This is a redacted version of the original decision. Select details have been removed from the decision to preserve anonymity of the student. The redactions do not affect the substance of the document.

Pennsylvania Special Education Hearing Officer

Final Decision and Order

HEARING
ODR File Number: 19755 17 18

Child's Name: J. D. **Date of Birth:** [redacted]

Date of Hearing:
11/17/2017

Parents:
[redacted]

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Hearing Officer: William Culleton, Esquire
Certified Hearing Official

Date of Decision: 12/8/2017

INTRODUCTION AND PROCEDURAL HISTORY

The child named in this matter (Student)[1] is enrolled currently in a private school (School). The charter school (Charter) named in this matter is the Student's local education agency as defined in the Individuals with Disabilities Education Act, 20 U.S.C. §1401 et seq. (IDEA). Student is of elementary school age, and is classified under the IDEA as a child with Intellectual Disability.

Parents assert that the Charter has failed and continues to fail to provide Student with a free appropriate public education (FAPE) pursuant to the IDEA and section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 (section 504)[2] and their implementing regulations. Parents state that the Charter failed to perform the procedural requirements of the IDEA and failed to pay tuition to the School, thus failing to provide Student with an appropriate placement and program. Parents seek an order that the School is the Student's pendent placement during the pendency of this matter and any appeals, and that the Charter pay Student's tuition at the School. The Charter denies Parents' allegations and seeks dismissal of the complaint.

The hearing was completed in one session. I have determined the credibility of all witnesses and I have considered and weighed all of the evidence of record. I conclude that the Charter failed to offer and provide a FAPE to Student and continues to do so. I declare that the School is Student's pendent placement and order the Charter to pay Student's tuition at the School forthwith so as to assure that Student's placement will continue appropriately.

[1] Student, Parents, the School and the respondent Charter are named in the title page of this decision and/or the order accompanying this decision; personal references to the parties are omitted here in order to guard Student's confidentiality. References to "Parent" in the singular refer to Student's Mother, who participated in many interactions with the Charter on behalf of herself and Student's Father.

[2] The parties have stipulated that Student is otherwise qualified within the meaning of section 504 and that the Charter receives federal funds.

ISSUES

1. Has the Charter failed to provide Student with a re-evaluation within two years of the last evaluation or re-evaluation as required by law?

2. Has the Charter failed to offer and provide a FAPE to Student in compliance with the IDEA and section 504, and does it continue to fail to do so?

3. Is the School an appropriate placement for Student?

4. Is the School Student's pendent placement for purposes of the IDEA "stay put" requirement?

5. Should the hearing officer order the Charter to pay all of Student's currently owed tuition at the School for the 2016-2017 and 2017-2018 school years, or in the alternative to provide Student with compensatory education for all or any part of those school years?

6. Should the hearing officer order the Charter to provide Student with compensatory education on account of its failure to provide extended school year services (ESY) to Student during the summers of 2016 and 2017?

7. Should the hearing officer order the Charter to reduce the value of the ordered compensatory education to a specified dollar value and place it in a special needs trust?

8. Should the hearing officer order the Charter to provide Student with either a re-evaluation or an Independent Educational Evaluation at the Charter's expense as a remedy for its failure to provide a legally mandated re-evaluation?

FINDINGS OF FACT

STUDENT'S DISABILITIES AND HISTORY

1. Student is of elementary school age and is identified with Intellectual Disability pursuant to the IDEA. (J 1–1; P 2.)[3]

2. Student is a child with a disability as defined by the IDEA and is "disabled" as defined by section 504. (J 1-4, 9; P 2.)

[3] The parties entered into 40 stipulations of fact, which are set forth in an exhibit marked and admitted into evidence as "J 1". The stipulations are cited to exhibit number and stipulation number as "J 1"(exhibit number) "-1" (stipulation number).

3. Student is otherwise qualified within the meaning of section 504, and the Charter receives federal funding. (J 1-10, J 1-13.)

4. Student was enrolled in the Charter for kindergarten. The Charter remains Student's local education agency and therefore has at all times remained responsible for Student's special education services. (J 1-11 through 15, J 1-33.)

5. The Charter knows and at all relevant times has known that Student is a child with Down syndrome, the manifestations of which include developmental delays, adaptive behavioral deficits, intellectual disability, speech, language and communication deficits, attention deficits, visual-motor deficits and fine motor deficits. (J 1-4; P 2.)

