

District of Columbia
Office of the State Superintendent of Education
Office of Dispute Resolution
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Parent, on behalf of Student,¹	)	
Petitioner,	)	
	)	Hearing Officer: Michael Lazan
v.	)	Hearing Dates: 7/28/26; 7/30/26
	)	Case No. 2026-0080
District of Columbia Public	)	
Schools,	)	
Respondent.	)	

HEARING OFFICER DETERMINATION

I. Introduction

A Due Process Complaint (“Complaint”), filed by Petitioner (“Parent”) pursuant to the Individuals with Disabilities Education Act (“IDEA”) on behalf of Parent’s x-year-old child (the “Student”), was received by District of Columbia Public Schools (“DCPS” or “Respondent”) on May 1, 2026. On May 12, 2026, Respondent filed a response and did not object to jurisdiction. A resolution meeting was held on May 18, 2026. The matter did not settle.

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. § 1400 et seq., its implementing regulations, 34 C.F.R. § 300 et seq., Title 38 of the D.C. Code, Subtitle VII, Chapter 25, and the District of Columbia Municipal Regulations (“DCMR”), Title 5-A, Chapter 30.

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

III. Procedural History

On May 18, 2026, this Hearing Officer held a prehearing conference through the Microsoft Teams videoconferencing platform. Attorney A, Esq., counsel for Petitioner, appeared. Attorney B, Esq., counsel for Respondent, appeared. A prehearing conference order was issued on May 21, 2026, summarizing the rules to be applied in this hearing and identifying the issues in the case. A revised prehearing conference order was issued on July 17, 2026.

This Hearing Officer Determination (“HOD”) was originally due on July 15, 2026, and the due process hearing was originally scheduled for July 13, 2026, and July 14, 2026. On Respondent’s motion, the hearing was continued and the HOD due date was extended, by an order dated July 14, 2026, to August 10, 2026.

Both hearing dates in this case, on July 28, 2026, and July 30, 2026, took place through the Microsoft Teams videoconferencing platform. This was a closed proceeding. Petitioner was again represented by Attorney A, Esq. Respondent was again represented by Attorney B, Esq. Petitioner moved in exhibits P-1 through P-11 and P-13 through P-41. There is no exhibit 12. Respondent did not file objections by the deadline set in the prehearing conference order but was permitted to state objections on the record. Respondent objected to exhibit 16 on the grounds that the document was incomplete and unauthenticated, and to exhibits 27, 28, and 34 on relevance grounds. These objections were overruled. Exhibits P-1 through P-11 and P-13 through P-41 were admitted. Respondent moved into evidence exhibits R-1 through R-25 and then withdrew exhibit 24. Petitioner objected to exhibits R-18 through R-23, which are resumes, pending

witness authentication of the documents. These objections were overruled. Exhibits R-1 through R-23 and R-25 were admitted.

At the hearing, Petitioner presented as witnesses, in the following order: Witness A, a special education advocate and consultant (expert in special education, in the interpretation of psychological assessments and educational evaluations, and in learning disabilities); the Student's grandparent ("Grandparent"); and Petitioner. Respondent presented as witnesses, in the following order: Witness B, an attendance counselor; Witness C, a school counselor (expert in school-based counseling); Witness D, a special education coach and Local Education Agency ("LEA") representative (expert in special education eligibility and program planning); Witness E, a specialist on Respondent's central Individualized Education Program ("IEP") team (expert in special education eligibility and program planning); Witness F, a school psychologist (expert in school-based psychology); and Witness G, the manager of Respondent's central IEP team (expert in special education eligibility and program planning, and in "Child Find" procedures). At the close of testimony, both sides presented oral closing arguments.

IV. Issues

As identified in the prehearing conference order and in the Complaint, the issues to be determined in this case are as follows:

1. Did DCPS violate Child Find and deny the Student a Free and Appropriate Public Education ("FAPE") by failing to identify, locate, and evaluate the Student during the 2024-2025 and 2025-2026 school years?

2. Did DCPS deny the Student a FAPE by failing to provide the Student an IEP and placement during the 2024-2025 and 2025-2026 school years?

Petitioner also brought claims pursuant to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, but this Hearing Officer does not have jurisdiction over such claims.

As relief, Petitioner seeks compensatory education and any other relief deemed appropriate. Petitioner advised that the Student has been enrolled in a new LEA and that Petitioner no longer seeks an order directing DCPS to develop an IEP or provide a placement for the Student.

V. Findings of Fact

1. The Student is an x-year-old who is currently eligible for services as a student with Other Health Impairment and Specific Learning Disability. P-1-31; P-2-1.

2. An April 2021 analysis of existing data (“AED”) report from School B, a public charter school, documented concerns with the Student's processing, retention, math, initial sounds, and letter recognition. The report explained that the Student could attend lessons with teacher support but struggled with retention and processing. R-25-2.

3. The Student attended School B during the 2022-2023 and 2023-2024 school years. On February 14, 2023, the Student was diagnosed with Anxiety Disorder, Unspecified, and weekly psychotherapy was recommended. P-4. The Student also had difficulty attending school during the 2023-2024 school year at School B. The Student was bullied at School B and was stabbed by a male student with a pencil, breaking the skin. Petitioner wanted the Student evaluated while at School B and removed the Student from School B because she felt that the Student was not getting support. P-4; P-5.

