OSSE
Office of Dispute Resolution
August 24, 2025

District of Columbia
Office of the State Superintendent of Education
Office of Dispute Resolution

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Confidential

Parents on behalf of Student[1]	)	**Case No. 2025-0098**
	)	
Petitioner	)	**Hearing Date: August 5, 2025**
	)	
v.	)	**Conducted by Video Conference**
	)	
District of Columbia Public Schools	)	**Date Issued: August 24, 2025**
	)	
Respondent	)	**Terry Michael Banks, Hearing Officer**

HEARING OFFICER DETERMINATION

INTRODUCTION

Petitioners are the parents of an X-year-old student ("Student") who last attended School A. On June 10, 2025, Petitioners filed a *Due Process Complaint Notice* ("*Complaint*") alleging, *inter alia*, that the District of Columbia Public Schools ("DCPS") denied Student a free appropriate public education ("FAPE") by failing to provide Student an appropriate placement for the 2025-26 school year. On June 20, 2025, Respondent filed *District of Columbia Public Schools' Response to Petitioners' Administrative Due Process Complaint* ("*Response*") denying that it had denied Student a FAPE in any way.

SUBJECT MATTER JURISDICTION

This due process hearing was held, and a decision in this matter is being rendered, pursuant to the Individuals with Disabilities Education Improvement Act ("IDEIA," "IDEA," or "Act"), 20 U.S.C. Section 1400 *et seq*., its implementing regulations, 34 C.F.R. Sect. 300 *et seq*., Title38 of the D.C. Code, Subtitle VII, Chapter 25, and the District of Columbia Municipal Regulations, Title 5-E, Chapter 30.

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[1] Personally identifiable information is attached in the Appendix and must be removed prior to public distribution.

PROCEDURAL HISTORY

Petitioners filed their *Complaint* on Jule 10, 2025 alleging that DCPS denied Student a FAPE by failing to provide an appropriate IEP and placement for the 2025-26 school year. Specifically, Petitioners assert that DCPS had declined to place Student at School B for the 2025-26 school year despite having been ordered to fund his/her placement there for the 2024-25 school year in an April 21, 2025 Hearing Officer Determination ("HOD"). Petitioners assert further that the IEP proposed by DCPS does not address all of Student's documented disabilities.

DCPS filed its *Response* to the *Complaint* on June 20, 2025. It asserted that the HOD was a determination only for the 2024-25 school year and not applicable to the 2025-26 school year. It stated that School B had advised DCPS that it did not have space for Student for the upcoming school year, that as of the filing date of the *Complaint*, DCPS had not yet finalized Student's IEP for the 2025-26 school year, that an IEP for Student in May 2025 is consistent with the Hearing Officer Lazan's April 21, 2025 HOD, but implementation of that IEP would remain only through the end of June 2025, rendering the *Complaint* premature and not yet ripe for litigation. DCPS disputed that School B employed a teacher for the deaf. It also disputed that a full American Sign Language ("ASL") instruction environment would be one suited for Student's FAPE and asserted that it would not provide him/her necessary access to the curriculum. Finally, DCPS asserted that it was exploring School C as a placement for Student due to [School B's] unavailability for the upcoming 2025-26 school year. It was DCPS' understanding that MSB had not determined whether it would accept Student.

The parties participated in a resolution meeting on June 23, 2025 that did not result in a settlement. The prehearing conference in this case was conducted on June 25, 2025 through video conference facilities; the conference was not recorded. The *Prehearing Order* was issued later that day.

During the prehearing conference, Petitioner's counsel expressed concern about Student's placement for the upcoming school year in light of the HOD due date's confluence with the beginning of the school year. When the Hearing Officer suggested that Student would have "stay put" protection,[2] Respondent's counsel disagreed, indicating that Student had never enrolled in the school at which Petitioner seeks placement in this proceeding, and at which stay put protection would be asserted. The Hearing Officer invited briefing on this issue, and the parties agreed to a briefing schedule.

On June 27, 2025, Petitioners filed *Parents' Motion for Enforcement of "Stay Put" Rights* ("*Motion*"). Petitioners reported that in an HOD issued on April 21, 2025, Hearing Officer Michael Lazan found School A to be an inappropriate placement for Student, that School B was an appropriate placement for Student, and that Hearing Officer Lazan had placed Student at School B for the remainder of the 2024-25 school year.[3] Petitioners asserted that they elected not to enroll Student at School B after the issuance of the HOD because it was near the end of the 2024-2025 school year, preferring that s/he would start there when school resumes in September.

[2] 20 U.S.C. § 1415(j).

[3] School B is a residential facility located hundreds of miles from the metropolitan area.

On July 3, 2025, DCPS filed *District of Columbia Public Schools' Response to Petitioners' Motion for Stay Put* ("*Opposition*"). DCPS argued that the stay put provisions of the Individuals with Disabilities Education Improvement Act ("IDEA" or "Act") did not apply in this proceeding because DCPS had not proposed changing the placement ordered by Hearing Officer Lazan. Specifically, DCPS argued that Hearing Officer Lazan ordered that Student be placed in a residential facility. DCPS did not contest this aspect of the ruling, conceding that "The parties agree that a residential IEP placement is needed for the student per the June 2025 IEP and to align with the placement finding in the April 2025 HOD."[4] DCPS proposes to place Student in the residential program at School C in Baltimore, Maryland.

On July 4, 2025, Petitioners filed *Parents' Reply to DCPS' Response to Motion for Enforcement of "Stay Put" Rights* ("*Reply*"). Petitioners argued, *inter alia*, that DCPS' failed to address the regulation governing stay put, pertinent case law, as well as Hearing Officer Lazan's HOD.[5] On July 23, 2025, I issued an *Order on Motion for Enforcement of Stay Put Rights* granting the *Motion* ("*Order*"). The *Order* required DCPS to "place and fund the placement of Student at [School B] during the pendency of this due process proceeding."[6]

The due process hearing was conducted on August 5, 2025 by video conference. The hearing was closed to the public at Petitioners' request. Petitioners filed disclosures on July 29, 2025 containing a witness list of three witnesses and documents P1 through P25. Respondent filed objections to Petitioner's disclosures on August 1, 2025. DCPS objected to Petitioners' Exhibit P2 on grounds of foundation, P6, P10, P12, and P16 on grounds of foundation and relevance, and P25 on grounds of foundation and not a proper exhibit for admission into evidence. Petitioner's Exhibits P1-P9, P11, and P13-P24 were admitted into evidence.

Respondent also filed disclosures on July 29. 2025, containing a witness list of three witnesses and documents R1 through R23 and a Supplemental Disclosure including R24. Petitioners filed objections to DCPS' disclosures on August 1, 2025. Petitioners objected to the

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[4] *Opposition* at 2.

[5] On July 18, 2025, Petitioners filed *Parents' Supplemental Memorandum in Support of Motin for Enforcement of "Stay Put" Rights*. That pleading was unauthorized and was not considered in the determination of the ruling on the *Motion*.

[6] The quoted language is the standard language I have used in prior stay put orders without incident. It resulted in some confusion in this matter, however, because of the unique situation that Student has never attended the placement I had determined to be her/his "then-current placement" under the Act. Thus, after the issuance of the *Order*, but prior to the hearing, Petitioners' counsel inquired informally by email as to my expectations of DCPS in light of DCPS' apparent failure to take steps to facilitate Student's placement at School B. I replied that at the time I invited briefing on this issue, I was unaware of the beginning date of Student's 2025-26 school year at School B. Thereafter, from an exhibit to the *Motion*, I learned that Student would not be expected at School B until two weeks after the deadline for the issuance of my HOD. Since this proceeding would have concluded before Student would be expected at School B, I believed that my order simply required DCPS to do nothing inconsistent with Student's placement at School B until the issuance of the HOD, such as placing Student at School C. In a subsequent email, I declined to urge or order DCPS to meet with School B staff, believing that hearing officers lack the authority to "micromanage" LEAs, to sanction counsel or parties, or to provide injunctive relief beyond that authorized in the stay put provision of the Act. Moreover, I did not consider DCPS' alleged failure to meet with School B to be a direct violation of my order; DCPS would not be in violation of the actions required in the *Order* until more than two weeks after this proceeding would have ended. Had I believed that there was a direct violation of the *Order*, I would have at least convened a hearing on the matter to create a formal record and explore options. *See Relevant emails between the parties' counsel and the hearing officer*, filed on August 8, 2025.

designation of Witness C as an expert based on his qualifications. Petitioners also objected to R1 on grounds of relevance and illegibility, R6 on grounds of relevance, R7 on grounds of "it is nothing more than statutory law," and R 18 on grounds of authentication. Respondent's Exhibits R2-R6, R8-R17, and R19-24 were offered and admitted into evidence.

Petitioner presented as witnesses in chronological order: Witness A and Petitioner/father. Witness A was admitted as an expert in neuropsychology. Respondent presented only Witness B as a witness.[7] At the conclusion of testimony, the parties' elected to provide written closing arguments in lieu of oral closing arguments. The hearing officer authorized the parties' counsel to file their closing arguments by August 12, 2025. On August 12, 2025, Petitioners filed *Petitioners' Closing Argument*[8] and DCPS filed *District of Columbia Schools' Closing*.

ISSUES

As identified in the *Complaint* and the *Prehearing Order*, the issues to be determined in this case are:

1. Whether DCPS denied Student a FAPE by failing to provide an appropriate IEP for the 2025-26 school year. Specifically, Petitioners assert that the IEP proposed by DCPS does not address all of Student's documented disabilities.