6. Student has severe overall deficits in cognitive ability, adaptive skills and academic achievement. (P 2, 9, 10.)

7. The Charter knows and at all relevant times has known or should have known that Student was and is highly distractible in the classroom; was and is highly reliant upon one-to-one assistance in completing tasks; needed and needs frequent prompting to stay on task; and was and is significantly below grade level in reading and all other academic skills. (P 2, 9, 10.)

8. Student has a high degree of need for specially designed instruction. Student needs placement in a specialized school providing full-time life skills instruction. Student needs intensive small group and one-to-one instruction for most of Student's school day. Student needs occupational therapy and speech/language services. (NT 144-145; J 1-4 through 7, J 1-16 through 19; P 2, 9, 10.)

9. Student as a child with intellectual disability needs ESY services during the summer, in the amount of three hours per day, five days per week, for nine weeks. (NT 64-65, 78-81, 106-108, 113-114; J 1-8; P 9, 10.)

10. For Student's third grade year, the 2015-2016 school year, the Charter placed Student in the School. Student has continued to remain in the School since then and attended the School continuously until the date of the hearing in this matter, November 17, 2017. (NT 42; J 1-20; P 9, 10.)

11. The Charter placed Student at the School by agreement of the parties. (NT 42; J 1-20, J 1-22; P 4.)

12. Student's last agreed-upon placement is full time life skills placement at the School. (J 1-23.)

13. The environment of the School is an essential aspect of Student's placement, because Student's day to day experience at this location has a substantial impact upon Student's ability to make educational progress. The School's environment provides unique educational benefits to Student, including structured routine; predictable schedule and activities; familiar and competent teachers who have developed a trusting relationship with Student that is necessary to Student's ability to learn; and friends and other social relationships that are essential to Student's ability to remain motivated and learn social

skills in view of Student's intellectual disability. (NT 57-58, 66-67, 72-73, 83-84, 96-100, 110-112, 137-146; P 9, 10.)

14. The School is and has been an appropriate placement for Student for Student's 2015-2016, 2016-2017 and 2017-2018 school years. (NT 57-58, 66-67, 72-73, 83-84, 96-100, 110-112, 137-146; J 19 through 24; P 2, 9, 10.)

15. The Charter failed to pay Student's tuition in full for Student's 2016-2017 school year, and failed to pay any of Student's tuition for the 2017-2018 school year. (NT 59-60, 157-171; J 1-25 through 27; P 5, 11, 12, 14.)

16. The Charter has not provided Student with a re-evaluation subsequent to March 25, 2015. (NT 63-64; J 1-40.)

17. The Charter has not offered to Student or provided Student with an Individualized Educational Program (IEP) since before the first day of school in the 2015-2016 school year, nor has it ever participated in the School's private IEP process. (NT 62-63, 75-77, 100-103; J 1-38, J 1-39; P 9, 10.)

18. The Charter has not provided Student with occupational therapy since before the first day of school in the 2015-2016 school year. (J 1-36; P 9, P 10.)

19. The Charter did not offer or provide ESY services to Student for the summers of 2016 and 2017. (NT 64-65.)

DISCUSSION AND CONCLUSIONS OF LAW

BURDEN OF PROOF

The burden of proof is composed of two considerations, the burden of going forward and the burden of persuasion. Of these, the more essential consideration is the burden of persuasion, which determines which of two contending parties must bear the risk of failing to convince the finder of fact.[4] In Schaffer v. Weast, 546 U.S. 49, 126 S. Ct. 528, 163 L.Ed.2d 387 (2005), the United States Supreme Court held that the burden of persuasion is on the party that requests relief in an IDEA case. Thus, the moving party must produce a preponderance of evidence[5] that the

[4] The other consideration, the burden of going forward, simply determines which party must present its evidence first, a matter that is within the discretion of the tribunal or finder of fact (which in this matter is the hearing officer).

[5] A "preponderance" of evidence is a quantity or weight of evidence that is greater than the quantity or weight of evidence produced by the opposing party. See, Comm. v. Williams, 532 Pa. 265, 284-286 (1992). Weight is based

moving party is entitled to the relief requested in the Complaint Notice. L.E. v. Ramsey Board of Education, 435 F.3d 384, 392 (3d Cir. 2006).

