

**District of Columbia  
Office of the State Superintendent of Education**

Office of Dispute Resolution  
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## **HEARING OFFICER DETERMINATION**

## I. Introduction

This case involves an X-year-old student (the “Student”) who is currently eligible for services as a student with Emotional Disturbance. A due process complaint (“Complaint”) was received by District of Columbia Public Schools (“DCPS” or “Respondent”) pursuant to the Individuals with Disabilities Education Act (“IDEA”) on July 24, 2025. The Complaint was filed by the Student’s parent (“Petitioner”). On July 31, 2025, Respondent filed a response. The resolution period expired August 23, 2025.

## II. Subject Matter Jurisdiction

This due process hearing was held, and a decision in this matter is being rendered, pursuant to the IDEA, 20 USC 1400 et seq., its implementing regulations, 34 CFR 300 et seq., Title 38 of the D.C. Code, Subtitle VII, Chapter 25, and the District of Columbia Municipal Regulations, Title 5-A, Chapter 30.

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

### **III. Procedural History**

A prehearing conference was held on September 26, 2025. Attorney A, Esq., and Attorney B, Esq., counsel for Petitioner, appeared. Attorney C, Esq., counsel for Respondent, appeared. A prehearing conference order was issued on October 3, 2025, summarizing the rules to be applied in the hearing and identifying the issues in the case. The hearing was conducted through the Microsoft Teams videoconferencing platform, without objection. Petitioner was again represented by Attorney A, Esq., and Attorney B, Esq. Respondent was again represented by Attorney C, Esq. This was a closed proceeding.

On September 26, 2025, Petitioner moved, on consent, to extend the Hearing Officer Determination (“HOD”) timelines from October 7, 2025, to December 1, 2025. An order was issued extending the HOD timelines to December 1, 2025. The matter proceeded to trial on November 10, 2025, November 12, 2025, and November 13, 2025.

During the proceeding, Petitioner moved into evidence exhibits P-1 through P-73. Respondent objected to exhibits P-1, P-2, P-4, P-5 through P-14, P-17, P-24, P-37, P-41, P-42, P-67 through P-69, and P-73. All objections were overruled except with respect to exhibits R-7, R-8, and R-9. Exhibits P-1 through P-6 and P-10 through P-71 were admitted. Respondent presented as exhibits, without objection, R-1, R-2, R-5, R-9, R-10, R-12, R-14, R-15, R-18, R-21, R-22, and R-25. Petitioner presented as witnesses: herself; Witness A, a marriage and family therapist at Boarding School A (expert in family therapy); Witness B, director of student services at School B; and Witness C, an educational consultant (expert in special education programming and placement). Respondent presented as witnesses: Witness D, manager of the Central Individualized

Education Program (“CIEP”) team for DCPS (expert in special education programming and placement); and Witness E, a monitoring specialist (expert in special education programming and placement).

#### **IV. Issues**

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

**1. Did DCPS deny the Student a Free Appropriate Public Education (“FAPE”) by failing to offer him/her an appropriate IEP on July 1, 2025?**

Petitioner contended that: 1) following DCPS’s refusal to find the Student to be eligible for services as a student with Other Health Impairment or Speech-Language Disability, despite data showing that those classifications were appropriate, the IEP failed to properly address these areas with appropriate goals, interventions, and services (including limiting reading interventions to interventions pertaining to fluency and insisting that any reading interventions take place during and inside the Student’s English language arts (“ELA”) class); and 2) DCPS failed to offer appropriate or sufficient college counseling or other college preparation to assist the Student in obtaining a competitive college acceptance.

**2. Did DCPS deny the Student a FAPE when it placed him/her at School C on August 13, 2024?**

Petitioner contended that School C: 1) did not have an appropriate academic or behavioral cohort (and may not have had any grade-appropriate classroom at all) for the Student; 2) was not a fit for the Student, as it did not serve college-bound students, which would have interfered with and limited the Student’s ability to be competitive for college; 3) did not provide adequate college counseling for the Student, due to the student cohort

the school served; 4) was unable to offer the Student extracurricular activities, sports, or the foreign language (American Sign Language, or “ASL”) that the Student had been involved in and needed to be competitive for college; 5) did not have the special education support the Student required, as it did not employ anyone trained in evidence-based reading programs (and the school advised Petitioner that it would have to amend the Student’s IEP to serve him/her in this area); 6) could not meet the Student’s mental health needs (the Student would have been harmed by a transfer to the proposed program because, among other things, s/he had a history of sexual trauma and would have been placed in a cohort of aggressive students and students with behavioral issues); 7) would have placed the Student inappropriately with students who were lower-functioning academically or who had significant behavioral issues; 8) offered the Student a seat in a lower grade than was appropriate for him/her, given that s/he was rising to a higher grade (and DCPS refused to answer questions about whether this was an error); and 9) applied seclusion and restraint to its students, approaches that were inappropriate for the Student.