2. Whether DCPS denied Student a FAPE by failing to provide an appropriate placement for the 2025-26 school year. Specifically, Petitioners assert that DCPS has declined to place Student at School B for the 2025-26 school year despite having been ordered to fund her/his placement there for the 2024-25 school year in an April 21, 2025 HOD.

3. Whether School B is an appropriate placement for Student.

FINDINGS OF FACT[9]

1. Student is X years old and was enrolled in School A in grade J (certificate track) during the 2024-25 school year.[10]

[7] Witness C, who was identified as a potential witness in DCPS' disclosures, did not testify but is referenced in testimony and emails herein.

[8] The factual narrative of *Petitioners' Closing Argument* included an abundance of factual assertions that were not presented during the hearing I adjudicated. For example, the placement at School A was not at issue in my hearing. Thus, paragraphs 3-10 and 16 included factual assertions considerably more detailed than the testimony before me. While I afforded Hearing Officer Lazan's reasoning and findings as to the appropriateness of School B considerable weight due to the proximity of his HOD with my hearing, I did not consider the characterization of the testimony before Hearing Officer Lazan described in the pleading, nor did I admit into evidence P25, the audio transcript of the hearing before Hearing Officer Lazan.

[9] The Findings of Fact includes all of the oral and written evidence that I considered material in rendering the decision in this matter. The quotations of oral testimony are from my notes during the hearing, not the transcript.

[10] Petitioner's Exhibit ("P.") 17 at page 1. The exhibit number is followed by the exhibit page number with the electronic

2. On January 21, 2025, Witness A completed an Independent Neuropsychological Evaluation of Student. Witness A reported that Student had a history of CHARGE syndrome, intellectual disability, and autism.[11] Student's hearing loss was identified in infancy; s/he underwent surgery for a right cochlear implant when s/he was one year old and for a left cochlear implant the following year. The left cochlear implant was removed due to infection when s/he was seven years old. Student has been prescribed glasses but habitually takes them off and removes her/his implant at the same time. A 2024 ophthalmological evaluation found Student's visual acuity to be 20/20 in the right eye, but 20/600 in the left eye.[12] Student's most recent IEP at School A indicated a classification of multiple disabilities ("MD"): blind or visually impaired and deaf or hard of hearing. "[His/her] IEP refers to [Student] as 'a deafblind person with CHARGE, [Student] requires the support of a well-trained and dedicated 1:1 support staff member. This staff person is needed to ensure [Student's] access to language, participation in activities/instruction and use of accommodations is consistent across all settings."[13] Petitioners reported to Witness A that Student communicates best using American Sign Language ("ASL") and that s/he does not appear to understand spoken language when wearing his/her cochlear implant. Petitioners and Student's older brother use ASL in the home to communicate with Student.[14] Witness A reported that when she observed Student in class at School A, s/he had an ASL interpreter and a dedicated aide. S/he wore his/her glasses and implant for no more than five minutes at a time. S/he did not respond to sounds or use his/her alternative augmentative communication ("AAC") device; other than some written responses from Student, all communication was through ASL. There was no interaction between Student and her/his peers.[15] Witness A found that Student's receptive language skills in ASL were in the exceptionally low range. Witness A did not quantify Student's expressive language skills but noted that s/he "expressively answered and made choices using ASL.."

> [Student's] pace of working is slowed when required to sequence letters or numbers (D-KEFS Trail Making). [Student's] visual attention is noteworthy for a labored visual search, though [s/he] demonstrated that [s/he] was able to successfully complete the task and find all of the targets, albeit at a slower pace than [her/his] peers (D-KEFS Trail Making). [His/her] visual-motor speed when not required to search for targets was a strength and fell solidly within the average range (D-KEFS Trail Making Motor Speed).[16]

Witness A opined that Student's current placement placed [her/him] at risk of deterioration of his/her development:

> [Student's] neuropsychological profile places [her/him] at risk. [S/he] is at risk of

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page number in parentheses, i.e., P17:1 (103).

[11] P3:1 (15). Witness A reviewed reports conducted by in 2021 and 2023, a May 31, 2024 IEP, an Orientation and Mobility Assessment conducted in 2022, and an ophthalmology evaluation that was conducted in 2024. The types of evaluations she reviewed were not identified. None of these documents was disclosed by either party. Petitioner's Exhibit 23, a CHARGE Syndrome Fact Sheet, indicates that the diagnosis of this condition should be made by a medical geneticist. Documentation of Student's diagnosis of CHARGE syndrome was not disclosed. In response to my question as to the diagnosis, Witness A testified that Student's diagnosis was made shortly after birth.

[12] *Id.* at 2 (16).

[13] *Id*. at 3 (17).

[14] *Id*. at 4 (18).

[15] *Id*. at 6 (20).

[16] *Id.*

> harm from others as [s/he] may struggle to communicate to others that [s/he] has been harmed, without improvements in [her/his] functional communication skills in ASL. [Student] is presently at risk of further regression in [her/his] skills, particularly with language if not provided with an accessible and language rich environment that [s/he] can readily access. [Student] is at risk of further isolation from peers and from instruction, as [s/he] is presently reliant on an interpreter for all access to communication, peers and [his/her] teachers within [his/her] classroom. [Student] is at risk of missing out on incidental communication, as [s/he] is not presently in an educational environment with multiple individuals able to communicate directly with [him/her].[17]

In light of Student's reluctance to use her/his cochlear implant, Witness A recommended that s/he be placed in a program that used a "total communication" approach, but which provided him/her the opportunity to communicate with teachers and peers through ASL.

> I endorse and support [her/his] placement in an educational program that is specifically designed with accessibility needs of deafblind students, and in which [s/he] will be able to communicate freely with both peers and teachers. [Student] will continue to require a high degree of support for one-on-one teaching, and use of a one-on-one aide to support [his/her] access to the environment. [Student's] language and communication access needs at present do require the use of ASL, as well as staff that are able to understand ASL in order for [Student's] communication needs to be met. Programming for [Student] is encouraged to incorporate pro-tactile ASL, as well as touch and other tactile cues to support [his/her] access to environmental information, incidental communication, and safety information. Some programs for individuals who are deafblind use the term 'total communication' to refer to communication methods that incorporate and uses touch, gestures, objects, tactile symbols, pictures, print, AAC, speech, sign language and tactile sign language. I would endorse and support programming for [Student] that would include all of these modalities and support this type of 'total communication' programming. This is not to be confused with an educational program that uses speech and sign language that can be referred to as total communication within some programs at schools for the deaf… Residential programming that can provide access for [Student] is endorsed, and would allow [her/him] to work towards adaptive skill goals and educational goals outside of direct instruction.[18]

3. Petitioner/father testified that Student was enrolled at School D, which serves deaf children, from an infancy program until March 2022 when School D indicated that it could no longer meet Student's needs. Reluctantly, Petitioners acceded to DCPS' insistence to have Student placed at School A despite School A never having enrolled a deaf student. Petitioner/father testified that Petitioners were "pressured" by DCPS to accede to the placement at School A. Petitioners were immediately concerned about the placement at School A; by the summer of 2022, they began exploring preferable options for Student. In October 2022, Petitioners applied to School

[17] *Id*. at 7 (21).
[18] *Id*. at 8 (22).

C for Student. School C informed them that the referral needed to be initiated by DCPS. When he was notified of the application by School C, Witness C, DCPS' Director, Non-public Schools, contacted Petitioners on October 13, 2022 and informed them that School C was not appropriate for Student because it only served students whose primary disability was blindness and that it did not have a Certificate of Approval ("COA") from the Office of the State Superintendent of Education ("OSSE"). Later that day, Witness C informed Petitioners that School C did, in fact, hold a COA, but "our working relationship with [School A] is much stronger in a way that I believe ultimately will support the programming available to [Student]."[19] Petitioners learned of School B at CHARGE conferences that they attended. They subsequently applied to School B and Student was accepted in October 2024. When DCPS declined to fund Student's placement at School B, Petitioners filed a due process complaint.[20] Thereafter, DCPS informed Petitioners that it wanted them to consider School C as a potential placement. Petitioners visited School C on March 13, 2025. They found that it did not meet what they believed to be Student's needs: (1) all teachers did not know ASL and it was not a requirement that they know ASL, and (2) only 10 students in the school, across all grades, were deaf, only one deaf student was in the residential program, and that student was only in residential housing two to three nights per week. Thus, there would not be ASL interaction with all teachers and a limited amount with peers.[21]

4. On April 21, 2025, Hearing Officer Michael Lazan issued the HOD in Case No. 2025-0010 that Petitioners filed on January 21, 2025.[22] The IEP at issue was developed on May 31, 2024.[23] Petitioners challenged the appropriateness of DCPS' continued placement of Student at School A. The Issues Presented were: (1) Did DCPS deny the Student a FAPE by failing to provide the Student with an appropriate placement/location of services for the 2024-2025 school year? Petitioners contended that the placement did not provide for instruction by teachers who are fluent in ASL, and (2) Did DCPS deny Petitioners an opportunity to request the aid or service that the Student and his/her family think is needed to provide for effective communication to and from the Student at school? If so, did DCPS deny the Student a FAPE?[24] Hearing Officer Lazan found that DCPS denied Student a FAPE "by failing to provide him/her with a school that could meet the Student's communication needs and provide the Student with meaningful access to ASL so that s/he could develop ASL skills."[25] In doing so, he found that Student had made no meaningful progress in reading, writing, or math at School A because of the lack of instruction in ASL.