This rule can decide the issue when neither side produces a preponderance of evidence – when the evidence on each side has equal weight, which the Supreme Court in Schaffer called "equipoise". On the other hand, whenever the evidence is preponderant (i.e., there is weightier evidence) in favor of one party, that party will prevail, regardless of who has the burden of persuasion. See Schaffer, above.

In the present matter, based upon the above rules, the burden of persuasion rests upon the Parents, who initiated the due process proceeding. If the Parents fail to produce a preponderance of the evidence in support of Parents' claims, or if the evidence is in "equipoise", the Parents cannot prevail under the IDEA.

CREDIBILITY/RELIABILITY

It is the responsibility of the hearing officer to determine the credibility and reliability of witnesses' testimony. 22 Pa. Code §14.162 (requiring findings of fact); A.S. v. Office for Dispute Resolution, 88 A.3d 256, 266 (Pa. Commw. 2014)(it is within the province of the hearing officer to make credibility determinations and weigh the evidence in order to make the required findings of fact). I carefully listened to all of the testimony, keeping this responsibility in mind, and I reach the following determinations.

Considering the testimony in light of the documentary evidence, I find that all of the witnesses were credible. With all, I noted that their manner of responding to questions, even from the adverse party, were careful as to knowledge and memory, indicated willingness to clarify and

upon the persuasiveness of the evidence, not simply quantity. Comm. v. Walsh, 2013 Pa. Commw. Unpub. LEXIS 164.

add information, and evidenced an absence of defensiveness. I also noted that the witnesses' testimony was not contradicted in any significant way by the documents of record. Parent in particular readily admitted facts that appeared to be contrary to her case; moreover, her assertions were corroborated and never contradicted in any material way by both the Student's current special education teacher and the exhibits admitted into evidence.

FAILURE TO OFFER OR PROVIDE A FAPE UNDER THE IDEA AND SECTION 504

The IDEA requires that a state receiving federal education funding provide a "free appropriate public education" (FAPE) to disabled children. 20 U.S.C. §1412(a)(1), 20 U.S.C. §1401(9). FAPE is "special education and related services", at public expense, that meet state standards, provide an appropriate education, and are delivered in accordance with an IEP. 20 U.S.C. §1401(9). Thus, school districts must provide a FAPE by designing and administering a program of individualized instruction that is set forth in an IEP. 20 U.S.C. §1414(d). The IEP must be "reasonably calculated" to enable the child to receive appropriate services in light of the child's individual circumstances. Endrew F. v. Douglas County Sch. Dist., RE-1, __ U.S. __, 197 L.Ed.2d 335, 137 S. Ct. 988, 999 (2017). The Court of Appeals for the Third Circuit has ruled that special education and related services are appropriate when they are reasonably calculated to provide a child with "meaningful educational benefits" in light of the student's "intellectual potential." Shore Reg'l High Sch. Bd. of Ed. v. P.S. 381 F.3d 194, 198 (3d Cir. 2004) (quoting Polk v. Cent. Susquehanna Intermediate Unit 16, 853 F.2d 171, 182-85 (3d Cir. 1988)); Mary Courtney T. v. School District of Philadelphia, 575 F.3d 235, 240 (3d Cir. 2009), see Souderton Area School Dist. v. J.H., Slip. Op. No. 09-1759, 2009 WL 3683786 (3d Cir. 2009). In appropriate circumstances, a District that meets this Third Circuit standard also can satisfy the Endrew F.

"appropriate in light of the child's individual circumstances" standard. E.D. v. Colonial Sch. Dist., No. 09-4837, 2017 U.S. Dist. LEXIS 50173 (E.D. Pa. Mar. 31, 2017).

In order to provide a FAPE, the child's IEP must specify educational instruction designed to meet his/her unique needs and must be accompanied by such services as are necessary to permit the child to benefit from the instruction. Board of Education v. Rowley, 458 U.S. 176, 181-82, 102 S. Ct. 3034, 1038, 73 L.Ed.2d 690 (1982); Oberti v. Board of Education, 995 F.2d 1204, 1213 (3d Cir. 1993).

A school district is not necessarily required to provide the best possible program to a student, or to maximize the student's potential. Endrew F., 137 S. Ct. above at 999 (requiring what is reasonable, not what is ideal); Ridley Sch. Dist. v. MR, 680 F.3d 260, 269 (3d Cir. 2012). An IEP is not required to incorporate every program that parents desire for their child. Ibid.