4. The Student enrolled at School A, a DCPS school, on August 12, 2024. The Student repeated a grade in the 2024-2025 school year. R-15; Testimony of

Petitioner. In September 2024, Petitioner contacted School A seeking counseling support for the Student because s/he was experiencing social anxiety and difficulty getting to school in the mornings. Witness C, who is a counselor at School A, accordingly met with the Student between September 12 and September 14, 2024. Testimony of Witness C.

5. On October 1, 2024, Petitioner wrote to Witness B, School A's attendance counselor, stating that the Student was not in school due to anxiety that caused his/her stomach to "act up." On October 7, 2024, Petitioner wrote again, stating that the Student's anxiety got the best of him/her that day, causing him/her to have stomach aches and pain. On October 9, 2024, Petitioner wrote that the Student's anxiety had been bothering him/her the last few days due to circumstances in the classroom. P-6.

6. In the fall of 2024, Witness C placed the Student in a six-session, small-group, social skills intervention that met during lunch period. The Student attended two of the six sessions. Because the Student missed more than half of the sessions, s/he was removed from the intervention on the grounds that its effectiveness could not be validly measured. Testimony of Witness C; P-22-8.

7. In or about October 2024, Witness C required medical documentation for a diagnosis of the Student before a Section 504 plan could be completed for him/her. For the diagnosis documentation, Witness C referred the Student's family to community providers outside Respondent's system. Petitioner attempted to obtain the records of the Student's February 2023 diagnosis from the diagnosing agency and from School B but was unable to do so until March 2026. Testimony of Witness C; Testimony of Petitioner.

8. Between October 2024 and December 2024, Witness C proposed a morning visit to the Student's home on several occasions, but no home visit occurred

during that period. Witness C also sent an email to Petitioner in or about March 2025 offering to conduct a home visit, but received no response. Witness B and Witness C made one unannounced home visit during an afternoon in February or March 2025, but the Student was at school that day and not at home. The Grandparent admitted Witness B and Witness C to the Student's home, and the family described their difficulty getting the Student up in the morning. This was the only home visit made during the Student's enrollment at School A. Testimony of Witness B; Testimony of Witness C. Other interventions to improve the Student's attendance were implemented during the 2024-2025 school year. The interventions targeting attendance lasted thirty-two weeks and included activity passes and contact with the school counselor. The interventions were unsuccessful. R-5-2; P-15.

9. On November 13, 2024, Petitioner wrote to Witness B that the Student's anxiety had been bothering him/her for the previous few days. Witness B replied the same day, copying Witness C and the school social worker, and proposed a meeting with the school counselor because the Student's anxiety was directly impacting his/her learning and attendance at school. P-22.

10. On December 3, 2024, Witness C wrote to Petitioner, Witness B, and the school social worker to explain that she could offer individual short-term counseling to the Student to directly address the social anxiety that s/he was experiencing, but that the Student would have to attend regularly so that the school could determine whether the interventions were successful or not. Witness C said that the Student shared that s/he did not always believe that s/he could do the work because s/he had missed so much school.

The same communication attached community-based mental health resources. P-22-8;
Testimony of Witness C.

11. On April 4, 2025, at a meeting held at School A, Petitioner and the Grandparent asked that the Student be tested for learning disabilities. They were told that it was too late in the school year to conduct testing because six weeks of data would be required. No date was given on which testing would occur. Testimony of Petitioner; Testimony of Grandparent.

12. On April 8, 2025, Witness C created an intervention plan for the Student entitled “504-Like Plan Draft,” which was closely modeled on a Section 504 plan. Under the heading “Present Levels of Performance,” the 504-Like Plan Draft stated that the Student was experiencing significant academic anxiety, which led to inconsistent attendance. The document stated that the Student scored 394 on the i-Ready math diagnostic, placing him/her in the 9th percentile and at risk for Tier 3 support. In English language arts (“ELA”), the Student scored 480 on the i-Ready reading diagnostic, placing him/her in the 28th percentile. The document also stated that the Student performed below the district average on the “ANet” assessment. The accommodations listed in the 504-Like Plan Draft included a flexible attendance policy, the possibility of remote learning or make-up assignments, extended time on assessments, previewing upcoming math concepts at home, a focus buddy system, a reduced homework load, instruction in anxiety coping strategies such as deep breathing and positive self-talk, and weekly check-in meetings with Witness C or the assistant principal. The 504-Like Plan Draft was to be monitored every two weeks through attendance and performance reviews, and a formal

review was to occur at the end of the semester to determine if further modifications would be necessary. P-9.

13. Separate from the 504-Like Plan Draft, an attendance incentive was put in place under which the Student would receive a Chick-fil-A lunch if s/he attended two consecutive school days that week. Testimony of Witness C.

14. The Student's attendance improved from the last week of April 2025 through the end of the 2024-2025 school year. R-13-4; Testimony of Witness C. For the 2024-2025 school year as a whole, the Student was absent for seventy-six of 178 school days, with forty of those absences unexcused. P-11.