> The record suggests that this lack of progress is because the Student works on ASL with teachers and aides who do not know ASL themselves. In fact, the record suggests that the Student is in danger of losing any speech capabilities that s/he might have had. Witness A, the most knowledgeable witness on the Student's condition at the hearing, wrote that the Student "is presently at risk of further

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[19] P2:1-3 (11-13). OSSE issues COAs to local private schools it deems qualified to provide special education services. D.C. Code § 38-2561.07. District's regulations prohibit OSSE from placing students at schools that do not hold a COA (5-A DCMR §3025.8(b)) but acknowledges the authority of courts and hearing officers to make such placements. 5-A DCMR §3025.9(b).

[20] ODR Case No. 2025-0010.

[21] Testimony of Petitioner/father.

[22] P7:1 (45).

[23] *Id*. at 9 (55).

[24] *Id*. at 3 (47).

[25] *Id.* at 20 (66).

> regression in [his/her] skills, particularly with language, if not provided with an accessible and language-rich environment that [s/he] can readily access." Witness A wrote that the Student "is at risk of further isolation from peers and from instruction, as [s/he] is presently reliant on an interpreter for all access to communication, peers, and [his/her] teachers within [his/her] classroom. [The Student] is at risk of missing out on incidental communication, as [s/he] is not presently in an educational environment with multiple individuals able to communicate directly with [him/her]." Witness A also said that, to meet Student's communication needs, the Student needed a different setting. [26]

Hearing Officer Lazan adopted the recommendation of School A's own psychologist who

> said that the Student needed to increase his/her expressive ASL skills and that a data tracking system should be implemented to ensure that the Student continues to make progress with his/her signed vocabulary skills. The psychologist also indicated that the Student should have direct access to a teacher of the deaf and hard of hearing at least once a day. No such programs were set up at [School A], and there is no data in the record to clearly track the Student's ASL skill development.[27]

Hearing Officer Lazan gave great weight to the testimony Witness A who also testified in that hearing, characterizing her as "the most knowledgeable witness on the student's condition at the hearing."[28] Witness A opined that Student required a "1:1 teaching aide and staff who can understand ASL." Hearing Officer Lazan noted that Student's IEP was consistent with this recommendation: "In fact, DCPS's own IEP stated that, as a deafblind person with the Student's condition, the Student required the dedicated 1:1 support of a well-trained staff member (not an interpreter) to ensure that the Student could access language, participate in activities/instruction, and use accommodations consistently across all settings."[29] Consequently, Hearing Officer Lazan found that Petitioner's proposed placement, School B, was appropriate due, in large part, to the fact that there were a number of students at School B with Student's condition and all of the staff members at School B were trained in ASL:

> [School B] offers a deafblind program that is suitable for the Student, who needs assistance with both hearing and sight. Each class in the school has roughly three to five students, with one teacher and one to three aides. All the children have hearing and/or vision loss. The school would follow the Student's toileting protocol and has three BCBAs on staff to design support plans for the Student, including with respect to toileting issues and dropping to the floor… [School B] currently has sixteen students who have the same condition and share similar characteristics as the Student. Several school staff members are lifetime members of a foundation dedicated to the Student's condition, and several related service providers at [School B] have experience working with children who have the Student's

[26] *Id*. at 17-18 (6364).
[27] *Id.*
[28] *Id*. at 18 (64).
[29] *Id.*

condition. In addition, all [School B] staff have some degree of ASL knowledge. Indeed, ASL is part of the natural language of instruction at the school.[30]

On April 21, 2025, Hearing Officer Lazan ordered DCPS to place and fund Student at School B immediately for the remainder of the 2024-25 school year.[31]

5. Two days later, on April 23, 2025, Attorney A, Petitioner's attorney, notified Attorney C, Respondent's attorney, that Petitioners did not believe that enrolling Student at School B immediately was "a good idea" and they planned to enroll her/him in the summer camp that s/he routinely attends:

> Since we assume that nobody will think it is a good idea for [Student] to begin right at the end of the school year, and [her/his] parents have once again made arrangements for [her/his] special camp that has proved so successful for [him/her] in recent years, it appears that [s/he] should start [School B] at the end of the summer now. Please let us know who from DCPS and/or OSSE your client believes should be involved in these discussions and we will of course work with them.[32]

6. The next day, on April 24, 2025, Staff Member B, a specialist in DCPS' Non-public Unit, sent an email to School B inquiring if the acceptance it issued to Student in October 2024 was still valid. Staff Member C, an admissions associate at School B, replied on April 28, 2025: "Yes, [Student's] acceptance letter is still valid."[33] Later that day, DCPS issued a location of services ("LOS") letter to Petitioners informing them that School B had been identified as Student's location of services for the remainder of the 2024-25 school year.[34] On April 30. 2025, Staff Member C sent DCPS an email thanking DCPS for the LOS letter and provided a copy of School B's October 2024 acceptance letter.[35] That day, Witness B, DCPS' Non-public Monitoring Specialist, sent an email to Petitioner/father suggesting a meeting between Petitioners, DCPS, School A, and School B to discuss Student's transition to School B "for the rest of the 24-25 SY as ordered in the HOD…"[36] The next day, May 1, 2025, Witness C, DCPS' Director of its Non-public Unit, sent an email to School B's Staff Member C asking for someone at School B to call him that morning to discuss details of Student's transition to School B.[37]

7. On May 2nd or 3rd, School B informed Petitioners that "they would be ready for [Student] in September." Petitioners agreed with the decision to delay Student's admission until September 2025.[38]

8. The record does not include written correspondence from School B or Petitioners to DCPS between May 1, 2025 and May 6, 2025 indicating that School B no longer had space for

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[30] *Id*. at 21 (67).
[31] *Id*. at 22 (68).
[32] P15:2 (96); *Opposition*, Exh. 3 at 26.
[33] *Opposition*, Exh. 1 at 21.
[34] P8:1 (73).
[35] *Opposition*, Exh. 1 at 17-18.
[36] P9:1 (75).
[37] *Opposition*, Exh. 1 at 15.
[38] Testimony of Petitioner/father on cross-examination.

Student during the 2024-25 school year.

9. On May 6, 2025, DCPS issued a Prior Written Notice ("PWN") indicating that it could not effectuate the immediate placement at School ordered by Hearing Officer Lazan because School B "does not have availability to have [Student] enroll until the start of the 2025-26 school year…" DCPS stated that it would extend implementation of Student's current IEP until June 31 (sic), 2025 due to Petitioners' unavailability for an IEP meeting in May 2025. DCPS further indicated that it would maintain Student's placement at School A and "To ensure HOD compliance, DCPS will seek placement at an appropriate COA list residential placement that can provide [Student] a FAPE in a residential placement setting for [his/her] IEP, which will comply with the HOD referenced above." The PWN urged Petitioners to engage in the referral process for the proposed placement.[39]

10. On May 13, 2025, Attorney A sent an email to Witness B objecting to DCPS' referrals to "any non-public residential school other than [School B], the school where DCPS has been ordered by Hearing Officer Lazan to place [Student]." Attorney A stated that requiring Student to transfer to School B "is not only mindless, but it evidences a thoughtless cruelty to a [Y]-year-old boy who deserves a chance to learn and communicate with others. Neither the staff at [School B] nor [her/his] parents see any sense in that… In fact, this entire course of conduct appear to be nothing other than pure spite on the part of the school system."[40]

11. Petitioner/father testified that he was confused by DCPS' intention to pursue a placement other than School B in light of the placement ordered in the HOD and placed two unanswered calls to Witness C, DCPS' Director of the Non-public Unit, to discuss the matter, but Witness C did not respond to Petitioner/father's voicemails.[41]

12. On May 23, 2025, Attorney C, Respondent's attorney, informed School B that DCPS had been informed that School B "does not have availability this school year for this student." School B's Director of Admissions responded: "Yes, sorry for the delay-we are waiting on the exact date confirmation for September. Attorney C responded: "I think this information clarifies sufficiently. Am I to understand [School B] does not have availability to accept the student until the upcoming 25/25 SY?"[42] School B responded: "Yes, [s/he] is accepted now but we will offer a start date for September."[43]

13. On June 4, 2025, DCPS issued a PWN indicating that it was referring the location of services determination to OSSE. DCPS proposed that OSSE effectuate a residential placement at School C.[44]

14. On June 5, 2025, before Petitioners submitted an application to School C as DCPS

[39] Respondent's Exhibit ("R.") 9 at page 85. The exhibit number is followed by the electronic page number i.e., R9:85. Petitioners' Exhibit P11:1 (79) appears to be identical except it is dated May 7, 2025. DCPS' subsequent PWN on June 4, 2025 indicates that it issued the earlier PWN on May 7, 2025. *See* n. 44, *infra*.
[40] P13:1 (85).
[41] Testimony of Petitioner/father.
[42] *Id*. at 6.
[43] P22:10-13 (204-7).
[44] P15:1 (95).

requested, Attorney A sent an email to School C indicating that Petitioners were being forced to apply to School C for Student by DCPS against their will, that Petitioners did not believe School C was appropriate, then asked if School C still wanted Petitioners to submit an application:

> Good morning. My clients, [Petitioners] have been contacted by the District of Columbia Public Schools to immediately fill out an application on behalf of their son, [Student], for possible admission into the residential program at [School C]. In response, [Petitioners] have asked for my counsel because they are very concerned and confused by the DCPS request. When looking at the [School C] application, the parents saw that the first question asks why they are seeking admission to [School C]. In point of fact, they are not seeking admission to [School C] because [Student] has already been placed at [School B] by Hearing Officer Michael Lazan, who presided over their recent due process hearing with DCPS, and issued his Determination on April 21, 2025. Please see Mr. Lazan's Determination (HOD), which is attached and clearly explains his reasons for ordering [Student's] placement at [School B]…
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> If it need be said, the parents respect [School C] and have previously visited the School to explore whether it could appropriately serve [Student]. Based on their past visits and conversations with [School C] staff, the parents realized that [School C] is not appropriate for [Student]. We want to make sure you have all this background, and we would like to know whether you still want [Petitioners] to submit an application to [School C]. [School B] has already accepted [Student's] application for admission to their Deafblind program, and they are ready for [Student] to begin in the fall. [Petitioners] question the utility of applying to [School C] and do not seek to waste your time or theirs, but will continue with the application if necessary. Please let me know, and I will advise my clients accordingly.[45]

15. School C replied to Attorney A the next day indicating that it required parental participation in the admissions process and would not be able to recommend whether Student's admission would be appropriate "without a comprehensive case review, a completed application, interview, and a short classroom visit for Student… Should the parents choose not to participate in the process, we respectfully suggest that the matter be returned to DCPS/OSSE for next steps."[46]

16. On June 9, 2025, Petitioner/father sent Witness C an email confirming that Petitioners had completed an application to School C, but asked for an explanation in light of the HOD order placing Student at School B. "It does not make sense that DCPS is insisting that we start applying to other schools, and I am trying to understand why."[47] Witness C responded the nest day:

> The HOD ordered [Student's] immediate placement into [School B] for the remainder of the current school year, per your request as a remedy in the due

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[45] P16:2-3 (100-101).
[46] *Id*. at 1 (99).
[47] P19:3 (175).

> process complaint. We were then informed by your attorney on 4/23/25 that you didn't actually want to send [Student] to [School B] until next school year so [s/he] could go to summer camp.
>
> We then learned [School B] did not have space available for the duration of the current school year, making DCPS implementation of the HOD impossible. This did not free DCPS from our FAPE obligation, which the per the HOD is now a Residential placement. Therefore, DCPS had to explore other Residential options in an effort to implement the HOD. Moreover, the HOD did not specify any location or service (LOS) for SY 25-26.
>
> DCPS is now trying to identify an LOS for next school year. [School C] is one such potential location. [School C] has indicated to DCPS that they may be able to program for [Student], making them a potentially appropriate LOS. [School C] has a Certificate of Approval (COA) with the OSSE; [School B] does not…[48]

17. On June 9, 2025, DCPS convened a virtual IEP Annual Review meeting. Petitioners were represented at the meeting by Attorney A and Attorney B.[49] In the Special Considerations section, the IEP team indicated that Student's behavior was an impediment to learning in the classroom. The behaviors included "dropping," defined as sitting or lying on the floor including curled in fetal position, hiding his/her face/head in his/her hands, laying on his/he back and leaving the assigned area without communicating. S/he is more likely to engage in these behaviors when new staff are introduced to her/his staffing rotation. Dropping was more likely to occur during or following Student's toileting routine, during transitions, and when s/he was suffering from seasonal allergies. While Student was characterized as blind/visually impaired in her/his left eye, the IEP team stated that her/his vision in her/his right eye allowed him/her to access instruction visually through ASL. The IEP team described the effect of Student's hearing loss on his/her ability to access the curriculum as follows:

> [Student's] hearing loss was formally identified at 1 month of age following a newborn hearing screening. [S/he] is deaf due to CHARGE syndrome. A record review notes that [Student] used to be a full-time CI user; however, [s/he] is currently refusing to wear the CI at times and therefore not a regular user. [Student] requires American Sign Language (ASL) to access content and curriculum and uses ASL to communicate with peers, teachers, and staff. When interacting with adults who are not fluent in ASL, [Student] requires an ASL interpreter; however, communication via an interpreter is coupled with non-verbal gestures and other visuals to supplement communication.[50]

In the Communication section of Special Considerations, the IEP team indicated that Student required a "Total Communication" approach, which included auditory input, ASL, and AAC devices:

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[48] *Id*. at 1-2 (173-74).

[49] P17:1 (103). The list of participants indicated that all attended by telephone.

[50] *Id*. at 3 (105).

> Speech/language goals should focus on [her/his] continued development of receptive, expressive, and pragmatic language skills in the context of literacy-rich activities. Use of a Total Communication approach for receptive communication, as is commonly used with children with CHARGE syndrome, is also recommended. It is recommended that, when possible, SLP and ASL professionals should work together to plan and/or provide services for [Student] to best support [his/her] language needs and reduce pull-outs from class. Focus should be given to [Student's] development of functional communication skills through a variety of modalities (e.g., ASL, English print, pictures, receptive spoken English, AAC/AT, etc.)[51]

The Assistive Technology Section of Special Considerations also stressed the need for a Total Communication approach:

> [Student] currently accesses a dynamic augmentative/alternative communication device and requires varying levels of prompting ranging from modeling to indirect verbal prompt (including partial verbal prompts, gestural cues and/or request a response) to navigate and use communicative functions. [S/he] should have access to this device throughout [her/his] day across all settings while at school. Visual supports such as core vocabulary and communication boards are used in conjunctions with ASL and spoken English during teaching and natural communicative exchanges to increase comprehension of spoken language. Implementation of a total communication approach (words, picture communication system, single message voice-output devices, signs, gestures) is encouraged to promote functional communication skills at school and at home. Lite-tech assistive technology (pictorial or visual supports) and high-tech assistive technology (AAC, tablet) are utilized for optimal comprehension, communication, and academics while in the instructional setting. Pictorial aides and aided language stimulation are recommended for transitions, communication efforts, and predictability.[52]

The Communication/Speech and Language Present Levels of Academic Achievement/Functional Performance ("PLOP") reported that Student had Not Achieved her/his Communication goal: given visual language supports and one prompt, Student would utilize a total communication approach (sign, AAC, pictures) to expand expressions to at least 3-4 word utterances for a variety of functional communication purposes (share opinions, ask questions to gain information, self-advocate, commenting) with increased independence in 65% of opportunities. The IEP team reported that Student will often remove his/her cochlear implant and glasses, drop to the ground, and cover his/her eyes and ears. The team offered the following additional observations:

> [Student] is a multimodal communicator who benefits from access to a variety of high-tech and low-tech modes. [Student] utilizes the Total Communication approach via a combination of ASL (American Sign Language) and SEE (Signed Exact English) through an ASL interpreter, a speech generating device (Unity on

[51] *Id*. at 3-4 (105-6).
[52] *Id*. at 4 (106).

> an Accent device), gestures, pointing, and written language. [Student] has a cochlear implant (CI) on [his/her] right side and can understand auditory information when using the device. [Student] benefits from input across modalities as [s/he] frequently uses a combination to express [her/himself]. It is recommended to continue utilizing a total communication approach to allow [Student] to choose which channel [s/he] would like to receive and express information. [Student] benefits from the use of visual supports across [his/her] day (i.e., schedules, color-coded conversation scripts, written directions) and is able to utilize these supports in order to actively participate in social and educational interactions. During this IEP year, [Student] demonstrated a decrease in wearing [her/his] CI as well as a decreased interest in utilizing [his/her] speech generating device within the school setting. Because of this, staff typically rely on written prompting and interpretation from [Student's] ASL staff.[53]

The IEP team acknowledged having reviewed Witness A's Neuropsychological Evaluation and incorporated language from her evaluation opining that Student was at-risk of further developmental deterioration in his/her current placement:

> Expressively, parents report that [Student] communicates best via American Sign Language (ASL) for [his/her] wants and needs. Receptively, parents note that there are differences based on whether or not [s/he] is wearing [her/his] cochlear implant. When wearing [her/his] cochlear implant parents note that [s/he] does appear to understand spoken language. Parents note that [his/her] vocabulary development appears to have stagnated as [s/he] has not had a consistent environment to access language." Furthermore, "[Student's] receptive language skills in ASL remain within the exceptionally low range (ASL-RST). Communication in ASL remains [his/her] primary and best means for receptive language input given [his/her] declining use of [his/her] cochlear implant and lack of access to spoken language without use of [his/her] cochlear implant. [Student's] expressive language produced was in ASL with this examiner and [s/he] fingerspelled the alphabet (letters A through the letter Q) with some prompting (examiner signing, "next?"). [Student] expressively answered and made choices using ASL, and used some natural gesture (i.e., pointing, head shaking)." The report also mentioned that "Results of the present evaluation indicate that [Student's] needs for access and communication have changed markedly since [his/her] prior evaluations in 2021 and 2023. Notably, [Student] is no longer consistently able to access spoken language via [her/his] cochlear implant, and [her/his] parents have indicated a desire to discontinue use of a reinforcement program for cochlear implant use. While previous assessments and [his/her] team had previously identified that [Student] was in need of auditory input and use of ASL to obtain information, this is no longer the case. [Student] consistently demonstrates that [s/he] requires access to information in ASL. [Student's] visual needs remain another important consideration for [her/his] access needs, and as a deafblind student, [her/his] field of vision and visual access needs represent another consideration that can constrain [her/his] access to information in a classroom setting in which [s/he] is the only deafblind student. [His/her/] speed

[53] *Id*. at 17 (122).

