

during summer of 2007 is **AFFIRMED**. Defendant's motion is **GRANTED** and judgement is **ENTERED** in favor of the defendant on these claims.

2. To the extent that plaintiffs challenge the decision of the appeals panel of the ODR claiming that Tyler is entitled to full days of compensatory education from August 28, 2006, to December 11, 2006, based on failure to implement his IEP, plaintiffs' motion is **GRANTED** and judgment is **ENTERED** in plaintiffs' favor. Defendant's motion is **DENIED**. Insofar as the hearing officer only granted five hours of compensatory education for this period, and the appeals panel affirmed, their orders are **VACATED**.
3. To the extent that plaintiffs seek relief under the Americans with Disabilities Act ("ADA"), their ADA claim is **DISMISSED** for lack of subject-matter jurisdiction due to failure to exhaust this claim in the administrative proceedings.
3. Plaintiffs are entitled to an award of 439.5 hours of compensatory education. The parties shall confer within thirty (30) days of the date of this order to agree on the manner in which the compensatory education will be provided. The parties will promptly report to this Court the status of an agreement thereon.

IT IS FURTHER ORDERED that plaintiffs are directed to submit a petition for attorneys' fees within ten (10) days of the date of this order. Defendant will submit a response within ten (10) days of receipt of plaintiffs' petition.

BY THE COURT:

/s/ **Petrese B. Tucker**

Hon. Petrese B. Tucker, C.J.