## **V. Findings of Fact**

1. The Student is an X-year-old who is eligible for services as a student with Emotional Disturbance. The Student gets distracted in school, engages in fidgeting, and lacks focus. Testimony of Witness D; Testimony of Witness C; Testimony of Petitioner. The Student has been diagnosed with Major Depressive Disorder, Recurrent, Severe; Generalized Anxiety Disorder; Post-Traumatic Stress Disorder (“PTSD”); and Attention Deficit Hyperactivity Disorder (“ADHD”). P-3-1.

2. The Student is cognitively in the average range. The Student requires academic settings in a quiet place away from other students, with limited distractions in

the environment, and there should be a minimum of extraneous noise in the setting. P-32-9; Testimony of Witness D.

3. In the spring of 2021, the Student began attending School A, a DCPS public school. The Student continued at School A for the 2021-2022 school year. To the Student, the school was a chaotic and scary environment. During this approximate time period, the Student was the victim of a sexual assault which impacted his/her ability to function. The Student's mental health began to suffer, as evidenced by attendance issues, a tendency to retreat to the bathroom, an incident when s/he crashed a car, and generally exhibiting aggressive and impulsive behaviors. The Student also went to school virtually because s/he was afraid that his/her assailant was nearby. P-4-9.

4. In or about 2022, the Student was placed as a residential treatment facility due to a decline in his/her mental health. The Student had been engaging in elopement, verbal and physical aggression, property destruction, throwing and breaking objects, and substance use, and s/he had a history of suicidal ideations and attempts. P-4-5.

5. For the 2022-2023 school year, the Student initially attended a non-public school but was not able to function in the setting. After about two weeks at the school, the Student left to attend a residential treatment center, where s/he remained for about three months. The Student then attended School B, a non-public school, from January 2023 to June 2023. Testimony of Petitioner.

6. On March 20, 2023, a Functional Behavior Assessment ("FBA") was written for the Student by DCPS. The FBA indicated that the Student had a history of executive dysfunction that impacted his/her ability to fully attend in the academic environment and that, more recently, s/he had exhibited depressive and anxious

symptoms that further impacted his/her academics and social-emotional functioning. The symptoms included elopement, attendance issues, difficulty following directives, and inattentiveness. The FBA expressed that the Student was more likely to exhibit these behaviors when s/he did not feel safe, when his/her academic deficits were exposed, or when his/her social-emotional areas of need were not addressed. The FBA said that the Student was more likely to engage in the academic environment consistently when s/he felt emotionally safe, successfully understood the academic tasks, was placed in a structured environment with minimal distractions, and where the placement had a robust incentive-based or Positive Behavioral Interventions and Supports (“PBIS”) program equipped to address his/her social-emotional profile. The FBA noted that the Student had experienced a significant mental and physical decline after s/he had been sexually assaulted. The FBA also stated that the intensity of the Student’s behaviors had decreased since attending School B. P-4; Testimony of Witness C.

7. IEP meetings were held for the Student on May 5, 2023, and July 27, 2023. P-19. The ensuing IEP recommended that the Student receive twenty-nine hours of specialized instruction per week outside general education, 180 minutes of behavior support services per month outside general education, and sixty minutes of behavior support services per month as consultation services. Testimony of Petitioner.

8. The Student attended a “wilderness program” from October 2023 to January 2024. Testimony of Petitioner. On October 16, 2023, Petitioner, DCPS, and the Office of the State Superintendent of Education (“OSSE”) attended a phone meeting to discuss a change of placement for the Student. Petitioner expressed concerns about the Student being placed in a school with other children who had behavioral issues. P-13. In

or about October 2023, DCPS and OSSE searched for a school for the Student.

Testimony of Witness D.