> of accessing visual information in an array is impacted by [his/her] visual needs." [Witness A] also wrote that "[Student's] neuropsychological profile places [her/him] at risk. [S/he] is at risk of harm from others as [s/he] may struggle to communicate to others that [s/he] has been harmed, without improvements in [her/his] functional communication skills in ASL. [Student] is presently at risk of further regression in [her/his] skills, particularly with language if not provided with an accessible and language rich environment that [s/he] can readily access. [Student] is at risk of further isolation from peers and from instruction, as [s/he] is presently reliant on an interpreter for all access to communication, peers and [her/his] teachers within [her/his] classroom. [Student] is at risk of missing out on incidental communication, as [s/he] is not presently in an educational environment with multiple individuals able to communicate directly with [her/him].[54]

The Communication goals were: (a) given visual language supports and 1-2 prompts, Student will utilize a total communication approach (sign, AAC, pictures) to produce expanded, complete sentences containing at least 5 language elements (e.g. category, function, appearance, composition, parts, or location) when describing objects or events in complete sentences, and (b) given visual language supports and 1-2 prompts, Student will utilize a total communication approach (sign, AAC, pictures) to ask questions.[55]

The IEP team prescribed 28.75 hours/week of specialized instruction outside general education, 1.25 hours per week of speech-language pathology outside general education, eight hours annually of vision consultation services, 3.33 hours annually of occupational therapy consultation services, two hours per month of specialized instruction consultation services, and 30 minutes per month of physical therapy consultation services.[56] In addition to a detailed description of Other Classroom Aids and Services, the team prescribed a dedicated aide.[57] In the Least Restrictive Environment section of the IEP, the team indicated that Student would be outside general education 98.36% of the time and inside general education 1.64% of the time but acknowledged that "The Hearing Officer Determination dated on or about April 21, 2025 stated that [Student] requires a residential placement. [Student] will not have interactions during the school day with non-disabled peers."[58] The IEP team also prescribed extended year services ("ESY").[59] Finally, the IEP team indicated that Student participates in an IEP Certificate of Completion course of study rather than one that will allow her/him to earn a diploma.[60]

18. After the IEP meeting on June 9, 2025, DCPS issued a PWN to Petitioners confirming the issuance of the IEP. The PWN included discussion of disagreements with Petitioners on language to be included in Student's goals, Petitioners' objection to the immediate placement at School B, and as to the inclusion of ESY in the IEP:

> DCPS proposes an IEP placement that will be the student's educational placement for the

[54] *Id*. at 21, 24 (123, 126).
[55] *Id*. at 21-24 (123-26).
[56] *Id*. at 43 (145).
[57] *Id*. at 45 (147).
[58] *Id*. at 49 (151).
[59] *Id*. at 50 (152).
[60] *Id*. at 59 (161).

remainder of the 24/25 SY, updating the previous IEP for [Student] dated 5/31/2024. DCPS anticipates maintaining this IEP proposal for the 25/26 SY as well. The implementation of the May 2024 IEP was continued through the end of June 2025 to accommodate parent availability and request as documented in the PWN dated May 7, 2025. The proposed IEP includes updated/revised present levels of performance, goals, and information from the recent April 2025 HOD ODR case 2025-0010. DCPS proposes… Placement and Location: DCPS is seeking a residential location for the remainder of the 24/25 SY to comply with the HOD dated on or about April 21, 2025. As previously indicated and discussed with parents, [School B] is not available for the 24/25 SY… DCPS' proposal is in compliance with the HOD dated on or about April 21, 2025 as well as current educational data and information about the student's needs and progress to date. The team met for two IEP meetings since the April 2025 HOD and the student's current information was discussed… Counsel for the family, [Attorney A], requested DCPS include the following language in all of the goals in the IEP, "Given a classroom setting employing a total communication approach focusing on ASL as used by both staff and some peers." This request is being rejected because, as stated in the HOD dated on or about April 21, 2025, [Student's] ASL is "rudimentary." Due to this, focusing on a language that a student has rudimentary knowledge of would not be beneficial for [Student's] access to the curriculum. [Student] should have access to ASL as also mentioned in the same HOD, and DCPS is seeking placement where [s/he] will have access to a communication approach, which will include ASL. Additionally, parent's counsel continues to request the student not be placed residentially now, or immediately, but rather DCPS place the student at [School B] in the Fall 2025. This does not align with the HOD or the LEA's obligations for FAPE. DCPS rejected parent's proposal to remove any summer/extended school year programming as well.[61]

19. On June 10, 2025, Petitioners submitted an admissions application for Student to School C as DCPS had requested.[62]

20. On June 26, 2025, School B sent Petitioners an acceptance letter for Student for the 2025-26 school year indicating that his/her start date would be September 9, 2024.[63]

21. On July 10, 2025, Staff Member A at School C invited Petitioners and Student for the required admissions visit on July 23, 2025.[64] On July 11, 2025, Petitioner/father asked Staff Member A if School C had a deafblind program. She replied that "We do not use disability specific program names at [School C]. We arrange our classes. staffing and student schedules based on their individual needs and what is in their IEPs. We currently have 21 students who fit various profiles of Deaf-Blindness with additional disabilities, including 3 with CHARGE attending school here."[65] On July 12, 2025, Petitioner/father informed Staff Member A that "We are not able to visit on July 23" and proposed dates in August.[66] Staff Member A replied on July 14th, indicating that they could only do summer admission classroom visits while students were in session, which

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[61] *Id*. at 60-61 (162-3).
[62] Testimony of Petitioner/father.
[63] P20:1 (177).
[64] P21:12 (190).
[65] P21:7-9 (185-87).
[66] *Id*. at 6 (184).

would end on July 31st. She offered to try to arrange a telephone visit on July 23rd.[67] At 11:23 a.m. on July 14, 2025, School C informed Petitioner/father by email that the mandatory classroom visit for Student had to be conducted by July 31st, the last day of classes during the summer. The next opportunity for the classroom visit would be September 10th. School C also approved Petitioners' request to have Witness A accompany them on the visit. At 12:51 p.m. on July 14, 2025, Witness B, DCPS' Non-public Monitoring Specialist, emailed Petitioners and reiterated the need to complete the visit at School C by July 31st. At 4:29 that day, Petitioner/father replied to Witness B, copying School C, indicating the family's availability on July 29th from 11:00 -3:00 and July 30th from 11:00-2:00. On July 15th. School C scheduled the admissions visit for July 29th from 12:00-2:00. At 10:45 a.m. on July 17th, School C emailed Petitioner/father to ask for confirmation of the visit on July 29th and to request that Petitioners have an intervener accompany the family on the visit. At 11:11 a.m., Petitioner/father notified School C that Petitioners would not be able to attend the admissions visit on July 29th after all. Petitioner/father offered to be available August 11, 12, or the week of August 25th.[68]

22. On July 21, 2025, Petitioners and Student visited School B.[69]

23. Witness A was Petitioners' expert in neuropsychology. She testified that Student has CHARGE syndrome, a rare disorder. There are no school programs in the metropolitan area for students with CHARGE syndrome, but School B has such a program. Witness A opined that it was important for Student to be in a setting in which the staff uses ASL; s/he cannot freely communicate his/her needs if the only person s/he communicates with is a dedicated interpreter. Witness A testified that she was familiar with School C because some of her patients have attended School C. It does not have a program for students with CHARGE syndrome. Some of its staff members have facility in ASL with varying degrees of skill. Witness A opined that School C would not be appropriate for Student because the environment, in terms of usage of ASL by the staff and peers, would be similar to what s/he has experienced at School A. She opined that Student was in danger of regression due to the lack of access to peers who can communicate with her/him in ASL. Witness A testified that Student was diagnosed with CHARGE syndrome shortly after birth.[70]

24. Petitioner/father testified that the June 9, 2025 IEP was inappropriate because it was written for School A, which was an inappropriate placement. During the IEP meeting, he was still wondering why DCPS was not moving forward with the placement at School B. Petitioner/father testified that Student has been attending the same summer day camp in Rockville for ten years. The camp session is seven weeks long. The campers have a range of disabilities. Student has a counselor who signs with her/him.[71]

25. Witness B was DCPS' Non-public Monitoring Specialist. Witness B testified that School C has a COA and is one of the private schools he monitors to ensure IDEA compliance for District students placed there. He testified that he conducts observations at the school and interacts with the school's staff members. Witness B testified that in March 2025, he observed a high school

[67] *Id*. at 5 (183).
[68] *Id.* at 1-4 (179-82).
[69] Testimony of Petitioner/father.
[70] Testimony of Witness A.
[71] Testimony of Petitioner/father.

class at School C in which the teacher used both spoken language and ASL throughout the session. A speech pathologist who "pushed-in" the class also used ASL while speaking. In response to my question, Witness B was unsure if School C had more than one teacher of the deaf in its high school. "Based on the need that [Student] has for ASL, I would imagine that they would try to place [her/him] in a classroom that uses ASL. The classroom I was speaking of uses ASL extensively… Multiple staff members were using it. Students were using it."[72]

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the arguments of counsel, and this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows: The burden of proof in District of Columbia special education cases was changed by the local legislature through the District of Columbia Special Education Student Rights Act of 2014. That burden is expressed in statute as the following:

> Where there is a dispute about the appropriateness of the child's individual educational program or placement, or of the program or placement proposed by the public agency, 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 shall retain the burden of production and shall establish a prima facie case before the burden of persuasion falls on the public agency. The burden of persuasion shall be met by a preponderance of the evidence.[73]

The issues in this case include the alleged failure of DCPS to provide an appropriate IEP and placement. Under District of Columbia law, DCPS bears the burden of persuasion as to these issues. Petitioner bears the burden as to the appropriateness of School B as a prospective placement.[74]

Whether DCPS denied Student a FAPE by failing to provide an appropriate IEP for the 2025-26 school year. Specifically, Petitioners assert that the IEP proposed by DCPS does not address all of Student's documented disabilities.