The law requires only that the program and its execution were reasonably calculated to provide appropriate benefit. Endrew F., 137 S. Ct. above at 999; Carlisle Area School v. Scott P., 62 F.3d 520 (3d Cir. 1995), cert. den. 517 U.S. 1135, 116 S. Ct. 1419, 134 L.Ed.2d 544 (1996)(appropriateness is to be judged prospectively, so that lack of progress does not in and of itself render an IEP inappropriate.) The program's appropriateness must be determined as of the time at which it was made, and the reasonableness of the program should be judged only on the basis of the evidence known to the school district at the time at which the offer was made. D.S. v. Bayonne Board of Education, 602 F.3d 553, 564-65 (3d Cir. 2010); D.C. v. Mount Olive Twp. Bd. Of Educ., 2014 U.S. Dist. LEXIS 45788 (D.N.J. 2014).

Under section 504, federal regulations define the District's obligation to provide a FAPE differently than under the IDEA. Districts must provide "regular or special education and related aids and services that (i) are designed to meet individual educational needs of [persons with

disabilities] as adequately as the needs of [non-disabled] persons are met and (ii) are based upon adherence to procedures that satisfy" the procedural requirements of section 504. 34 C.F.R. §104.33(b)(1).

Applying these standards to the above findings and the record as a whole, I conclude that the Charter failed to provide Student with a FAPE in the 2016-2017 and 2017-2018 school years. The evidence is preponderant that the Charter ignored its most fundamental procedural responsibilities to Student by failing to provide Student with a timely re-evaluation and failing to offer an IEP to Student during the entirety of both of those years. Moreover, the evidence is preponderant that, having placed Student in the School and paid for it for one school year, the Charter then ignored Student's needs. In the next two school years, the Charter defaulted on its IDEA-based and section 504-based FAPE obligation to pay for Student's placement. Fortunately, the School exercised forbearance until recently, but that forbearance must end, and this threatens not only Student's educational progress but also Student's social and emotional wellbeing. Therefore, the Charter not only violated its procedural responsibilities but also deprived Student of FAPE.

There is no question that the Charter failed to re-evaluate Student within two years, as required for all children classified with Intellectual Disability under the state regulation that implements the IDEA in Pennsylvania, 22 Pa. Code §711.22(c)(children with mental retardation must be re-evaluated every two years).[6] Moreover there is no question that the Charter failed to either offer an IEP team meeting to develop its own IEP or participate in the private IEP meetings conducted by the School every year. Thus, the Charter failed in multiple ways to comply with its basic procedural obligations under the IDEA.

[6] I conclude that the regulation's use of outdated terminology for the classification of intellectual disability does not alter the Charter's substantive obligations.

The Charter argued strenuously that the settlement agreement of November 2015 required the Parent to notify it of any IEP meetings to be held by the School. It urges the conclusion that Parent's failure to do that (she became frustrated with the Charter's lack of responsiveness to her initial attempts to have it attend) somehow absolves it of its procedural responsibilities under the IDEA. I conclude to the contrary for two reasons. First, I have no authority to interpret or enforce a settlement agreement, and I decline to do so in this matter, J.K. v. Council Rock Sch. Dist., 833 F. Supp. 2d 436 (E.D. Pa. 2011); thus, I do not conclude that the Parent somehow waived her child's procedural rights under the IDEA. Second, even if Parent could be construed to have done so, a parent cannot absolve a local educational agency of its responsibilities under the IDEA. M.C. v. Central Reg. Sch. Dist., 81 F.3d 389, 397 (3d Cir. 1996)(child's right to FAPE not dependent upon vigilance of the parents). Therefore, regardless of Parent's obligations under the settlement agreement, the Charter had a continuing obligation to comply with the IDEA for this child, and it unequivocally failed to do so.

The Charter argues that, without interpreting the settlement agreement, I cannot reach any findings about the agreed-upon placement, nor can I conclude that full time life skills support at the School was the last agreed-upon placement for stay put purposes, nor that the School placement constituted a FAPE for Student. Therefore, it asserts, I must either find that Parent's failure to give it notice of IEP meetings absolved it of its obligation to attend, or eschew those findings about the agreed-upon placement. This argument is unconvincing, on the record before me. The parties stipulated that the School placement was the last agreed-upon placement for the child, and that the Charter placed Student at the School two months before the settlement agreement was signed. Therefore, on this record, the settlement agreement is not the basis of the finding that the School

placement was the last agreed-upon placement. I do not rely upon the agreement for any of my findings.