9. An independent comprehensive psychological evaluation of the Student was conducted on November 14, 2023. The evaluation found that the Student was performing in the average range for verbal, fluid reasoning or logic, and working memory skills, and that the Student demonstrated challenges with visual-spatial issues and processing speed, which were measured in the low average range. The Student demonstrated average word reading and reading comprehension skills, but low average decoding and reading fluency skills, and also performed in the low average range for math fluency, numerical operations, and writing skills. The evaluator found that the Student had a tendency to refuse to attend school, misuse cannabis and “vape,” and associate with rebellious peers. The Student’s feelings of inadequacy and perception that s/he had been abandoned by his/her biological mother led to a diagnosis of Adjustment Disorder with Mixed Disturbance of Emotions and Conduct. The evaluation stated that the Student required an academic environment that could accommodate his/her emotional needs (e.g., smaller class sizes with a positive peer group) and that the Student would respond best to a nurturing but structured environment. The evaluation said that the Student’s peer group at school should not be comprised of adolescents with lower cognitive functioning or severe behavior problems, because the Student was likely to emulate these peers and this type of milieu would lead to a regression in his/her behavior and emotions. The evaluation said that the Student’s tendency to act out by refusing to attend school, misuse cannabis and “vape,” and associate with rebellious peers might

appear to meet criteria for a behavioral disorder, but that, in context, these tendencies were secondary to the Student's adjustment issues. P-15; Testimony of Witness C.

10. In or about January 2024, the Student was discharged from a mental health facility that characterized the Student as a "chameleon" who "constantly" molded his/her identity and personality to suit the perceived desires of others. P-21-12.

11. In or about January 2024, the Student attended Residential Treatment Center A, where s/he stayed until August 2024. P-19; Testimony of Petitioner. The facility offered individual, group, and family therapy programs and employed behavior systems to address student behavior. The Student's issues were considered more internal than external, and the Student interacted well with peers. However, the Student was more of a follower, and facility staff needed to keep the Student away from bad influences. The Student's grades at the facility were in the "A" or "B" range, except for one class. Testimony of Witness A. The Student exhibited strengths during the program and began to take a leadership role at the facility. Testimony of Petitioner; P-28. The Student's therapist felt that the Student had a challenging time with the peer dynamics, causing him/her to focus less on his/her own work and more on what was going on around him/her. P-32-6; Testimony of Witness A.

12. In June 2024, the Student filled out a form indicating post-graduation interests. The Student mentioned that s/he was interested in history, help with test taking, attending a two-year college, attending a four-year college (in the future), sports, horses, photography, and a career as a first responder, nurse, or army medic. P-30.

13. An IEP meeting was held for the Student on June 20, 2024. The ensuing IEP recommended that the Student receive twenty-nine hours of specialized instruction

per week outside general education, four hours of behavior support services per month (three times individually, once in a group), one hour of specialized instruction consultation services per week, and one hour of behavior support consultation services per month. The IEP established that the Student required a “location with minimal distractions” and said that attention and focus could be a barrier to learning for the Student, who could be more productive by eliminating outside distractions, extraneous noise, and unnecessary interruptions. The IEP also said that, in academic settings, the Student should be given a quiet place to work, away from other students, and that teachers were encouraged to provide the Student with periods of three to five minutes of physical movement or motor activity after every fifteen or twenty minutes of cognitive effort. The IEP also said that the Student would benefit from stretch breaks. The IEP contained goals in reading, written expression, math, and emotional, social and behavioral development. The secondary transition section of the IEP stated that the Student planned to attend a two-year college and then transition to a four-year university. This section recommended college prep coursework, including readiness skills, and recommended two hours of college counseling. The IEP contained a goal for the Student to meet regularly with his/her case manager to research and identify at least three two-year colleges and three four-year universities that aligned with his/her academic and career interests. P-32.

14. At Petitioner’s request, the IEP recommended that the Student receive reading intervention for fluency. A goal was added to address that area of concern. The IEP also stated that the Student’s placement should provide extended time to allow him/her to focus on fluency; that the Student should have daily reading practice sessions

using high-interest, appropriately leveled texts to engage him/her and build fluency; that the Student should benefit from small-group or 1:1 guided reading sessions with a focus on fluency strategies such as repeated reading, echo reading, and choral reading; that the placement should use evidence-based reading fluency programs or software designed to improve speed and accuracy through systematic practice; that the Student should be provided with weekly reading fluency assessments; and that the Student should be subject to modeling to demonstrate how to read fluently and discuss the importance of expression, pacing, and accuracy. The IEP also stated that the placement should provide extended time for reading assignments and assessments to reduce pressure and allow the Student to focus on fluency.

15. On or about August 5, 2025, the Student was accepted at School C, a non-public school that DCPS was about to recommend. P-44-1. Petitioner then spoke to a representative of School C. According to Petitioner, the school official said that most students at the school had “externalized” behavior issues, that classrooms were often disrupted by these behaviors, and that seclusion and restraint were used on students. The school official also said that, on occasion, teachers would have to move all the other children out of a classroom to address a child with behavioral issues. According to Petitioner, the school official also said that the school served students who were being remediated academically, that the vast majority of the students at the school were not at grade level, and that they did not have honor classes, ASL classes, athletics, or extracurricular activities. The school official also told Petitioner that it did not have a trained reading specialist or access to an evidence-based reading program like Wilson or Orton-Gillingham. The school official told Petitioner that the Student’s IEP would have

to be amended to accommodate what it could provide insofar as reading was concerned.