The Supreme Court's first opportunity to interpret the predecessor to IDEA, The Education of the Handicapped Act ("EHA"), came in *Board of Education of the Hendrick Hudson Central School District v. Rowley*.[75] The Court noted that the EHA did not require that states "maximize the potential of handicapped children 'commensurate with the opportunity provided to other children."[76] Rather, the Court ruled that "Implicit in the congressional purpose of providing access to a 'free appropriate public education' is the requirement that the education to which access is

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[72] Testimony of Witness B.
[73] D.C. Code Sect. 38-2571.03(6)(A)(i).
[74] *Schaffer v. Weast*, 546 U.S. 49 (2005).
[75] 458 U.S. 176, 187 (1982).
[76] *Id*. at 189-90, 200.

provided be sufficient to confer some educational benefit upon the handicapped child…[77] Insofar as a State is required to provide a handicapped child with a 'free appropriate public education,' we hold that it satisfies this requirement by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction… In addition, the IEP, and therefore the personalized instruction should be formulated in accordance with the requirements of the Act and, if the child is being educated in the regular classrooms of the public school system, should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade."[78]

More recently, the Court considered the case of an autistic child under IDEA who, unlike the student in *Rowley* was not in a general education setting.[79] The Tenth Circuit had denied relief, interpreting *Rowley* "to mean that a child's IEP is adequate as long as it is calculated to confer an 'educational benefit [that is] merely… more than *de minimis*."[80] The Court rejected the Tenth Circuit's interpretation of the state's obligation under IDEA. Even if it is not reasonable to expect a child to achieve grade level performance,

> … [h]is educational program must be appropriately ambitious in light of [his/her] circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives… It cannot be the case that the Act typically aims for grade-level advancement for children with disabilities who can be educated in the regular classroom, but is satisfied with barely more than *de minimis* progress for those who cannot.[81]

In *Endrew*, the Supreme Court held that an IEP must be designed to produce more than minimal progress in a student's performance from year to year:

> When all is said and done, a student offered an educational program providing "merely more than *de minimis*" progress from year to year can hardly be said to have been offered an education at all. For children with disabilities, receiving instruction that aims so low would be tantamount to "sitting idly… awaiting the time when they were old enough to drop out…" The IDEA demands more. The IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[82]

The *Complaint*, filed the day after the development of the IEP, criticizes the IEP because DCPS "refused to include information from the HOD or the recent Neuropsychological report upon which the HOD largely relied because DCPS staff stated that they were writing the IEP for implementation at [School A], a placement that has been found inappropriate. Nonetheless, DCPS

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[77] *Id*. at 200.
[78] *Id*. at 203-04.
[79] *Endrew F. ex rel. Joseph F. v. Douglas County School District RE-1*, 137 S.Ct. 988 (2017).
[80] *Id*. at 997.
[81] *Id*. at 1000-01 (citations omitted).
[82] 137 S.Ct. at 1000-01.

maintains that it will put nothing into [Student's] new IEP that cannot be supplied at [School A]."[83] Petitioners' expert, Witness A, was not asked a question about the IEP and did not volunteer an opinion about its appropriateness. Petitioner/father testified that the IEP was written for implementation at School A, an inappropriate placement.

In fact, (1) the LRE section of the IEP specifically stated that "The Hearing Officer Determination dated on or about April 21, 2025 stated that [Student] requires a residential placement. [Student] will not have interactions during the school day with non-disabled peers;" (2) the PWN issued contemporaneously indicated that the IEP was intended to achieve compliance with the HOD that ordered an immediate residential placement, (3) the IEP incorporated language in the Communication PLOP from "the recent Neuropsychological report upon which the HOD largely relied" indicating "[Student] consistently demonstrates that [s/he] requires access to information in ASL," *i.e.*, the need for Student to be instructed in ASL and to be able to communicate in ASL with school staff and peers, and (4) by conceding the need for a residential placement as ordered in the HOD, DCPS conceded that the IEP cannot be implemented at School A, a day school at which Student made no progress due to its lack of instruction and interaction in ASL.

IDEA regulations require that parents are included on every IEP team.[84] The regulations compel the local education agency to take particular steps to ensure parents' participation in IEP meetings and to document their efforts to ensure that participation.

> Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including—
> (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
> (2) Scheduling the meeting at a mutually agreed on time and place…
> (c) If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls…
> (d) Conducting an IEP Team meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as—
> (1) Detailed records of telephone calls made or attempted and the results of those calls;
> (2) Copies of correspondence sent to the parents and any responses received; and
> (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.[85]

These provisions are not cited because Respondent failed to afford Petitioner the opportunity

[83] P1:7 (9).
[84] 34 C.F.R. §300.321.
[85] 34 C.F.R. §300.322.

for complete and meaningful participation in the June 9, 2025 IEP meeting. Rather, they are cited to stress the importance IDEA places on parents' role in the development of IEPs. Here, not only did Petitioners participate in the June 9th IEP meeting, they were also represented by both of their attorneys of record in this proceeding at that meeting. There is no indication that Petitioners or their attorneys objected to any aspect of the IEP that was developed that would have rendered the IEP inappropriate. Most importantly, Petitioners' team did not object to the level of services prescribed in the IEP, full-time specialized instruction outside general education, and they did not object to any of the goals in the Areas of Concern included in the IEP: Mathematics, Reading, Written Expression, Communication, Vision, Hearing, Behavior, Motor, and Health/Physical.

According to the PWN issued that day, DCPS rejected Attorney A's request that the following language be added to every goal in the IEP: "Given a classroom setting employing a total communication approach focusing on ASL as used by both staff and some peers." DCPS declined the request because it believed Student's grasp of ASL to be "rudimentary," and "focusing on a language that a student has rudimentary knowledge of would not be beneficial for [Student's] access to the curriculum." DCPS' characterization of Student's ASL skills is consistent with the finding in Witness A's evaluation that Student's receptive language skills in ASL were in the "exceptionally low range." However, the IEP adequately supported the need for a "total communication approach," the need for Student to have access to instruction in ASL, and her/his need to be able to interact with staff and peers in ASL. Witness A endorsed a "total communication" approach that incorporates and uses touch, gestures, objects, tactile symbols, pictures, print, AAC, speech, sign language and tactile sign language.[86] The Communication section of Special Considerations in the IEP provides: "Focus should be given to [Student's] development of functional communication skills through a variety of modalities (e.g., ASL, English print, pictures, receptive spoken English, AAC/AT, etc.)." Moreover, the Communications PLOP in the IEP incorporated language from Witness A's evaluation, "[Student] consistently demonstrates that [s/he] requires access to information in ASL," wtressing Student's need for instruction in ASL and to be in an environment in which s/he can communicate with staff and peers in ASL.[87]

Petitioners also objected to the inclusion of ESY on the IEP. Considering the finding in the April HOD that Student made no progress in reading, writing, or math during his/her three years at School A, it was reasonable for DCPS to prescribe ESY to minimize the likelihood of regression during the summer months. Petitioners elected to forego the immediate placement at School B and opposed the prescription of ESY in favor of continuing Student's 10-year tradition of attending seven weeks of summer camp. Finally, the PWN issued contemporaneously with the IEP indicated that it was written to support a residential placement in compliance with the April HOD, and Attorney A conceded during the hearing that DCPS now supports a residential placement for Student.

It is one thing for unrepresented, unsophisticated parents to rely on the expertise of school staff in the development of an IEP but subsequently to become suspect of their recommendations. It is quite another thing for intellectually sophisticated parents, who have been consistently involved in developing their child's IEPs to be represented by a special education law firm at an IEP meeting,

[86] P3:8 (22).
[87] P17:21, 24 (123, 126).

to fail to raise meritorious substantive objections to the goals or services prescribed in the IEP at the IEP meeting, to mischaracterize the IEP's treatment of the HOD and DCPS' position as to the continuing appropriateness of School A as a placement, then to allege the inappropriateness of the IEP in a due process complaint. "[N]either the statute nor reason countenance "Monday Morning Quarterbacking."[88]

I conclude that DCPS has met its burden of proving that the IEP it developed on June 9, 2025 was reasonably calculated to enable Student to make progress consistent with his/her unique circumstances.

Whether DCPS denied Student a FAPE by failing to provide an appropriate placement for the 2025-26 school year. Specifically, Petitioners assert that DCPS has declined to place Student at School B for the 2025-26 school year despite having been ordered to fund her/his placement there for the 2024-25 school year in an April 21, 2025 HOD.

In the previous hearing, DCPS was asserting the appropriateness of School A, a local private day school. Hearing Officer Lazan found that Student had not made academic progress in her/his three years at School A, thereby rendering that school an inappropriate placement for him/her. While Hearing Officer Lazan placed Student at School B on April 21.2025 for the remainder of the 2024-25, that ruling is not binding for the 2025-26 school year. Although DCPS argued that Student did not require a residential setting, Hearing Officer Lazan did not conclude that Student's LRE was a residential setting. Rather, citing *Leggett v. District of Columbia*,[89] he held that Petitioners' proposed placement, School B, was the only placement on the record shown to be appropriate for Student.

