

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by Petitioner parent under the Individuals with Disabilities Education Act, as amended (the IDEA), 20 U.S.C. § 1400, *et seq.*, and Title 5-A, Chapter 5-A30 of the District of Columbia Municipal Regulations (DCMR). In these consolidated administrative due process proceedings, the parent seeks compensatory education and other equitable relief from Respondents District of Columbia Public Schools (DCPS) and Office of the State Superintendent of Education (OSSE) on the grounds, *inter alia*, that DCPS allegedly failed to implement the requirements of a prior, November 24, 2024, Hearing Officer Determination and that OSSE allegedly failed to provide special education transportation required by Student's December 13, 2024 Individualized Education Program (IEP).

Petitioner's due process complaint against DCPS in Case No. 2025-0145 was filed on August 15, 2025. The undersigned hearing officer was appointed on August 18, 2025. On August 28, 2025, Petitioner and DCPS met for a resolution session and were not able to resolve the issues in dispute. On August 29, 2025, Petitioner filed her due process complaint against OSSE in Case No. 2025-0156 and this hearing officer was appointed on the same day. On September 2, 2025, I convened a telephone prehearing conference with counsel in both cases to discuss the issues to be determined, the hearing date and other matters. On September 6, 2025, I granted Petitioner's unopposed motion to consolidate Case No. 2025-0156 with Case No. 2025-0145. On October 8, 2025, I granted OSSE's unopposed continuance motion to extend the final decision due date in

Case No. 1015-0156 to October 29, 2025 to conform to the final decision due date in Case No. 2025-0145. The hearing was convened on October 14 and 15, 2025. An additional hearing session was added for November 3, 2025. On October 22, 2025, I granted Petitioner's unopposed motion to extend the decision due date in both cases to December 5, 2025 because of the additional hearing session.

With the parent's consent, the due process hearing in the consolidated cases was held online and recorded by the hearing officer using the Microsoft Teams videoconference platform. The hearing, which was closed to the public, was convened before the undersigned impartial hearing officer on October 14 and 15, and November 3, 2025. MOTHER appeared online for the hearing and was represented by PETITIONER'S COUNSEL. Respondent DCPS was represented by LEA REPRESENTATIVE and by DCPS' COUNSEL. Respondent OSSE was represented by OSSE's COUNSEL. Counsel for the respective parties made opening statements.

Mother testified and called PSYCHOLOGIST as an additional witness. After Petitioner rested her case on October 14, 2025, DCPS, by counsel, made an oral motion for a directed finding against Petitioner as to Issue No. 4. I denied the motion. DCPS called as witnesses CIEP MANAGER, RID INTERPRETER, ASSISTANT PRINCIPAL, AUDIOLOGIST, DEAN OF STUDENTS, RESOLUTION SPECIALIST, and LEA Representative. OSSE called TRANSPORTATION DIRECTOR as its only witness. Petitioner's Exhibits P-1 through P-3, P-4 (Page 108 only), P-5 through P-32, P-36, P-37, and P-40 through P-42 were admitted into evidence, including Exhibit P-3 (Page 108),

P-5, P-6, P-16 through P-19, P-21 and P-26 admitted over DCPS' objections. I sustained DCPS' objections to Exhibits P-4 (Page 107), P-33 through P-35 and P-43. Petitioner withdrew Exhibits P-38 and P-39. DCPS' Exhibits LEA-1 through LEA-11, LEA-13 through LEA 30, LEA-34, LEA-36, LEA-37, LEA-39 through LEA-43, LEA-45 through LEA-47, LEA-49 through LEA-60, LEA-62, LEA-66, LEA-68, LEA-69, and LEA-71 were admitted into evidence, including Exhibits LEA-16, LEA-57 and LEA-58 admitted over Petitioner's objections. DCPS did not offer or withdrew Exhibits LEA-12, LEA-31 through LEA-33, LEA-35, LEA-38, LEA-44, LEA-48, LEA-61, LEA-63 through LEA-65, LEA-67, LEA-70 and LEA-72. OSSE's Exhibits SEA-1 through SEA-11 were admitted into evidence, including Exhibits SEA-4 and SEA-6 admitted over Petitioner's objections. I sustained DCPS' objection to Exhibit SEA-12.