The school official also said that college was not a common path for students at the school. Testimony of Petitioner; P-44-1.

16. Petitioner then placed the Student at School B for the 2024-2025 school year. School B has a program that provides 1:1 instruction to students. All classes are taught on a 1:1 basis. The number of full-time students in the school ranges from thirty-five to fifty. The school provides instruction on a schedule that is akin to a college schedule. For instance, a student may take four classes, with each class meeting two or three times a week. The school has about twenty to twenty-three teachers and provides a calm environment and flexible pacing for instruction. The most common disability for students in the school is ADHD. The school provides two spaces for students to get work done, one of which also gives students an opportunity to socialize. Testimony of Witness B. During the 2024-2025 school year, the Student passed all his/her classes with “A” or “B” grades in every course. Courses included algebra with trigonometry, American Sign Language, chemistry, English, and history. P-60-3.

17. The Student was formally accepted to School C on August 13, 2024. In a correspondence to Petitioner, DCPS indicated that the school could implement the Student’s IEP. P-47. The school offers certified special education teachers and licensed clinical social workers who provide behavioral support services. The school has a transition department chair who is an excellent worker. The school services a wide range of students with different disabilities and different cognitive and behavioral issues and abilities. Some of the students at the school are aggressive. Academically, most of the

students are several grades below grade level. Testimony of Witness E; Testimony of Witness C; Testimony of Petitioner.

18. Petitioner was told that the Student's assigned classroom at School C would be for an incorrect grade. Petitioner asked for clarification on this issue, but DCPS did not clarify this issue to Petitioner. Testimony of Petitioner.

19. A brochure for School C indicates that it has small, self-contained classes led by dedicated teachers and "para-educators," uses differentiated instruction tailored to meet each student's IEP; includes integrated support services; uses a trauma-informed, multi-disciplinary approach to education; provides de-escalation and support techniques for behavioral intervention and support; offers counseling and family support services for students' emotional and behavioral well-being; offers speech-language therapy focusing on communication and social skill development; offers occupational therapy to address sensory needs, fine motor skills, and executive functioning; provides on-site support from board-certified behavioral analysts ("BCBAs") and registered behavior technicians; and provides instruction in self-management, self-awareness, relationship skills, and responsible decision-making. The school also offers life skills preparation, including pre-vocational activities and on-campus job opportunities, such as hands-on culinary arts training, community-based instruction, and integration into the community through community-based work experiences and internships. The school also contains art rooms, libraries, technology labs, gyms, sensory-friendly rooms, and opportunities for daily movement. R-25.

## **VI. Conclusions of Law**

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.” D.C. Code Sect. 38-2571.03(6)(A)(i). Accordingly, on Issue #1 and Issue #2, relating to the appropriateness of the Student’s IEP and placement, the burden of persuasion is on Respondent if Petitioner presents a *prima facie* case.

### **1. Did DCPS deny the Student a FAPE by failing to offer him/her an appropriate IEP on July 1, 2024?**

Petitioner contended that: 1) following DCPS’s refusal to find the Student to be eligible for services as a student with Other Health Impairment or Speech-Language Disability, despite data showing that those classifications were appropriate, the IEP failed to properly address these areas with appropriate goals, interventions, and services (including limiting reading interventions to interventions pertaining to fluency and insisting that any reading interventions take place during and inside the Student’s ELA class); and 2) DCPS failed to offer appropriate or sufficient college counseling or other college preparation to assist the Student in obtaining a competitive college acceptance.

In Hendrick Hudson Bd. of Educ. v. Rowley, 458 U.S. 176 (1982), the Court explained that an IEP must be reasonably calculated to enable the child to receive benefit. Id. at 204. The Court's decision in Endrew F. ex rel. Joseph F. v. Douglas County School District RE-1, 580 U.S. 386 (2017), elaborated on the doctrine established in Rowley. The Court reasoned that "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." Id. at 1001. The Court held that IDEA "demands" a higher standard—"an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." Id. The Court stated that its ruling "should not be mistaken for an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities." Id. Still, the Court stated that courts should fairly expect those authorities to offer a "cogent and responsive explanation" for their decisions. Id. at 1002. The District of Columbia Circuit Court of Appeals has accordingly found that Endrew F. raised the bar on what counts as an adequate education under the IDEA. Z. B. v. District of Columbia., 888 F.3d 515, 517 (D.C. Cir. 2018).