As to the tuition payments it failed to make, the Charter undeniably failed to pay for the placement that it made. I conclude that this is a failure to provide a FAPE, because it essentially transferred the Charter's obligations onto a private entity. That the private entity provided educational services charitably does not absolve the Charter of its default. Regardless of the effect on Student, the Charter failed to provide a FAPE. I conclude that this violated the IDEA as much as if the child had received no services at all. Critically, Student at present is faced with expulsion from the School for non-payment of tuition; thus, the Charter's failures require not only retrospective remedy but also prospective intervention to protect the child and maintain the child's pendent placement, as discussed below.

THE SCHOOL IS AN APPROPRIATE PLACEMENT

The record is preponderant and I find that the School is an appropriate placement for Student. Witnesses, corroborated by IEPs developed by the School, testified that the placement is appropriate for Student because Student needs a specialized school providing intensive life skills instruction in small group classrooms with one-to-one instruction as needed. The School provides these services. In addition it provides speech/language services, occupational therapy and training in social skills that Student needs. I conclude that the School provides what the Charter's classroom was unable to provide and that Student would be denied a FAPE if returned to the latter placement.

THE SCHOOL IS STUDENT'S PENDENT PLACEMENT FOR PURPOSES OF THE IDEA "STAY PUT" REQUIREMENT

The IDEA requires that any child with a disability remain in the "then-current educational placement of the child" during the pendency of due process and any proceedings authorized by the IDEA. 20 U.S.C. §1415(j); 34 C.F.R. §300.518. The purpose of these provisions is to maintain the "educational status quo" until the disagreement between parent and school district is resolved. Drinker by Drinker v. Colonial Sch. Dist., 78 F.3d 859, 863-865 (3d Cir. 1996). See Pardini v. Allegheny County Intermediate Unit, 420 F.3d 181, 190 (3d Cir. 2005).

In applying this rule to a dispute involving transition of a child from birth-to-three services to early intervention services, the Third Circuit noted: "Implicit in the maintenance of the status quo is the requirement that a school district continue to finance an educational placement made by the agency and consented to by the parent before the due process procedure is invoked. To cut off public funds would amount to a unilateral change in placement, prohibited by the Individuals with Disabilities Education Act." Pardini, 420 F.3d above at 190. The Court's statement is particularly pertinent here, even if its holding is distinguishable.

In Drinker, the Court held that the pendent placement is the IEP currently functioning when the IDEA "stay put" provision is actually invoked. Drinker, 78 F.3d above at 867. By definition this would include the "last agreed upon placement" that was functioning at the time that the controversy arose. However, in this case, there was no IEP currently functioning at the time the dispute arose or at the time that "stay put" was invoked. There had been an IEP for Student in first and second grade, but these were prior to the evaluation of March 2015, and these were not functioning at all on the first school day of the 2015-2016 school year, because the parties agreed to place Student in the School on that day. Moreover, the Charter did not agree to any of the private IEPs generated by the School for the 2016-2017 and 2017-2018 school years: it had no part in their preparation and indeed knew nothing about them on this record. Therefore, I conclude that there

was no agreed upon IEP functioning at the time that stay-put was invoked with the Parents' filing for due process and Parents' subsequent motion for a declaration of stay-put placement in this matter.

Where there is no currently functioning IEP, the pendent placement is the "operative placement under which the child is actually receiving instruction at the time the dispute arises." Drinker, 78 F.3d above at 867. The evidence is more than preponderant that, for Student, that placement was the School. Therefore, I conclude that the School and its full-time life skills support program was the Student's pendent placement.

Although placement is a service, not a location, the location of that service can be part of the pendent placement where the location has a significant impact upon the child's educational experience. R.B. v. Mastery Charter Sch., 762 F. Supp. 2d 745, 757, 760-761 (E.D. Pa. 2010). The touchstone of the inquiry is whether or not the change in location will affect in some significant way the child's learning experience. R.B., 762 F. Supp. 2d above at 757. I find that changing the location of Student's placement at this time would affect Student's educational experience in drastic ways, ways that would risk serious harm to Student's education and social and emotional wellbeing. Therefore I conclude that the Student's pendent placement is full time life skills support at the School.