On November 3, 2025, after the close of all the evidence, counsel for the respective parties made oral closing arguments. There was no request to file written closings. The parties were granted leave to submit written citations to authorities by email. Petitioner's Counsel submitted citations to authorities on November 10, 2025.

JURISDICTION

The hearing officer has jurisdiction under 20 U.S.C. § 1415(f) and 5A DCMR § 3049.1.

ISSUES AND RELIEF SOUGHT

The issues raised by Petitioner against DCPS and OSSE, as set out in the September 3, 2025 Prehearing Order are as follows:

Issues against DCPS

1. Did DCPS deny the student a Free Appropriate Public Education (FAPE) by failing to conduct an assistive technology evaluation for the student when DCPS was ordered by a previous Hearing Officer's decision to complete such an evaluation within ten days of November 24, 2024 and such an evaluation was recommended in an August 2024 Neuropsychological Evaluation?
2. Did DCPS deny the student a FAPE by failing to include the student's parent in DCPS' development of a behavior intervention plan for the Student ?
3. Did DCPS deny the student a FAPE after November 24, 2024, by failing to implement material portions of his/her IEP, including his/her related services of transportation, behavioral support services and speech and language therapy?
4. Did DCPS deny the student a FAPE by failing to conduct a search of all public and private schools within 50 miles of the student's residence that could meet his/her needs upon request of his/her parent and a November 2024 order by Hearing Officer Lazan, and/or by failing to seek the parent's consent to apply to any specific private school(s), prior to the date of this Due Process Hearing Request?

Issue against OSSE

Did OSSE deny the student a FAPE by failing to provide him/her with special education transportation, beginning in December 2024, in accordance with his/her IEP?

Relief Requested

For relief, the Petitioner requests that the hearing officer order Respondents as follows:

1. DCPS will conduct a search of private special education day schools within 50 miles of the student's address, including schools that are not on OSSE's list of approved non-public schools, within no later than 10 calendar days and apply on the student's behalf within 15 calendar days to all private schools that the parent consents to, including private schools the parent identifies outside of DCPS' search. In each submitted application/referral, DCPS will simultaneously offer the private school to pay, above market rate if

necessary, for dedicated in-person American Sign Language (ASL) interpreters to assist the student throughout the school day in all classes, transitions and related services if the Student is accepted to their school.

2. If Student's 2025-2026 school placement does not offer track and field or any of the other sports offered by DCPS, then DCPS will ensure Student is able to participate in a DCPS school sports team or alternatively, fund his/her participation in a private sports league.

3. DCPS will fund a private Assistive Technology evaluation by an evaluator selected by the parent, including funding for ASL interpreters for any non-ASL-fluent evaluator. DCPS will also fund any assistive technology devices, hardware, software or device applications or subscriptions recommended by the evaluator to accommodate the Student's disabilities in an educational setting.

4. DCPS will fund a Functional Behavioral Assessment by an evaluator selected by the parent, which includes a report with recommendations for the Student's behavior intervention plan, including funding for ASL interpreters for any non-ASL-fluent evaluator.

5. DCPS will correct the Student's attendance record to reflect that the days he/she was suspended out of school constitute excused absences.

6. DCPS will fund private transportation to and from Student's residence and school during the 2025-2026 school year, including transportation to and from after-school sports and activities.

7. DCPS will fund two years of the parent's premium subscription to Lingvano, an ASL learning application, and update the Student's IEP to reflect the need for parent training in ASL as a related service.

8. OSSE and/or DCPS will fund private transportation to and from the student's residence and school during the 2025-2026 school year, including transportation to and from after-school sports and activities.