DCPS now concedes that Student requires a residential placement. Perhaps it changed its position because it is aware that no school day school holding a COA can meet Student's ASL needs.[90] Thus, when it issued the identical PWNs on May 6 and 7, 2025, it indicated that it would identify "an appropriate COA list residential placement that can provide [Student] a FAPE in a residential placement setting for [his/her] IEP, which will comply with the HOD referenced above." This was thoroughly explained to Petitioners in an email on June 10th from Witness C, DCPS' Director of its Non-Public Unit.[91]

When a local LEA determines that it is unable to provide a student a FAPE, it must request OSSE to make a placement outside of the LEA. OSSE must review the request within 30 business days.[92] OSSE must then conduct a change in placement meeting with the parents and the LEA.[93] If the meeting participants decide to proceed with a placement outside the LEA, OSSE shall issue a

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[88] *H.S. v. District of Columbia*, Civil Action No. 1:23-cv-2982, 2025 WL 1019300 at 8 (D.D.C. Apr. 4, 2025), citations omitted.
[89] 793 F.3d 59, 72 (D.C. Cir. 2015).
[90] D.C. Code § 38-2561.07 requires OSSE to administer a Certificate of Approval for nonpublic special education schools that serve District students with disabilities to ensure that the schools provide the types of care consistent with District laws and regulations.
[91] P19:1-2 (173-74).
[92] 5-A DCMR § 3025.4.
[93] 5-A DCMR § 3025.5; 5-A DCMR § 3022(b).

service location within 15 business days of that decision absent extenuating circumstances as determined by OSSE.[94] OSSE is precluded from issuing a service location to a nonpublic special education school that is unable to implement the child's IEP or that does not hold a current COA unless the placement has been ordered by a federal court or a hearing officer pursuant to IDEA.[95] A hearing officer may make a placement to a nonpublic school that lacks a COA only if there is no public school or program able to provide the student a FAPE and there is no nonpublic special education school or program available holding a COA.[96]

In its June 4, 2025 PWN, DCPS stated its intention to place Student at School C for the 2025-26 school year. Contrary to the assertion in his stay put *Motion*[97] that Attorney A conceded during the hearing was "misleading," School C was *not* found to be inappropriate by Hearing Officer Lazan. In fact, School A, not School C, was the proposed placement in that case and the only school found to be inappropriate. School C was not even listed in the Appendix to the HOD. The only statement in the HOD that could even remotely be assumed to have tangentially referred to School C is Hearing Officer Lazan's description of Petitioners' testimony that "the few schools nearby that might possibly be appropriate have not accepted the Student."[98] Thus, as Student was not placed at School B for the 2025-26 school year by the HOD, and School B does not hold a COA, DCPS proposed in the PWN to place Student at School C for the 2025-26 school year, which has a residential program and holds a COA. As I stated during the hearing, whether Student attended School B during the 2024-25 school year as ordered or not was irrelevant as to DCPS' placement options for the 2025-26 school year. Once it determined that Student required a residential placement, it was obligated to consider residential schools holding a COA that could meet Student's needs.

The issue of OSSE's authority to place students in private school not holding a COA was discussed in a recent HOD of mine in which Attorney A was a counsel of record for the parents. In Case No. 2024-0049, I cited D.C. Code Section 38-2561.03(b)(1) and 5-A DCMR Section 3025.8 and noted that "OSSE is precluded from issuing a service location to a nonpublic special education school that is unable to implement the child's IEP or that does not hold a current certificate of approval unless the placement has been ordered by a federal court or a hearing office pursuant to IDEA." I ruled in favor of OSSE in that matter because

> OSSE had an obligation to pursue referrals to schools with COAs, and it had no control as to the responsiveness of those schools. In light of the regulatory aversion to placements in non-COA schools, OSSE's two-month search beyond the 15-day deadline was not unreasonable. Nor was it unreasonable to take another month to ensure that School A was capable of implementing Student's IEP. [99]

Thus, Attorney A was well aware of the statutory and regulatory prohibition of OSSE placing students in private schools not holding a COA.

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[94] 5-A DCMR § 3025.6.
[95] 5-A DCMR § 3025.8; D.C. Code § 38-2561.03(b)(1).
[96] D.C. Code § 38-2561.03(b)(2).
[97] *Motion* at 3.
[98] P7:21 (67).
[99] *Hearing Officer Determination*, Case No. 2024-0049 at 26 (ODR May 24, 2024).

While the District's regulations concede hearing officers' authority to make such placements, Hearing Officer Lazan's order did not order Student's placement in School C for the 2025-26 school year. Nevertheless, after the issuance of the HOD, Attorney A proceeded as if it did. When he filed the complaint in Case No. 2025-0010 on January 21, 2025, Attorney A was well aware that that a timely HOD would be issued in April. The complaint requested Student's placement at School B for the remainder of the 2024-25 school year, the precise relief Hearing Officer Lazan granted on April 21st. *Two days after receiving the relief he requested*, Attorney A sent an email to DCPS' attorney asserting that "nobody will think it is a good idea for [Student] to begin right at the end of the school year," and notified DCPS that Student would be going to summer camp instead. Obviously, there were conversations between Petitioners, Attorney A, and School B about the immediate placement ordered by Hearing Officer Lazan. On April 28th and 30th, School B confirmed to DCPS' Staff Member B that the October 2024 acceptance was still valid for the 2024-25 school year. However, on May 6 and 7, 2025, DCPS issued PWNs indicating that School B had informed DCPS that it no longer had space for Student for the 2024-25 school year. It took a month after Attorney A deemed the immediate placement a bad idea for School B to provide written confirmation that it no longer had space for Student for the remainder of the 2024-25 school year.[100]

Once Attorney A informed DCPS that Student would not enroll at School B for the remainder of the 2024-25 school year, and DCPS was informed that School B did not have space available, DCPS' May 6-7, 2025 PWNs informed Petitioners that it would proceed with placement proceedings for the 2025-26 school year. As the regulations required consideration of schools holding COAs, DCPS' June PWN indicated that it was considering School C as a potential residential placement and encouraged Petitioners' engagement in the process.

Attorney A responded to the May PWNs on May 13, 2025, objecting to DCPS' referrals to "any non-public residential school other than School B, the school where DCPS has been ordered by Hearing Officer Lazan to place [Student]." Again, Attorney A conveniently ignored two salient facts: (1) Hearing Officer Lazan did not place Student at School B for the 2025-26 school year. He placed Student there for the school year Attorney requested, 2024-25; and (2) since Hearing Officer Lazan did not make a placement for 2025-26, OSSE is governed by statute and regulations prohibiting it from placing a child in a private school that does not hold a COA. Attorney A's May 13, 2025 email characterized DCPS' proposal to enroll Student in School C as "mindless" and spiteful. Attorney A's proclivity for hyperbole is unwarranted by the factual record and counterproductive. Again, when he filed the *Complaint*, Attorney A knew that the relief he requested, placement at School B in the 2024-25 school year, would not be granted until mid-April. Did he inform Hearing Officer Lazan that the relief he was requesting was mindless and that he intended to sabotage enforcement of the order if relief were granted? Of course not. And it was certainly irresponsible for him to characterize DCPS' stated intention of facilitating OSSE's obligation under D.C. Code Section 38-2561.03(b)(1) and 5-A DCMR Section 3025.8 as spiteful.

Attorney A's vitriolic opposition to an immediate placement is troubling for several reasons. First, it is exactly what his prayer for relief requested. Second, there is no indication that Attorney A shared any concerns about the "mindlessness" of his own request with Hearing Officer Lazan. Third, as of April 30th, it appeared that School B's admissions office was ready and willing to enroll Student

[100] P22:10-13 (204-7).

for the remainder of the 2024-25 school year. Fourth, in both hearings, Petitioner/father and Witness A testified how inappropriate School A was in meeting Student's needs. Petitioner/father testified that Petitioners had been dissatisfied with School A from the inception of Student's enrollment in March 2022. Student can only communicate through ASL, but the teachers and other students at School A do not sign. Once Petitioners learned of School B, they were bound and determined to get Student placed there, as it was the only school they were aware of that had the ASL infrastructure to meet Student's needs. So, if Student has been virtually imprisoned for three years in an environment in which s/he could communicate only with a dedicated ASL interpreter throughout each day, and in which Witness A believes his/her development would continue to deteriorate, why would it not have been preferable for him/her finally to escape School A and experience the last six weeks of the school year in an ASL-rich environment at long last? It certainly is the antithesis of mindlessness to suggest that the immediate placement at School B would have been more academically rewarding for Student than remaining at School A and/or summer camp and would have made the transition to the full-year program in 2025-26 much smoother were s/he to be placed there.