15. On the Student's Term 4 report card for the 2024-2025 school year, s/he received an overall grade of 2 in ELA ("approaches the standard"), an overall grade of 1 in mathematics ("does not meet the standard"), and a grade of 1 in science. A comment on the Term 4 report card, written by the Student's ELA teacher, stated that the Student had made strong progress in reading but was still below grade-level goals, especially in comprehension and written expression. The teacher recommended a summer reading program to help the Student prepare for the next year. Another comment on the Term 4 report card, written by the Student's math teacher, stated that the Student had encountered difficulties during the term in developing a strong foundation in key math concepts, including multiplication, division, and fractions. R-16; P-11.

16. The Student's i-Ready reading scale scores during the 2024-2025 school year were 439 in August 2024, 480 in January 2025, and 492 in May 2025. His/her i-Ready mathematics scale scores were 383 in August 2024, 394 in January 2025, and 421 in June 2025. Every score was below grade level. R-16; P-11. On the spring 2025 "DC

CAPE” mathematics assessment, the Student scored 689 (level 1, “did not yet meet expectations”). On the spring 2025 DC CAPE ELA assessment, the Student scored 711 (level 2, “partially met expectations”). A score of 750 denotes grade-level performance. P-10.

17. The Student began the 2025-2026 school year at School A. On September 8, 2025, Petitioner wrote to Witness C and requested that the Student be tested to determine whether s/he had learning disabilities. P-13-1. Witness C replied that it was “possible for [the Student] to be tested if that is something you want,” but that the Student would need to be at school for the next six weeks so that the school could “collect data to see what [his/her] needs might be.” Respondent recorded the referral for an initial evaluation as received on September 10, 2025. P-13-2; R-2-1.

18. The last day the Student attended school was September 12, 2025. R-13. An attendance intervention goal was created for the Student on September 17, 2025. Respondent’s record of that goal, dated October 2, 2025, stated, “Goal Progress: No Progress” and “Despite a 6-week intervention plan to reduce chronic absenteeism and tardiness, no progress has been made toward the goal.” The Student’s attendance was identified as “Critical.” R-5; P-15.

19. An AED meeting for the Student was held on October 6, 2025. A general education teacher reported that she did not have extensive data to share because of the Student’s absences. The Student’s special education teacher and Witness D reviewed the reading and math data documented in the Student’s AED and shared that the Student demonstrated growth during periods when s/he was present at school. The school social worker reviewed the collected data and noted that it included indicators of emotional

distress, including possible anxiety, which may have contributed to the Student feeling overwhelmed while at school. The social worker said that the team was awaiting activation of the Student's Section 504 plan. At the AED meeting, Witness D asked whether the Student had difficulty leaving the house for other activities. The Student's family shared that this was not an issue and that the Student's resistance was specific to attending school. At the AED meeting, the school team determined not to move forward with an assessment due to the Student's inconsistent attendance, which resulted in limited current instructional data and the absence of medical documentation. P-19; R-5.

20. The document reflecting the October 6, 2025, AED meeting stated that the Student consistently performed below grade level standards in all areas of math, reading, and writing, with strengths in basic decoding but with continued difficulties in comprehension and written expression. The document further stated: "The data reflects that [the Student's] anxiety is having a direct impact on their overall school experience. Elevated levels of academic anxiety have contributed to poor attendance (52%) during the 24-25 SY, limiting consistent access to instruction and contributing to below-average performance in both math (9th percentile) and reading (28th percentile)." The document also stated: "While the student demonstrates important strengths, including a sense of belonging and self-efficacy, their anxiety has negatively affected focus, stamina, and perseverance, creating barriers to academic engagement and growth. This highlights the need for structured supports and accommodations that address both academic and emotional needs in order to improve school attendance and participation." On the "Assessment Considerations" page of the October 6, 2025, AED document, the team answered "Yes" to each of the three questions about whether the team had enough

information in all areas of concern to determine whether the child had a disability, to determine the educational needs of the child, including present levels of academic achievement, and to determine whether the child needed special education and related services. R-5; P-15.

21. Respondent issued a prior written notice dated October 6, 2025, stating that “the LEA is Refusing to Initiate a/an Initial Evaluation.” The notice stated: “The team conducted an AED meeting on 10/6/25 and determined that no additional information is needed to determine whether [the Student] qualifies as a student with a disability who is eligible for special education and related services under IDEA. The team will not proceed with evaluation at this time.” R-6; P-20.

22. On October 27, 2025, the Grandparent asked School A’s principal about the home and hospital instruction program. The principal responded the same morning that the program provided interim instructional support to students with a medically diagnosed physical or psychiatric condition that was acute or catastrophic in nature and that confined them to home or a hospital for two weeks or more. P-22; Testimony of Grandparent; Testimony of Petitioner.

23. On October 31, 2025, Respondent sent the Student’s family a letter stating that the Student had been absent from school for twenty consecutive full days. Because these absences were unexcused, the Student was to be withdrawn from the student roster. R-14. The Student was withdrawn from School A on December 17, 2025. R-15-1; P-25-1; P-26.