9. OSSE and/or DCPS will fund appropriate compensatory education services and/or establish a fund to be spent on the Student's education to compensate the student. If the amount of compensatory education is unable to be determined by the Hearing Officer for any reason, OSSE and/or DCPS will fund a private evaluation by an evaluator selected by the parent to determine the amount of compensatory education services due to the student for OSSE's

and/or DCPS' failure to implement his/her IEP and other violations of his/her right to a FAPE. OSSE and/or DCPS will also fund private transportation to and from any compensatory education services.

FINDINGS OF FACT

After considering all of the evidence received at the due process hearing in this case, as well as the argument of counsel, my findings of fact are as follows:

1. Student, an AGE youth, resides with Mother in the District of Columbia.

Testimony of Mother.

2. Student is eligible for special education as a student with Multiple Disabilities (MD), based upon concomitant Other Health Impairment (OHI) and Emotional Disturbance (ED) impairments. Exhibit DCPS-28.

3. In August 2024, NEUROPSYCHOLOGIST conducted an independent comprehensive neuropsychological evaluation of Student. In her evaluation report, Neuropsychologist reported, *inter alia*, that Student had long struggled with attention and behavior regulation and continued to demonstrate considerable trouble with sustained attention inattentiveness/distractibility, hyperactivity, and impulsivity. He/she had poor emotional control. He/she had trouble with task initiation and task completion, planning and prioritizing assignments and projects and organizational skills. All of these challenges were highly consistent with Student's prior diagnosis of Attention-Deficit/Hyperactivity Disorder, Combined Presentation. Student had a longstanding history of slow academic progress and avoidance of academic activities. Current evaluation results demonstrated considerable impairment across academic skill

sets – specifically, Student’s reading and math skills fell broadly within the Impaired range; his/her written expression skills were Borderline Impaired. Despite adequate instruction that had been provided in an accessible manner, Student’s academic performance was very low and indicative of the additional diagnoses of Specific Learning Disabilities with Impairment in Reading, Mathematics and Written Expression. Student’s psychological functioning had been a longstanding concern and had worsened into his/her adolescent years. Based on self-ratings, symptoms of depression were quite prominent. Student reported significant emotional distress. Within his/her social environment, Student reported feeling targeted and traumatized from past circumstances. Student also reported several symptoms of anxiety, including tension, stress and worries. Student’s presentation was most consistent with Major Depressive Disorder and Generalized Anxiety Disorder. Behaviorally, Student had long struggled with behavioral compliance and following rules. He/she was easily persuaded and influenced by peers and online figures. Student had shown an increase in maladaptive behaviors such as aggression, insubordination, a lack of respect toward authority, a struggle to follow established rules, vandalism and theft. He/she showed limited remorse or ownership of his/her behavior, even when there was evidence. As such, the diagnose of Oppositional Defiant Disorder and Conduct Disorder were applied to his/her diagnostic profile. Importantly though, as measures were put into place at DHI SCHOOL to prevent problematic behaviors, Student felt significantly targeted, which in turn had severed the trust he/she had for the school environment and its

personnel. Neuropsychologist diagnosed Student with sensorineural hearing loss; Attention-Deficit/Hyperactivity Disorder Combined Presentation; Specific Learning Disability with impairment in Reading, Mathematics and Writing; Oppositional Defiant Disorder; Conduct Disorder; Major Depressive Disorder and Generalized Anxiety Disorder. Exhibit P-5. On October 28, 2024, Neuropsychologist's evaluation was accepted by DCPS. Exhibit R-30.

4. Student has mild to profound deafness on his/her right side and normal to sloping hearing on the left side. Student has a left-side hearing aid and a right-side cochlear implant. Student relies on American Sign Language (ASL) and lipreading to understand receptive information. Exhibit DCPS-27. Student is also able to communicate with ASL and, to some degree, with spoken English. Testimony of Mother.