ESY SERVICES

Chapter 711 of the Pennsylvania Code provides that a local educational agency must determine a child's eligibility for ESY services. The severity of a child's mental retardation is a factor to be considered, along with regression and recoupment characteristics, in determining eligibility. 22 Pa. Code §711.44 (a)(2). There is no evidence that the Charter ever considered these

factors for the summers of 2016 and 2017. The evidence is preponderant that Student needed ESY services during those summers. The School did not provide them, and the Charter was Student's local education agency responsible for doing so. On this record, then, I conclude that the Charter failed to deliver a FAPE to Student by reason of its failure to provide ESY services in the summers of 2016 and 2017.

SECTION 504 VIOLATION

I conclude that the Charter failed to provide Student with appropriate services and accommodations to meet Student's individual needs as adequately as the needs of non-handicapped children in the Charter are met. 34 C.F.R. §104.33(b)(1). On this record, failure to comply with the IDEA is preponderant evidence that the Charter also failed to comply with section 504. Cf. 34 C.F.R. §104.33(b)(2).

REMEDIES

Student can be expelled from the School at any time, and may have been expelled already, because the record shows that the School warned the Charter that it would do so by December 1. Yet the School is Student's pendent placement. Under these urgent circumstances, I will order the Charter to pay Student's tuition to the School for whatever sum is currently in arrears for the 2016-2017 and 2017-2018 school years. Student cannot be protected by this order by anything less urgent than an order for payment within three days of the date of this order.

Student was deprived of FAPE due to the Charter's failure to provide ESY services in the summers of 2016 and 2017, and the record shows that Student needed four hours per day of such services, five days per week, for most of the summer. Given that schools usually are in session in

the first two weeks of June, I will order compensatory education for Student in an amount equal to four hours per day, five days per week, for eleven weeks.

On this record, I conclude that the equities require what I consider to be an extraordinary remedy of ordering the Charter to reduce the value of the ordered compensatory education to a specified dollar value and to place it in a special needs trust; therefore, I will enter such an order. The evidence shows preponderantly that the Charter has failed to meet its obligations under the law by ignoring its procedural duties under the IDEA. It has failed to pay tuition that it admittedly agreed to pay for more than a year's worth of private school services for Student. It has made clear in this matter that it does not have the resources to meet its most basic obligations to Student. I cannot assume that it will comply with an administrative order either. Therefore, I need to require that compliance with the order not be made contingent upon the Charter's willingness or ability to provide the services directly. In short, I will order that the Charter comply with this order by conveying a sum certain to a third party in order to ensure that the compensatory education will be provided to Student.

Parents argue that the value of an hour of compensatory education so ordered should be set at $78.60 per hour. However, the only evidence in this matter suggests a value of $65.00 per hour for tutoring services. (NT 87-88.) I find this to be an appropriate value for purposes of setting up a special needs trust for this Student. Therefore I will order that valuation.

The Charter failed to provide Student with a re-evaluation within two years as required by law. I will order that it do so now. As I have no reason on this record to conclude that the Charter is unable to provide Student with a comprehensive re-evaluation, and as the Charter has expressed its willingness to do so through its own contractor, I will not order an IEE.

CONCLUSION

I conclude that the Charter failed to offer and provide a FAPE to Student and continues to fail to do so. Student's pendent placement is the School. Therefore, I order the Charter to pay the tuition it owes to the School, provide compensatory education on account of its failure to provide ESY, and conduct a comprehensive re-evaluation.

ORDER

In accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** as follows:

1. The Charter shall pay Student's tuition to the School for whatever sum is currently in arrears for the 2016-2017 and 2017-2018 school years within three days of the date of this order.

2. The Charter shall provide Student with compensatory education in an amount equal to four hours per day, five days per week, for eleven weeks.

3. Each hour of compensatory education so ordered shall be reduced to a sum of $65.00, and the total sum of $14,300.00 shall be deposited in a special needs trust designated by Parents within two weeks of the date of this order.

4. The Charter shall provide Student with a comprehensive educational re-evaluation, and shall deliver a complete report of such re-evaluation to Parents within 60 calendar days of the date of this order.

It is **FURTHER ORDERED** that the parties may alter any of the terms of this Order by agreement of the Charter and Parents.

It is **FURTHER ORDERED** that any claims that are encompassed in this captioned matter and not specifically addressed by this decision and order are hereby denied and dismissed.

William F. Culleton, Jr. Esq.

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WILLIAM F. CULLETON, JR., ESQ.
HEARING OFFICER

DATED: December 8, 2017