An IEP is "a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with 34 CFR 300.320 through 34 CFR 300.324." 34 CFR 300.22. Among other requirements, an IEP must include a statement of the child's current educational performance, articulate measurable educational goals, and specify the nature of the special services that the district will provide. 34 CFR 300.22; 34 CFR 300.320(a).

An IEP meeting was held for the Student on June 20, 2024. The ensuing IEP recommended that the Student receive twenty-nine hours of specialized instruction per week outside general education, four hours of behavior support services per month (three times individually, once in a group), one hour of specialized instruction consultation services per week, and one hour of behavior support consultation services per month. The IEP contained goals in reading, written expression, math, and emotional, social and behavioral development. Though Residential Treatment Center A data did not indicate that reading was a concern for the Student, since s/he was averaging ninety percent or above on all assignments, the Student's family wanted the IEP to address reading fluency. As a result, a goal was added to address that area of concern. The IEP also stated that the Student's placement should provide extended time to allow him/her to focus on fluency; that the Student should have daily reading practice sessions using high-interest, appropriately leveled texts to engage his/her and build fluency; that the Student should benefit from small-group or 1:1 guided reading sessions with a focus on fluency strategies such as repeated reading, echo reading, and choral reading; that the placement should use evidence-based reading fluency programs or software designed to improve speed and accuracy through systematic practice; that the Student should be provided with weekly reading fluency assessments; and that the Student should be subject to modeling to demonstrate how to read fluently and discuss the importance of expression, pacing, and accuracy.

Petitioner objected to the fact that no pull-out services were specifically designated to address the Student's fluency-related issues. But DCPS said that the services would be provided in the Student's proposed ELA class, which, with the twenty-

nine hours of specialized instruction per week outside general education, would have been provided by a certified special education teacher. I was not convinced by expert testimony for Petitioner suggesting it was necessary to provide the Student with a specially trained reading teacher to deliver this instruction. Petitioner's expert witness did not testify that a special education teacher could not instruct a student about reading fluency in the proposed setting, or that small groups or 1:1 sessions could not be made available during the Student's twenty-nine hours of specialized instruction per week.

Petitioner also objected to the inclusion of only one goal on reading fluency, but there is no obligation for a school district to provide multiple goals on every reading sub-issue that a parent happens to raise during an IEP meeting. And here, according to a Wechsler Individual Achievement Test ("WIAT") from 2023, the Student was in the average range in overall reading ability and the low average range in reading fluency. Petitioner also did not clearly explain what else could have been included in the IEP insofar as a reading was concerned, and did not clearly explain what would have been included in another fluency goal. It is noted that IEP goals do not have to be perfect in order to pass muster under the IDEA. J.B. by & through Belt v. District of Columbia, 325 F. Supp. 3d 1, 16 (D.D.C. 2018).

Petitioner also objected to the college counseling provisions in the IEP's secondary transition plan, contending that there was only one goal for this issue, and that the counseling mandate of two hours per year was too low. The IDEA defines this kind of plan as "a coordinated set of activities for a child with a disability" that is a "results oriented process" based on "the individual child's needs ... taking into account the child's strengths, preferences and interests" and including instruction, related services,

community experiences, employment, other post-school adult living objectives, and, “if appropriate,” the acquisition of daily living skills and the provision of a functional vocational evaluation. 34 CFR 300.43. The plan must include appropriate, measurable, postsecondary goals based upon appropriate transition assessments relating to training, education, employment, and, where appropriate, independent living skills. 34 CFR Sect. 300.320(b); 20 USC 1414(d)(1)(A)(i)(VII).

Whether a student's transition plan is appropriate depends on the student's circumstances, needs, interests, and goals. Transition plans do not have to be flawless. In re Butte Sch. Dist. No. 1, No. CV 14-60-BU-SEH, 2019 WL 343149, at \*2 (D. Mont. Jan. 28, 2019), aff'd sub nom. Butte Sch. Dist. No. 1 v. C.S., 817 F. App'x 321 (9th Cir. 2020) (because a student with autism and emotional disturbance was not sure what he wanted to do after graduation, a district's offering of transition services that focused on his “desire for continued aid from service providers, to find a job, and to live independently” was appropriate); Rogers by Rogers v. Hempfield Sch. Dist., No. CV 17-1464, 2018 WL 4635779, at \*1 (E.D. Pa. Sept. 27, 2018) (a transition plan for a student with autism that documented his indecision and provided a range of postsecondary services, including research into postsecondary institution, vocational training, and social and life skills, was appropriate).