5. From 2017 through the close of the 2023-2024 school year, Student was enrolled in DHI School, a nonpublic education center for the deaf and hearing impaired located in Washington, D.C. Exhibit DCPS-21. In spring 2024, DHI School determined that due to Student's behavior challenges, that school was no longer an appropriate placement for him/her. Exhibit DCPS-16. On June 24, 2024, Petitioner's Counsel corresponded with DCPS seeking a FAPE for Student from DCPS. At the beginning of the 2024-2025 school year, DCPS did not offer an educational placement for Student. DCPS offered Student interim services pending the District's identifying an appropriate

program and location for Student. Exhibit DCPS-13. During that period, Student was at home. Testimony of Mother.

6. At a DCPS Central IEP (CIEP) team meeting on October 28, 2024, Student was determined eligible for special education and related services, including Speech-Language, Behavioral Support Services, Audiology and all academics. Exhibit DCPS-25.

7. On September 10, 2024, Mother filed a prior due process complaint, on behalf of Student, against DCPS (Case No. 2024-0169). In that proceeding, Mother alleged that DCPS denied Student a FAPE by, *inter alia*, failing to offer Student a FAPE or any school placement for the 2024-2025 school year. Following a three-day hearing on October 31, November 1 and November 4, 2024, Impartial Hearing Officer Michael Lazan issued a Hearing Officer Determination on November 24, 2024 (the November 24, 2024 HOD). In the November 24, 2024 HOD, Hearing Officer Lazan concluded that DCPS denied Student a FAPE by not holding an IEP meeting over the summer of 2024 to create an IEP and find a placement for Student by the start of the 2024-2025 school year. For relief, Hearing Officer Lazan ordered DCPS, *inter alia*, as follows:

- DCPS is ordered to conduct a search of all public and private schools, including non-approved private schools, located within fifty miles of the District of Columbia, where the Student could be placed in a setting where he/she would be taught by an ASL teacher throughout the school day, provided there is parent consent;
- DCPS shall apply on the Student’s behalf to all such schools that have openings for the Student, provided there is parent consent;

- CITY SCHOOL shall admit the Student by December 1, 2024, as follows:
1) the Student shall be admitted into the Deaf and hard-of-hearing program at City School; 2) a teacher who delivers one-to-one instruction through ASL shall be at the Student’s side and accompany the Student throughout the building through the entire school day, including in classes, in hallways, during transitions, and during recess;
- DCPS shall pay above market rate, if necessary, to retain such ASL teacher;
- If no ASL teacher can be found at all, a special education teacher with experience in working with hearing loss/deafness students shall be at the Student’s side to provide one-to-one instruction and to accompany the Student throughout the entire school day, including in classes, in hallways, during transitions and during recess;
- If a such a special education teacher is used, an ASL specialist shall accompany the Student throughout the building during the entire school day, including in classes, in hallways, during transitions, and during recess;
- DCPS shall pay above market rate, if necessary, to retain such ASL specialist;
- DCPS shall evaluate the Student for assistive technology issues within ten days of November 24, 2024; and
- All future IEP meetings for the Student shall occur with an ASL interpreter.

Exhibit R-1.

8. In the November 24, 2024 HOD, Hearing Officer Lazan’s Findings of Fact included the findings that Student sometimes needed to shut down or self-regulate when provoked or when he/she was accused of something he/she did not do; Student’s behaviors were more severe during unstructured times such as lunchtime, in hallways, during transitions between periods and during school-wide events; Student had a

history of difficulty with respecting physical boundaries, using appropriate language and controlling impulses; while at DHI School, Student was involved in numerous behavioral incidents, consistently defied staff instructions and showed significant disrespect towards his/her teacher and other authority figures, frequently evaded supervision, ran into hallways, and entered classrooms or the cafeteria during transition against instructions and brought prohibited items to school, including a stun gun and unauthorized technology devices. Exhibit R-1.