24. Petitioner signed up for an online homeschool curriculum on December 15, 2025. Instruction ran from approximately 10:00 a.m. to 2:30 p.m., about four and a

half hours a day, and covered language arts, mathematics, science, and social studies.

Petitioner provided some instruction herself, and the Student frequently logged into the program on his/her own, with Petitioner available when the Student needed assistance.

Petitioner had to help the Student with activities. The Student would retake a test repeatedly until s/he obtained a grade that satisfied him/her, becoming upset when s/he did not. The physical complaints and the morning refusal behaviors the Student had displayed on school-day mornings ceased during the period of homeschooling. Petitioner paid approximately \$39.00 per month for the curriculum from December 2025 through June 2026. Testimony of Petitioner.

25. On April 8, 2026, Respondent received a letter that enclosed privately obtained psychological and psychoeducational evaluations of the Student and requested that Respondent review the reports, convene a meeting to determine the Student's eligibility, and develop an IEP if the Student was found to be eligible. R-25-2; P-29; Testimony of Witness D. On April 10, 2026, Witness D responded that the request could not be processed by School A, that the request should be directed to Respondent's central office, and that the central office was responsible for Child Find for homeschooled students. Testimony of Witness D.

26. Evaluator A, a licensed psychologist at an assessment center operated by the District of Columbia Department of Behavioral Health, evaluated the Student on February 20, 2026, and March 11, 2026, and issued corresponding reports dated March 7, 2026, and March 25, 2026. Evaluator A sought to determine which services or treatment modalities would be recommended for the Student, what support the Student would need to successfully access school in person, whether the Student exhibited any symptomology

associated with Autism Spectrum Disorder, and whether the Student had a mental health diagnosis. Petitioner obtained these evaluations following a referral from the court. Evaluator A administered the Wechsler Intelligence Scale for Children-Fifth Edition (“WISC-V”) and the Woodcock-Johnson IV Tests of Achievement, together with emotional and behavioral rating measures; conducted a mental status examination and clinical observations of the Student; interviewed the Student, Petitioner, and Grandparent; and reviewed records that included school records dated 2021 to 2026, community health center records dated 2025 to 2026, records of a children and family center dated 2023, referral letters and social history reports dated January 21, 2026, and a Guardian ad Litem’s mediation report dated January 15, 2026. On the WISC-V, the Student’s Full Scale IQ was 72, which Evaluator A noted did not appear to be the best representation of the Student’s overall cognitive functioning because of significant discrepancies between his/her index scores. The Student’s processing speed index was average (95, 37th percentile); his/her indices for verbal comprehension (73, 4th percentile), working memory (79, 8th percentile), and fluid reasoning (76, 5th percentile) were very low; and his/her visual spatial index was extremely low (61, 0.5 percentile). On the Woodcock-Johnson IV, the Student received a reading cluster standard score of 74, a mathematics cluster standard score of 54, and a written language cluster standard score of 83, with a passage comprehension score of 63 (grade equivalent 1.7), word attack score of 66 (grade equivalent 1.3), calculation score of 61 (grade equivalent 1.5), applied problems score of 54 (grade equivalent 1.0), letter-word identification score of 83 (grade equivalent 3.1), oral reading score of 85 (grade equivalent 3.0), spelling score of 74 (grade equivalent 2.5), and writing samples score of 98 (grade equivalent 5.0). Evaluator A identified

diagnostic impressions of Specific Learning Disorder with impairment in mathematics, Specific Learning Disorder with impairment in reading, and Unspecified Anxiety Disorder. Evaluator A listed Attention-Deficit/Hyperactivity Disorder (“ADHD”), Predominantly Inattentive Presentation, as a rule-out. Evaluator A recommended that the Student’s multidisciplinary team meet to review his/her test scores and that the Student be provided with an IEP to address his/her deficits in age-appropriate math and reading comprehension. Evaluator A also recommended that the Student receive small-group instruction and the assistance of a reading specialist; that s/he be monitored for dyslexia; that his/her IEP provide accommodations including planned breaks and extra time to complete assignments; that collateral information be gathered from the Student’s teachers, once s/he was attending school regularly, to rule out or confirm ADHD; that counseling services be available at his/her school; and that s/he receive weekly individual psychotherapy and be assessed over multiple sessions by a clinician with expertise in Autism Spectrum Disorder. P-2; P-4; P-5.

27. In the course of the evaluations, the Student reported that s/he sometimes felt scared to go to school but did not know why, and that when s/he got scared, his/her “heart starts racing.” Evaluator A recorded that the Student “has reportedly presented with symptoms and feelings of anxiety, including being reluctant to attend school due to physical complaints, other excuses, and tantrums.” P-4; P-5.

28. Evaluator A issued two addenda to the psychological evaluation, dated March 22, 2026, and April 3, 2026, and an addendum to the psychoeducational evaluation dated April 3, 2026. The addenda did not alter any test scores, diagnostic impressions, or recommendations. P-4; P-5.

29. An AED meeting for the Student was held on May 26, 2026. The team indicated that the Student should be evaluated to determine eligibility for special education and related services. R-11; R-12; R-25; P-35; Testimony of Witness E. Respondent proposed a full comprehensive psychoeducational evaluation and behavior support services social-emotional data collection. Consent to evaluate was not provided. R-12; P-36; Testimony of Witness E.