The record reflects that the secondary transition plan of the Student's IEP stated that s/he planned to attend a two-year college and then transition to a four-year university. These facts, and a wide range of other transition issues pertaining to the Student, were included in the secondary transition plan, which was based, at least in part, on the Student's input form from June 2024, where s/he stated s/he was interested in

history, help with test taking, a two-year college then a four-year college, sports, horses, photography, and a career as a first responder, nurse, or army medic.

The secondary transition plan also contained an IEP goal stating that the Student would meet regularly with his/her case manager to research and identify at least three two-year colleges and three four-year universities that aligned with his/her academic and career interests. Petitioner said that more goals were needed in this area, but Petitioner did not clearly explain which additional goals were needed, or why. Moreover, Petitioner did not acknowledge a goal for the Student to demonstrate proficiency in independent living skills, including managing his/her dormitory responsibilities, maintaining personal hygiene and cleanliness, and fostering positive relationships with dormitory peers. The IEP also recommended that the Student receive two hours per year of college counseling. Petitioner said that more hours were needed in this area, but Petitioner did not clearly explain what would be discussed in those additional hours. D.C. v. Mount Olive Twp. Bd. of Educ., No. CIV. 12-5592 KSH, 2014 WL 1293534, at \*1 (D.N.J. Mar. 31, 2014) (the court rejected a claim that the postsecondary transition plan of a student that mentioned college, a career in computer animation, and living independently was inappropriate, though the student did not attend college, pursue a career in computer animation, or live independently as described in the plan). In addition, testimony in the record indicates that the Student already had a good idea about where s/he wanted to go to college. Petitioner also did not provide any legal authority to support her position that the secondary transition plan in the Student's IEP was defective.

As a result of the foregoing, this Hearing Officer finds that the June 2024 IEP for the Student was appropriate, and this claim must be dismissed.<sup>2</sup>

**2. Did DCPS deny the Student a FAPE when it placed him/her at School C on August 13, 2024?**

Petitioner contended that School C: 1) did not have an appropriate academic or behavioral cohort (and may not have had any grade-appropriate classroom at all) for the Student; 2) was not a fit for the Student, as it did not serve college-bound students, which would have interfered with and limited the Student's ability to be competitive for college; 3) did not provide adequate college counseling for the Student, due to the student cohort the school served; 4) was unable to offer the Student extracurricular activities, sports, or the foreign language (ASL) that the Student had been involved in and needed to be competitive for college; 5) did not have the special education support the Student required, as it did not employ anyone trained in evidence-based reading programs (and the school advised Petitioner that it would have to amend the Student's IEP to serve him/her in this area); 6) could not meet the Student's mental health needs (the Student would have been harmed by a transfer to the proposed program because, among other things, s/he had a history of sexual trauma and would have been placed in a cohort of aggressive students and students with behavioral issues); 7) would have placed the Student inappropriately with students who were lower-functioning academically or who had significant behavioral issues; 8) offered the Student a seat in a lower grade than was

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<sup>2</sup> Parenthetically, though the Student's eligibility category was mentioned as part of Issue #1, the Student's eligibility category was not an issue in this case and need not be discussed here, especially since eligibility should not drive the services in an IEP or a placement. Moreover, though Issue #1 contended broadly that the Student's IEP contained inappropriate goals, interventions, and services, the issues raised during the hearing were limited to claims that the goals, interventions, and services in regard to reading fluency and secondary transition services were inappropriate.

appropriate for him/her, given that s/he was rising to a higher grade (and DCPS refused to answer questions about whether this was an error); and 9) applied seclusion and restraint to its students, approaches that were inappropriate for the Student.

Most cases involving FAPE denial focus on the IEP, the “centerpiece” of the Act. Honig v. Doe, 484 U.S. 305, 311 (1988). Nevertheless, courts hold that parents may also bring claims based upon an inappropriate school placement. Although a school district has some discretion with respect to school selection,<sup>3</sup> that discretion cannot be exercised in such a manner as to deprive a Student of a FAPE. Gellert v. District of Columbia, 435 F. Supp. 2d 18 (D.D.C. 2006) (setting did not provide small classes that the student needed to learn); Block v. District of Columbia, 748 F. Supp. 891, 896 (D.D.C. 1990) (mid-year transfer); see also Shore Regional High School Board of Education v. P.S., 381 F.3d 194 (3d Cir. 2004) (denial of FAPE based on the likelihood that a proposed placement would subject a student with an emotional disability to continued bullying because of his perceived effeminacy); M.L. v. Federal Way School District, 394 F.3d 634 (9th Cir. 2005) (if a teacher is deliberately indifferent to the teasing of child with a disability and the abuse is so severe that the child can derive no benefit from the services that he or she is offered by the school district, the child has been denied FAPE).