Instead of cooperating with DCPS and OSSE in their statutory obligation to conduct referrals, and before Petitioners completed an admissions application to School C as requested by DCPS, Attorney A sent a letter to School C on June 5th designed to foul the relationship between Petitioners and School C and to discourage School C from considering an application from Petitioners. Attorney A's letter to School C indicated that Petitioners "are not seeking admission to [School C]" because they won their case seeking placement at School B. "[Petitioners] question the utility of applying to [School C] and do not seek to waste your time or theirs," and solicited a statement from School C that it did not want Petitioners to submit an application to School C. School C did not take the bait. It replied indicating that it required parental participation in the admissions process and would not be able to recommend whether Student's admission would be appropriate "without a comprehensive case review, a completed application, interview, and a short classroom visit for Student…"

Since Attorney A had informed School C, when they requested his "counsel," that Petitioners had no interest in sending their child to such an inferior school, it is not a surprise that Petitioners' engagement with School C's admissions process was minimal, as described in paragraph 21 above. Although they were aware that School C required a classroom visit by Student that had to be completed by July 31st to effectuate an acceptance before the beginning of the school year, Petitioners did not make Student available in July.[101] Instead, they offered to make him/her available in August, after the hearing in this proceeding, and despite notice in an email on July 14th that no required classroom visit would be possible at School C from August 1st until September 10th. I have no doubt whatsoever that had a seat in School B had been at issue, Petitioners would certainly would have made Student available on whatever day School B proposed in the last two weeks of July and flown with him/her to facilitate the required visit, regardless of any previous commitments. *In fact, Petitioners found the time to take Student to visit School B on July 21st, a weekday that they did not offer to School C.* This was obviously a voluntary visit as Petitioners had already received multiple letters of acceptance from School B and a confirmed start date of

[101] Petitioners suggest that School C's request that Petitioners bring an intervener with them to the visit was a condition they could not meet on short notice due to the limited number of qualified interveners available. Just as School C readily agreed to Petitioners' request to have Witness A participate in the meeting, I have no doubt that had Petitioners agreed to make Student available for the visit, the visit would have occurred.

September 9th. This is not the first case before me in which a student/client of Attorney A's firm was not made available[102] or in which the parents were complicit for procedural delays.[103]

It is not apparent that when Attorney A decided that summer camp was more important than the placement Petitioners had been seeking since 2022, that he had advised Petitioners that Hearing Officer Lazan's HOD did not apply to the 2025-26 school year. It should have been clear to Petitioners from Witness C's thorough explanation in his email on June 10th. Thus, it is curious that Petitioner/father was still expressing bewilderment at the hearing about DCPS' May 6-7th PWNs indicating that it wanted Petitioners to engage in the referral process to determine an appropriate placement at schools holding a COA. When I explained to Petitioner/father during the hearing that the HOD only applied to the 2024-25 school year and that District law precluded DCPS from unilaterally placing Student at a school that does not have a COA, Attorney A objected, asserting that DCPS had "guidelines" that authorized it to make such a placement and he would provide them.[104] It was startling to hear an experienced attorney suggest that a local agency could adopt enforceable guidelines that conflicted with the D.C. Code and regulations. When I read the specific regulations into the record after a recess, Attorney A acknowledged their existence.

While I will order Student's placement at School B for the upcoming school year for the reasons provided below, Attorney A's problematic behavior has unnecessarily created a legitimate issue as to whether his obstructionism and Petitioners' failure to make Student available for a visit to facilitate the admissions process at School C constitute sufficient grounds to overturn this order on appeal. I was unaware of Attorney A's June 5th letter to School C when I granted the motion for stay put relief; I would not have granted it had I known of it. Attorney A's interference in the referral process likely played a role in Petitioners' failure to make Student available for a visit to School C in July, thereby precluding any possibility that Student would be accepted by School C before the hearing.

Hearing Officer Lazan found that Student had made no meaningful progress in reading, writing, or math at School A because of the lack of instruction in ASL. Witness A's evaluation and testimony established that Student needs to be instructed in ASL and needs to be able to communicate with school staff and peers in ASL. As discussed in the previous section, Student's IEP incorporated language from Witness A's evaluation confirming Student's need to be immersed in an ASL-rich environment. DCPS supported its proposal to place Student at School C through

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[102] Case No. 2024-0049 at 23-25 (student not made available for evaluations while enrolled outside the District and DCPS was not informed of her/his two-week availability in the District); *Hearing Officer Determination*, Case No. 2023-0134 at 26 (ODR Jan.16, 2024)(parents failed to make student available for evaluation).

[103] Case No. 2024-0049 at 24-25 (failure to make student available delayed eligibility determination); *Hearing Officer Determination*, Case No. 2022-0148 at 25 (ODR May 19, 2023)(unnecessary delay in requesting evaluations at AED meeting at which petitioners were represented); *Hearing Officer Determination*, Case No. 2023-0092 at 22-23 (ODR Oct. 16, 2023)(petitioners delayed filing due process complaint and showed no urgency to conduct IEP meeting due to lack of interest in a DCPS placement); Case No. 2023-0134, *supra*, n. 71 at 27 (delay in providing DCPS an IEE, refusal to consent to further evaluations, and lack of data from unilateral placement contributed to DCPS failing to develop a timely IEP).

[104] While OSSE may maintain the placements made by courts and hearing officers at non-COA schools, there is no prior administrative or judicial finding that School C is an inappropriate placement for Student. Thus, once DCPS conceded after Hearing Officer Lazan's ruling that School A was inappropriate and that Student required a residential placement, OSSE was compelled to consider School C, which holds a COA, as a possible placement for Student for 2025-26 unless it had a reason to believe that School C could not meet Student's ASL needs.

the testimony of Witness B. However, Witness B was unable to confirm (1) that School C has more than one teacher of the deaf, (2) the extent to which the teachers and staff in the high school at School C are required to be fluent in ASL, (3) the proportion of high school students at School C who sign, (4) the extent to which the residential staff is fluent in ASL, or (5) the extent to which Student would be able to interact with other residential students who sign. Had DCPS offered testimony from a witness from School C, some of these questions might have been answered. As it stands, the record does not support a finding that Student would be predominantly instructed by teachers fluent in ASL, that the staff with which s/he would interact would be predominantly fluent in ASL, that a significant proportion of his/her peers would use ASL, or that Student would have interaction in ASL with staff and peers during the residential portion of his/her time at School C, which amount of time would be both considerable and impactful. Witness A opined that School C would not be appropriate for Student because the environment, in terms of usage of ASL by the staff and peers, would be similar to that which Student experienced at School A.

For these reasons, I conclude that DCPS has not met its burden of proving, by a preponderance of the evidence, that its proposed placement at School C is calculated to enable Student to make progress consistent with his/her unique circumstances. While Attorney A obstructed the referral process, and Petitioners did not provide full cooperation with that process, I elect not to punish Student for the behavior of her/his elders.

Whether School B is an appropriate placement for Student.

Based primarily on aspects of Hearing Lazan's ruling that were not reestablished in testimony before me, I conclude that School B is an appropriate placement for Student. Hearing Officer Lazan found that (1) each class in the school has roughly three to five students, with one teacher and one to three aides, (2) all the children have hearing and/or vision loss, and (3) "… [a]ll [School B] staff have some degree of ASL knowledge. Indeed, ASL is part of the natural language of instruction at the school."[105] My conclusion is not based on School B's program for students with CHARGE syndrome, which program was not described in Hearing Officer Lazan's HOD or in testimony before me. The HOD simply noted that "[School B] currently has sixteen students who have the same condition and share similar characteristics as the Student," which I assume refers to CHARGE syndrome. Witness A offered no persuasive testimony as to the need for a program for students with CHARGE syndrome, but testified that unlike School C, School B has one. My conclusion that School B is appropriate is based on the low student to teacher ratio in each class and the fact that all staff members have some degree of fluency in ASL. Very little on the CHARGE Syndrome Fact Sheet, in the record as P23, appears to relate to the student that was described in the hearing before me. Only in Sensory deficits, is it noted that

> Most individuals with CHARGE have difficulty with hearing, vision, and balance. This results in delayed motor development and communication, The educational

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[105] *See Branham v. The Government of the District of Columbia*, 427 F.3d 7, 12 (D.C. Cir. 2005)(courts have identified a set of considerations "relevant" to determining whether a particular placement is appropriate for a particular student, 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).

term for combined vision and hearing deficits is "deafblind."[106]

There was no testimony about deficits in Student's balance and only a fleeting reference to his/her visual disability. Although Vision is an Area of Concern on the IEP, and his/her acuity is 20/20 (with correction) in the right eye and 20/600 in the left, there was no testimony contradicting the statement in the Special Considerations section of the IEP that "[Student's] functional vision in [her/his] right eye allows [her/him] to access instruction visually (through ASL). [Student's] vision is reported to be stable. Braille instruction is not appropriate at this time."[107] In this hearing, the entire focus of the testimony was Student's need to be instructed in ASL and to be able to have meaningful interaction with school staff and peers through ASL.

RELIEF

For relief, Petitioner requests an order requiring DCPS to place and fund Student's placement at School B for the 2025-26 school year.

ORDER

Upon consideration of the *Complaint*, the *Response*, the exhibits admitted into evidence, the testimony of the witnesses during the hearing, and the parties' written closing arguments, it is hereby

ORDERED that DCPS shall immediately place Student at School B for the 2025-26 school year and facilitate funding of that placement consistent with D.C. Code Section 38-2561.03.

APPEAL RIGHTS

This decision is final except that either party aggrieved by the decision of the Impartial Hearing Officer shall have ninety (90) days from the date this decision is issued to file a civil action, with respect to the issues presented in the due process hearing, in a district court of the United States or the Superior Court of the District of Columbia as provided in 34 C.F.R. §303.448 (b).

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Terry Michael Banks
Hearing Officer

Date: August 24, 2025

[106] P23:1 (215).
[107] P17:3 (105).

Copies to: Attorney A
Attorney B
Attorney C
OSSE Office of Dispute Resolution