30. On June 24, 2026, School C, a public charter school, held an eligibility meeting for the Student and determined that s/he was a student with a disability who was in need of special education and related services. School C's eligibility determination report identified Specific Learning Disability as the Student's primary disability classification and Other Health Impairment as his/her secondary disability classification. On the "exclusionary factors" page of School C's eligibility determination, the team answered "No" to a lack of appropriate instruction in reading, "No" to a lack of appropriate instruction in mathematics, "No" to cultural factors, economic disadvantage, or environmental disadvantage, and "No" to English learner status. The team answered "Yes" to the statements that the assessment procedures used were valid for the purposes intended and valid for the Student, and that the Student's disability adversely affected his/her educational performance. P-1; P-2.

31. School C developed an IEP for the Student on June 24, 2026. The IEP provided for twenty hours per week of specialized instruction outside the general education classroom in reading, mathematics, written expression, executive functioning, study skills, and learning strategies, delivered by a special education teacher. The IEP also provided for two hours per week of behavioral support counseling outside general

education, delivered by a licensed clinical social worker, school psychologist, or qualified mental health provider; two hours per month of speech and language services outside general education; two hours per month of occupational therapy outside general education; and a full-school-day, daily dedicated aide. The IEP recorded that behavior impeded the Student's learning and that the team deferred a functional behavioral assessment to the first quarter of the 2026-2027 school year. The IEP also stated that the Student's communication needs were "undetermined" and that the Student "should undergo a comprehensive speech and language evaluation." The IEP's "present levels" section for reading stated that the severity of the Student's deficits exceeded what would be expected from attendance concerns alone and supported the presence of a Specific Learning Disorder with impairment in reading. P-1.

VI. Conclusions of Law

The burden of proof in District of Columbia special education cases was changed in 2014. The law states that "(w)here there is a dispute about the appropriateness of the child's individual educational program or placement, the public agency shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement" provided that the party requesting the due process hearing establishes "a *prima facie* case." D.C. Code § 38-2571.03(6)(A)(i). As a result, for Issue #1 and Issue #2, which concern Respondent's obligation to identify, locate, and evaluate the Student, the burden of persuasion is on Petitioner.

1. Did DCPS violate Child Find and deny the Student a FAPE by failing to identify, locate, and evaluate the Student during the 2024-2025 and 2025-2026 school years?

Petitioner contended that she requested an evaluation in April 2025, and that Respondent knew or should have known that the Student was a child with a suspected disability no later than the spring of 2025. Petitioner contended that Respondent instead delayed and shifted onto the Student's family the responsibility to identify and evaluate the Student. Respondent contended that the question was whether, at any point between April 2025 and the Student's withdrawal from DCPS in December 2025, DCPS had reason to suspect the Student had a disability that required specialized instruction; that the DCPS team was entitled to decide on the information available to it at the time; and that the information available showed a student whose difficulties were explained by absenteeism and who made measurable growth when instruction was received.

5-A DCMR §§ 3004.5-.6 say that a special education referral "may be oral or written," and on an oral referral, the LEA "shall ... [a]ssist any outside referral source, including ... the parent ... to document an oral referral in writing" and "[d]ocument the date of any oral referral within three (3) business days of receipt." D.C. Code § 38-2561.02(a)(2)(A) says that the LEA "shall assess or evaluate a student who may have a disability and who may require special education services within 60 days from the date that the student's parent or guardian provides consent," with reasonable efforts to obtain consent required within 30 days of referral. This Hearing Officer credits the testimony of Petitioner and the Grandparent that a request for testing was made at the April 4, 2025, meeting. Their accounts were consistent with each other and corroborated by Petitioner's September 8, 2025, email, which asked whether the Student could "be tested for learning disabilities since [s/he] wasn't tested last school year," a phrasing that presupposes an earlier, unanswered request. District of Columbia regulations provide that a referral by a

parent constitutes a request for an initial evaluation (5-A DCMR § 3004.1) and that the LEA shall not delay an initial evaluation in order to conduct screenings, pre-referral interventions, or a response-to-intervention process (5-A DCMR § 3004.3). Respondent was therefore required to answer the April 4, 2025, request by seeking consent and evaluating, not by devising an intervention plan.

Even if the Parent had not requested an evaluation, the Student should have been evaluated in April 2025. The IDEA imposes on every LEA an affirmative and continuing obligation to identify, locate, and evaluate children with disabilities residing in its jurisdiction who are in need of special education and related services. 20 U.S.C. § 1412(a)(3)(A); 34 C.F.R. § 300.111(a)(1)(i). The obligation is not confined to children who are ultimately found eligible; it reaches “children who are suspected of being a child with a disability under § 300.8 and in need of special education, even though they are advancing from grade to grade.” 34 C.F.R. § 300.111(c)(1).