Petitioner established during the hearing that the Student was a victim of serious crime and is extremely sensitive to the nature of the peers that s/he associates with. The record also indicates that the Student is very impressionable and tends to be easily

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<sup>3</sup>See Jalloh v. District of Columbia, 968 F. Supp. 2d 203 (D.D.C. 2013)(despite complaints about, among other things, the school’s use of computers for instruction, the school was deemed able to implement the IEP and the placement claims were denied).

influenced by peers. Witness A, a therapist at Residential Treatment Center A, said that the Student should “definitely not” be in a classroom with aggressive students, and the Student’s 2023 FBA, written by DCPS, indicated that the Student was more likely to exhibit behaviors when s/he did not feel safe. Other documents in the record are consistent with these statements. The Student’s November 2023 psychological evaluation said that the Student’s peer group at school should not be comprised of adolescents with lower cognitive functioning or severe behavior problems, since the Student was likely to emulate these peers and this type of milieu would lead to regression in his/her behavior and emotions. And in or about January 2024, the Student was discharged from a mental health facility, which characterized him/her as a “chameleon” who “constantly” molded his/her identity and personality to suit the perceived desires of others.

The June 2024 IEP was also consistent with these statements, establishing that the Student required a “location with minimal distractions.” The IEP said that attention and focus could be a barrier to learning for the Student, who could be more productive by eliminating outside distractions, extraneous noise, and unnecessary interruptions. The IEP said that, in academic settings, the Student should be given a quiet place to work, away from other students, and that to help the Student focus on cognitive tasks, teachers were encouraged to provide the Student with periods of three to five minutes of physical movement or motor activity after every fifteen or twenty minutes of cognitive effort.

Petitioner was effectively told by School C staff that most, if not all, of these requirements could not be met at School C. Petitioner was told that many students at School C had “externalized” behavior issues, that classrooms were disrupted by these

behaviors, and that seclusion and restraint techniques were sometimes used on students.

According to Petitioner, a school official told her that, on occasion, school staff might move all the children out of a classroom to address a child with behavioral issues.

According to Petitioner, the official also said that the school served students who were being remediated academically, that the vast majority of the students at the school were not at grade level, and that college was not a common path for students at the school.

There is also unrebutted testimony in the record suggesting that School C is so restrictive that students cannot travel unaccompanied in the hallways.

Witness D suggested that behavior support services could have addressed the Student's issues, but it is not clear from the record *how* all these issues could have been addressed through behavior support services at School C, and no School C counselors or staff were called to explain how those services would have been delivered. And while Witness D and Witness E testified to the effect that only some of the students at School C had issues with behavior, no witness was called from School C to allow Petitioner to explore this issue further on cross-examination, even though DCPS bears the burden of persuasion on this issue (since Petitioner clearly presented a *prima facie* case).

Moreover, the record establishes that the Student was at or near grade level in all academic areas and was intending to go to college. Petitioner said that she was told that the school had only one student go to a four-year college. Witness E agreed that many students at School C were well below grade level, but said that the school also had students who functioned at a higher level. However, there was no clear testimony offered on how group instruction at School C could be differentiated to make the school's instruction appropriate for the Student. Finally, in closing argument, Respondent did not

dispute any of these facts and did not dispute the application of the IDEA to this issue. This Hearing Officer must therefore agree with Petitioner that Respondent offered the Student an inappropriate school placement for the 2024-2025 school year, which was exacerbated by Petitioner's fair point that she received information to the effect that the Student would have been placed in the wrong grade at School C. While DCPS explained this issue during closing, such an issue should have been resolved by DCPS or School C prior to Petitioner's decision on whether to accept the placement. Instead, the record indicates that DCPS never responded to Petitioner's requests along these lines. DCPS denied the Student a FAPE when it assigned him/her to School C for the 2024-2025 school year.<sup>4</sup>

### **RELIEF**

As relief, Petitioner seeks reimbursement for all costs associated with the Student's placement at School B for the 2024-2025 school year, including transportation expenses.

When school districts deny students a FAPE, courts have wide discretion to ensure that students receive a FAPE going forward. As the Supreme Court stated, the statute directs the Court to "grant such relief as [it] determines is appropriate." School Committee of the Town of Burlington v. Dep't of Education, Massachusetts, 471 U.S.