9. On December 13, 2024, the City School IEP team convened by telephone for Student's annual IEP review. Mother and Petitioner's Counsel participated in the meeting. DCPS proposed an educational placement for Student in a non-public residential school. Mother was not in agreement with the residential placement proposal. Mother requested for Student 20 hours per week of Specialized Instruction at City School, including 15 hours outside of the general education setting. Exhibit OSSE-3.

10. In the December 13, 2024 IEP, Student was reported to have sensorineural hearing levels in the moderately-severe sloping to profound range in his/her right ear and slight sloping to profound range in his/her left ear, and he/she experienced progressive hearing changes. Student was reported to not then have a hearing aid or cochlear implant outer unit. Student was reported to be bilingual ASL, fluent in ASL and English, but, without his/her hearing aid and cochlear implant, Student lacked full access to spoken language. Reading, Mathematics, Written Expression, Emotional,

Social and Behavioral Development and Communication/Speech and Language were identified in the IEP as goal areas for Student. The IEP provided for Student to receive 30 hours per week of Specialized Instruction outside general education, 2 hours per month of group Speech-Language Pathology and 4 hours per month of individual Behavioral Support Services. Provision was also made for school staff working with Student to receive consultation services in Special Education, Speech-Language Pathology, Behavioral Support and Audiology. For Assistive Technology, the December 13, 2024 IEP provided that Student would have access to remote microphone technology in the classroom, as needed. The IEP provided for a host of Other Classroom Aids and Services, including provision that all specialized instruction should be instructed in ASL by “a Teacher of the Deaf.” The IEP specified that Student required the support of a dedicated aide. For school transportation, the IEP provided that Student was eligible for special education transportation as a student Accessing a Specialized Program (ASP), and stated that Student needed behavior interventions and his/her ASL communication needs were to be considered during transport. Student was determined eligible for Extended School Year (ESY) services. Exhibit P-2. Mother was in disagreement with the need for Student to have a dedicated aide and the need for him/her to have an ASL interpreter or teacher of the deaf with him/her for all hours of the school day. The CIEP IEP team members decided that, per the November 24, 2024 HOD, an ASL interpreter and another school-based staff member would accompany

Student in the school building throughout the school day. Exhibit OSSE-3. The appropriateness of the December 13, 2024 IEP is not at issue in this proceeding.

11. Since August 2024 Mother had wanted for Student to attend City School. It was clear at the December 13, 2024 IEP meeting that Mother and Petitioner's Counsel did not want a nonpublic residential or day school for Student. Testimony of CIEP Manager.

12. On February 5, 2025, LEA Representative sent a Transportation Request Form (TRF) to OSSE for Student. OSSE sent an automated text and left a voice mail on Mother's mobile telephone number informing her that special education transportation bus pick-up for Student would start effective February 10, 2025. OSSE first sent a bus to pick up Student at his/her home on February 10, 2024. The bus arrived on schedule to pick up Student, but he/she did not ride the bus either to or from school. OSSE continued to send the bus daily to pick up Student through the end of the 2024-2025 school year, but Student never rode the bus. Neither the parent nor DCPS ever notified OSSE that Student would not use OSSE school transportation services. Testimony of Transportation Manager, Exhibits OSSE-8 through OSSE-11. Mother was not aware that OSSE was sending a bus for Student and she never contacted OSSE about Student's transportation services. In mid-March 2025, someone at the front desk in Mother's building advised her that there was a bus "looking for Student." Mother thought it must be for another student and she did not follow up with DCPS or OSSE. Testimony of Mother.

13. City School staff wanted to get a dedicated aide lined up for Student before he/she began attending the school. Petitioner's Counsel was adamant that Student did not need a dedicated aide and it was not necessary for Student to have supervision throughout the school day. City School acquiesced to not having a dedicated aide for Student. Testimony of LEA Representative.