In N.G. v. District of Columbia, 556 F. Supp. 2d 11 (D.D.C. 2008), the court explained that Child Find is “an affirmative obligation of every public school system to identify students who might be disabled and evaluate those students to determine whether they are indeed eligible,” that “[a]s soon as a child is identified as a potential candidate for services, DCPS has the duty to locate that child and complete the evaluation process,” and that “[f]ailure to locate and evaluate a potentially disabled child constitutes a denial of FAPE.” Id. at 16. The court added that “the Child Find obligation extends to all children suspected of having a disability, not merely to those students who are ultimately determined to be disabled,” and that “[t]his statutory mandate is clear.” Id. at 25-26.

Respondent's own 504-Like Plan Draft is a written finding that the Student presented with a condition that impaired his/her access to instruction and depressed his/her academic performance. The plan stated, in Respondent's words, that the Student was "experiencing significant academic anxiety, which has led to inconsistent attendance, averaging only 52% year-to-date." The plan recorded that the Student was in the 9th percentile in mathematics and the 28th percentile in reading and was performing below the district average on the ANet assessment. The plan prescribed accommodations for the Student's anxiety, including anxiety coping strategies and weekly check-ins with a counselor or administrator. The transmittal email stated that the April 4, 2025, meeting had addressed the Student's "attendance, academic anxiety, and the plan we would put in place here at school to give [the Student] [his/her] best chance at success."²

Respondent argued that a student must attend school to receive supports. In N.G., the hearing officer reasoned that no Child Find violation had occurred because that student "had excessive absenteeism ... with so many absences, the student was clearly not available for learning." 556 F. Supp. 2d at 25. But the court held that this position represented "an incorrect application of the statute ... unsupported by the record evidence." Id. The court found that if a student's inability to attend is disability-related, the remedy is an IEP designed for that student.

² Respondent also placed on the family a burden that the regulations place on Respondent. Witness C testified that she required medical documentation of a diagnosis before a Section 504 plan could be completed, that she referred the family to community providers outside Respondent's system to obtain the diagnosis documentation, and that no Section 504 plan was ever implemented for the Student because no such documentation was produced. District of Columbia regulations provide that where a medical evaluation by a licensed physician is determined to be necessary as part of the evaluation to determine whether a child is a child with a disability or to determine the educational needs of the child, the LEA shall arrange for that evaluation free of charge to the parent and without regard to health insurance coverage. 5-A DCMR § 3006.8.

Here, there is substantial evidence that the Student's absenteeism was disability-related. By April 8, 2025, Respondent knew that Petitioner had reported in writing on October 1, October 7, October 9, and November 13, 2024, that anxiety was causing physical symptoms and keeping the Student out of school, and that Respondent's own attendance counselor had written that the anxiety was "directly impacting [his/her] learning and attendance at school." Respondent also knew that in the fall of 2024, a six-session social skills intervention had failed because the Student could not attend it, and that thirty-two weeks of attendance interventions had failed.

Nor can Respondent rely on Petitioner's withdrawal of the Student from school, which took place after Respondent referred Petitioner to authorities for educational neglect. A district may not create the conditions for a parent's withdrawal and then rely on the withdrawal as a defense. See N.G., 556 F. Supp. 2d at 32. Nor did Respondent's Child Find obligation end when the Student was withdrawn. Hawkins ex rel. D.C. v. District of Columbia, 539 F. Supp. 2d 108, 113-14 (D.D.C. 2008). Respondent's own Child Find Guidelines say that DCPS "is required to identify, locate, and evaluate all children with disabilities from three through twenty-one years [of age] who are residents of the District of Columbia and who are not enrolled in a charter school. This requirement applies to children residing in the District, including those who are attending public or private school; home schooled; highly mobile and/or homeless." P-40-3.

For the foregoing reasons, Respondent violated its Child Find obligation from April 8, 2025, through June 24, 2026.

2. Did DCPS deny the Student a FAPE by failing to provide the Student an IEP and placement during the 2024-2025 and 2025-2026 school years?

Petitioner contended that had Respondent evaluated the Student when it was obliged to, the Student would have been found eligible and provided with an IEP, and that Respondent's failure to propose any IEP denied the Student a FAPE. Respondent contended that the Student's difficulties were attributable to absenteeism rather than to a disability, and that a student who struggles but makes academic progress does not require specialized instruction.

A "child with a disability" is a child with one of the enumerated impairments, "who, by reason thereof, needs special education and related services." 20 U.S.C. § 1401(3)(A); 34 C.F.R. § 300.8(a)(1). Eligibility therefore has two components: a qualifying condition and a resulting need for specialized instruction.

Petitioner contended that the Student is a child with a Specific Learning Disability, that the marked unevenness across his/her academic and cognitive profile has established that fact, and that Respondent would have reached the same conclusion had it evaluated the Student when it was obliged to. Respondent's witnesses suggested that the Student could not be eligible as a child with Specific Learning Disability because there was not enough of a discrepancy between the Student's academic and cognitive levels. In Davis v. District of Columbia, 244 F. Supp. 3d 27 (D.D.C. 2017), DCPS exited a student from the Specific Learning Disability category solely because that student could not demonstrate the required disparity between achievement and measured ability. The hearing officer agreed with DCPS, but the court vacated that holding, observing that federal regulation forbids the use of any single measure or assessment as the sole criterion for determining whether a child is a child with a disability, 34 C.F.R. § 300.304(b)(2), that this requirement imposes "a holistic inquiry in identifying [a Specific

Learning Disability],” and that “no single assessment or measure may undermine a finding of [that disability], where other measures could support such a finding.” 244 F. Supp. 3d at 43-44 (quoting Doe v. Cape Elizabeth Sch. Dist., 832 F.3d 69, 80 (1st Cir. 2016)).

