B.

Dated: August 17, 2015

*Michael Lazan*  
Impartial Hearing Officer

cc: Office of Dispute Resolution  
Alana Hecht, Esq.  
William Jaffe, Esq.  
OSSE Division of Specialized Education  
[Contact.resolution@dc.gov](mailto:Contact.resolution@dc.gov)  
Chief Hearing Officer

### **IX. Notice of Appeal Rights**

This is the final administrative decision in this matter. Any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within ninety (90) days from the date of the Hearing Officer Determination in accordance with 20 USC §1415(i).

Date: August 17, 2015

Michael Lazan  
Impartial Hearing Officer