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<sup>4</sup> In regard to the other issues concerning placement, there is less compelling evidence. Petitioner contended that the school was unable to offer the Student college counseling, extracurricular activities, sports, or the necessary foreign language (ASL), but the IEP did not specifically call for any of these services, except for college counseling, and the school did have an individual who worked as a transition specialist to provide post-secondary services to students. Petitioner also contended that the school did not have the special education support that the Student required, but Witness D and Witness E established that the school did have certified special education teachers. Petitioner also contended that the school did not have anyone trained in evidence-based reading programs, and that the school advised Petitioner it would have to amend the IEP to serve the Student in this area, but the IEP did not require that the Student be taught by such an instructor.

359, 371 (1985). The ordinary meaning of these words confers broad discretion on a hearing officer, since the type of relief is not further specified, except that it must be “appropriate.”

If petitioner meets their burden of persuasion (D.C. Code Sect. 38-2571.03(6)(A)(ii)), the school district may be required to pay for educational services obtained for a student by the student’s parent, if the services offered by the school district are inadequate or inappropriate, the services selected by the parent are appropriate, and equitable considerations support the parents’ claim, even if the private school in which the parents have placed the child is unapproved. Florence County School District Four et al. v. Carter by Carter, 510 U.S. 7 (1993). Courts must consider “all relevant factors,” including the nature and severity of the student’s disability, the student’s specialized educational needs, the link between those needs and the services offered by the private school, the placement’s cost, and the extent to which the placement represents the least restrictive educational environment. Branham v. District of Columbia, 427 F.3d 7, 12 (D.C. Cir. 2005).

Petitioner first placed the Student at School B for a portion of the 2022-2023 school year, from January to June, 2023. Evidence in the record indicates that the Student’s behavior improved during this period. The March 2023 FBA written by DCPS says that the intensity of the Student’s behaviors lessened when s/he was placed at School B. The Student also did well at School B, where s/he felt safe and received all “A” or “B” grades. Moreover, the record indicates that the Student’s unique profile, shaped by his/her unfortunate experiences earlier in life, necessitated a protected environment like School B. Further, nothing in the record indicates that a less restrictive setting was

available to Petitioner at the time. In Leggett v. District of Columbia, 793 F.3d 59 (D.C. Cir. 2015), the court held that even if a residential setting was not strictly necessary for the child to obtain educational benefits, if it was the only placement on record that could meet the child's needs, it had to be funded. Id. at 74. In addition, DCPS did not clearly explain during closing argument why it was contesting the appropriateness of School B. While Witness D did disagree with an earlier HOD that ordered reimbursement for the 2022-2023 school year, she did not elaborate on why School B might be inappropriate for the Student, except to suggest that it was too restrictive. But the Student would have been in a restrictive setting anyway if s/he had attended School C. This Hearing Officer therefore finds that Petitioner's choice to send the Student to School B for the 2024-2025 school year was reasonably calculated, and therefore "proper" under the IDEA.

Tuition reimbursement may be reduced or denied when parents fail to raise the appropriateness of an IEP in a timely manner, fail to make their child available for evaluation by the district, or upon a finding of unreasonableness with respect to the actions taken by the parents. 20 USC 1412(a)(10)(C)(iii). With respect to parents' obligation to raise the appropriateness of an IEP in a timely manner, the IDEA provides that tuition reimbursement may be denied or reduced if parents neither inform the IEP team of their disagreement with its proposed placement and their intent to place their child in a private school at public expense at the most recent IEP meeting prior to their removal of the child from public school, nor provide the school district with written notice stating their concerns and their intent to remove the child within ten business days before such removal. 34 CFR 300.148(d)(i), (ii). Under 20 USC 1412(a)(10)(C)(iii), a denial or reduction in reimbursement is discretionary.

This Hearing Officer finds that Petitioner cooperated with Respondent's staff throughout the IEP process, provided Respondent with notice of the unilateral placement, and allowed the Student to be evaluated and observed. Respondent did not raise equities during closing argument. Petitioner therefore prevails and is awarded tuition reimbursement for all services provided by School B for the 2024-2025 school year, including transportation services.

## **VII. Order**

As a result of the foregoing, Respondent is financially responsible for all costs associated with the Student's placement at School B the 2024-2025 school year, including transportation expenses.

Dated: December 1, 2025

Michael Lazan  
Impartial Hearing Officer

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

### **VIII. Notice of Appeal Rights**

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

Dated: December 1, 2025

Michael Lazan  
Impartial Hearing Officer