The Davis court pointed out that, by the early 2000s, Congress raised concerns with the discrepancy approach, including that there was “no evidence that the IQ–achievement discrepancy formula can be applied in a consistent and educationally meaningful (i.e., reliable and valid) manner.” S. Rep. 108–185, at 26 (2003). Following statutory and regulatory shifts, the District of Columbia “eliminate[d] the ‘severe discrepancy’ requirement to determine whether a child has a Specific Learning Disability.” 52 D.C. Reg. 10,558 (Dec. 2, 2005). As a result, District of Columbia regulations defined a Specific Learning Disability as “a disorder in one (1) or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may affect the ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.” 5-A DCMR § 3011.11(a); accord 34 C.F.R. § 300.8(c)(10). Additionally, 5-A DCMR § 3011.11(e)(1)(C) stated that a group may consider “[w]hether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability.”

Here, the pattern of strengths and weaknesses contemplated by 5-A DCMR § 3011.11(e)(1)(C) was established by the Student’s achievement testing, since the

regulation permits the comparison to be made relative to “age, State-approved grade-level standards, or intellectual development.” If the school district had evaluated the Student, the test results would have been roughly the same as the test results in 2026, where the Student received a score of 98 on writing samples (grade equivalent of 5.0), which was in the average range and which Evaluator A identified as a strength, compared to a score of 54 on applied problems (grade equivalent of 1.0). The Student scored 85 on oral reading (grade equivalent of 3.0), but 63 on passage comprehension (grade equivalent of 1.7). S/he scored 83 on letter-word identification (grade equivalent of 3.1), but 66 on word attack (grade equivalent of 1.3). In other words, the Student writes at a fifth-grade level, computes at a first-grade level, reads aloud at a third-grade level, and comprehends at a first-grade level.

Respondent suggested that it had already put in interventions for the Student, but an intervention plan designed without regard to whether the Student’s disability caused his/her deficits is not a lawful substitute for an evaluation. N.G., 556 F. Supp. 2d at 29. Respondent suggested that the Student did not need special education services, which are a prerequisite to establishing IDEA eligibility. Alvin Independent School District v. A.D., 503 F.3d 378 (5th Cir. 2007); Hood v. Encinitas Union Sch. Dist., 486 F.3d 1099 (9th Cir. 2007). However, Respondent designed a package of general education accommodations for the Student in April 2025, including a Section 504-like plan, to address the Student’s issues. These accommodations clearly did not work. The Student barely attended school during the 2025-2026 school year. This Hearing Officer agrees with School C that this Student needs specialized instruction to be able to manage the school day during the 2026-2027 school year.

This Hearing Officer also disagrees with Respondent's objections to using the Student's 2026 evaluations to determine eligibility, including the contention that the evaluations were not comprehensive enough. Evidence that post-dates a decision remains relevant "to whatever extent it sheds light on whether the [decision] was objectively reasonable at the time it was promulgated." Middleton v. District of Columbia, 312 F. Supp. 3d 113, 138 (D.D.C. 2018). The record here indicates that the Student's learning issues in 2026 were very similar to his/her learning issues in 2025, and Respondent did not say that the Student's wide scatter in academic performance skills was something new to his/her academic profile. This Hearing Officer concludes that, had Respondent requested consent and evaluated the Student in April 2025, as 34 C.F.R. § 300.309(c)(2) required once the Student had been referred, Respondent would have obtained substantially the same profile of the Student that Evaluator A obtained, and Respondent would have been required to determine that the Student was a child with a Specific Learning Disability in need of special education and related services. It is noted that Respondent may not decline to gather that evidence and then rely on its absence. N.G., 556 F. Supp. 2d at 32.

Respondent's exclusionary-factor argument was likewise misplaced. Respondent contended that a child may not be found eligible if the determinant factor is a "lack of appropriate instruction in reading" or "in math." 34 C.F.R. § 300.306(b)(1). Witness G testified that because attendance is an exclusionary factor, and because a team must be satisfied that a student has been offered appropriate instruction, it is unlikely that the Student would have been found eligible. But the reason the Student was not receiving instruction was that s/he could not go to school, and the reason s/he could not go to

school was the condition Respondent failed to identify. Respondent's own AED document, written in October 2025, stated that the Student's academic anxiety "contributed to poor attendance (52%), limiting consistent access to instruction."

This Hearing Officer finds that DCPS denied the Student a FAPE when it failed to evaluate the Student, determine that s/he was eligible, and provide him/her with an IEP.

RELIEF

As relief, Petitioner seeks compensatory education per the compensatory education plan prepared by Witness A, which proposes 450 hours of tutoring, 200 hours of counseling, independent speech and language and occupational therapy evaluations, funded transportation to compensatory services, and reimbursement for gymnastics classes and online classes.

When a student is denied a FAPE, the statute directs the court to "grant such relief as [it] determines is appropriate." School Committee of the Town of Burlington v. Dep't of Education, Massachusetts, 471 U.S. 359, 371 (1985). The Supreme Court has indicated that hearing officers have the same broad remedial discretion as courts in fashioning relief under the IDEA. Forest Grove Sch. Dist. v. T.A., 557 U.S. 230, 243 n.11 (2009).

Compensatory education is an equitable remedy. An award must be based on "a qualitative, fact-intensive" inquiry, "tailored to the unique needs of the disabled student," and must "aim to place disabled children in the same position they would have occupied but for the school district's violations of IDEA." Reid ex rel. Reid v. District of Columbia, 401 F.3d 516, 518, 524 (D.C. Cir. 2005); see also Branham v. District of Columbia, 427 F.3d 7, 11 (D.C. Cir. 2005); Henry v. District of Columbia, 750 F. Supp.

2d 94, 99 (D.D.C. 2010). A mechanical hour-for-hour formula is not permitted. Reid, 401 F.3d at 523. At the same time, where a violation is established, the fact-finder must fashion an appropriate award and may not decline to do so because the record is imperfect. B.D. v. District of Columbia, 817 F.3d 792, 799 (D.C. Cir. 2016).

Witness A's compensatory education plan proposes 450 hours of tutoring and 200 hours of counseling. Because Respondent never evaluated the Student, the plan could not state what the Student's levels were in April 2025, and it does not project what those levels would have been under a compliant program. What the plan does instead is select a weekly service rate and multiply it. Witness A testified that tutoring three times per week at an hour and a half per session equals 4.5 hours per week, that 4.5 hours per week over fifty weeks equals 225 hours, and that 225 hours multiplied by two years equals the 450 hours requested. Witness A derived the counseling figure the same way, testifying that two hours per week over fifty weeks for two years would equal 200 hours.

The two-year multiplier is not a measure of the FAPE deprivation. Witness A testified that the period of Respondent's conduct requiring compensation ran from April 2025 to June 2026, and the compensatory education plan states that the Child Find delay extended from April 2025 through June 2026. Moreover, an IEP would not have been prepared for the Student until August 2025, because upon receiving a referral for an initial evaluation, the LEA must begin reasonable efforts to obtain parental consent no later than ten business days from the referral date and document those efforts within thirty days of the referral. 5-A DCMR § 3005.4(a); D.C. Code § 38-2561.02(a)(2)(A). Once consent is given, the agency has sixty days to evaluate and make an eligibility determination. 5-A DCMR § 3005.4(b); D.C. Code § 38-2561.02(a)(2)(A). If the child

is found eligible, the IEP team has thirty days to write the initial IEP. 5-A DCMR § 3017.1; 34 C.F.R. § 300.323(c)(1). Services must be made available as soon as possible following development of the IEP. 34 C.F.R. § 300.323(c)(2). Taken together, a child should benefit from an implemented IEP within approximately 120 days of the referral date. Had Respondent answered the April 4, 2025, request as the regulations required, the Student would have had an IEP in place by approximately the beginning of August 2025, before the 2025-2026 school year began. The services the Student lost are therefore the services s/he would have received during the 2025-2026 school year.

Additionally, a school year is approximately forty weeks, not the fifty weeks Witness A used, and there is no evidence in this record that the Student would have qualified for extended school year (“ESY”) services. Applying Witness A’s own weekly rates to the school year the Student lost yields approximately 180 hours of tutoring and 80 hours of counseling. This Hearing Officer will therefore award the Student 180 hours of compensatory education in the form of tutoring and 80 hours of compensatory education in the form of counseling.

This Hearing Officer will also award Petitioner reimbursement for the online curriculum purchased for approximately \$39.00 per month over a seven-month period, totaling \$273, which was a reasonable accommodation for this Student, who was not attending school. This Hearing Officer must, however, deny the request for reimbursement for gymnastics, which is a recreational activity that was not clearly connected to physical education. The request for speech and language and occupational therapy evaluations, which was not mentioned during closing, must also be denied because these evaluations are not directly related to the FAPE claims in the case.

VII. Order

As a result of the foregoing:

1. Respondent shall provide the Student with 180 hours of tutoring, to be provided by a qualified provider at a reasonable and customary rate, and provide reasonable reimbursement for travel to and from the tutoring;
2. Respondent shall provide the Student with 80 hours of counseling, to be provided by a qualified provider at a reasonable and customary rate, and provide reasonable reimbursement for travel to and from the counseling;
3. Respondent shall reimburse Petitioner in the sum of \$273 for the Student's online curriculum;
4. All other requests for relief are denied.

Dated: August 10, 2026

Michael Lazan
Impartial Hearing Officer

cc: Office of Dispute Resolution
Attorney A, Esq.
Attorney B, Esq.

VIII. 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 days from the date of the Hearing Officer Determination in accordance with 20 U.S.C. § 1415(i)(2)(A).

Dated: August 10, 2026

Michael Lazan
Impartial Hearing Officer