14. Student began attending City School on or about December 16, 2024. Exhibit P-32. DCPS provided an ASL interpreter for Student at school. Testimony of RID Interpreter. Initially, Student's transition to City School was good. For the term ending February 21, 2025, Student made the honor roll. Testimony of Mother, Testimony of LEA Representative, Exhibit P-27. Student was always very respectful in class. In class, Student did not always turn toward the ASL interpreter for interpreting, but he/she was responsive, when tapped on the shoulder. At school, Student would not usually wear his/her hearing aid or cochlear implant outer unit. Testimony of RID Interpreter.

15. When Student enrolled in City School, the City School special educators found that he/she was a different student from the youth who had been characterized as in constant altercations at DHI in the 2023-2024 school year. While there were incidents with City School staff, overall, Student presented as a typical student. Student was very well mannered and teachers reported that he/she was generally an extremely respectful young person. There had not been anything on the classroom side that would mark Student as a "problem student." LEA Representative observed Student as kind

and encouraging with other students. By mid- January 2025, LEA Representative had concluded that there was nothing that indicated Student should be in a residential placement. Testimony of LEA Representative.

16. On February 27, 2025, Student's December 13, 2024 IEP as amended, without a meeting, to provide for Extended School Year (ESY) services. Exhibit OSSE-4.

17. In January 2025, a City School social worker completed a Functional Behavior Assessment (FBA) of Student. She interviewed several teachers and Student. In the January 17, 2025 FBA, the social worker reported that there were no problematic behaviors reported by teachers at City School since Student had joined the school. Teachers reported that Student used his/her phone often, but he/she responded well to redirection from teachers. Exhibit P-7. The January 17, 2025 FBA was not provided to Mother until July 2025. Testimony of Mother, Testimony of LEA Representative.

18. On January 21, 2025, the City School social worker drafted a Behavior Intervention Plan - Level 1(BIP-1) for Student. The BIP-1 noted that no problematic behaviors for Student had been reported by City School teachers. Exhibit P-8. Mother did not participate in developing the BIP-1. Testimony of Mother.

19. Student was involved in several serious altercations with other students in the 2024-2025 school year. In February 2025, Student was allegedly assaulted by other students when boarding a Metrobus after school and again later on the bus. In that incident, Student was injured and had to receive medical treatment the next day. Student did not want to return to school after the incident. Other students allegedly

videoed the assault and posted the video on social media. Testimony of Mother. The bus driver broke up the fight and police were called. City School followed disciplinary protocols for the other students. Testimony of Assistant Principal. In April 2025, there was another alleged assault incident at the bus stop, when Student was allegedly hit by another student. The school reported the incident to Metropolitan police. A video of that incident was also posted on line. Testimony of Assistant Principal, Testimony of Mother. In April 2025, Student allegedly assaulted another student on a City School field. The school suspended Student for 9 days for the alleged assault conduct. On appeal to the D.C. Office of Administrative Hearings, an Administrative Law Judge recommended that Student's offense be changed from "Assault" to "Fighting" and that the period of suspension be reduced from 9 days to 7 days. By that point, Student had already served all 9 days of the suspension from school. Testimony of Assistant Principal, Testimony of Mother, Exhibits P-29, P-30. The appropriateness of DCPS' response to these incidents is not at issue in this proceeding.

20. Late in the 2024-2025 school year, Audiologist observed Student at City School. Student told Audiologist that he/she was not interested in wearing a hearing aid of the Cochlear Implant external device. Audiologist concluded that if Student would not wear or use the hearing devices, then the student could not take advantage of an FM external microphone system in the classroom to connect with the hearing aid or implant. Testimony of Audiologist.

21. Neither the parent nor DCPS offered testimony from witnesses knowledgeable about implementation of Student's Behavioral Support or Speech-Language Pathology services during the 2024-2025 school year. During this time period, he/she should have received approximately 20 hours of Behavioral Support Services. Based upon DCPS' service tracker records, Student received approximately 3.75 hours of Behavioral Support Services from January 2025 through the end of the school year. According to the service records, Student was absent, without excuse, for some five 1-hour sessions when the social worker attempted to provide services to him/her. I find by the preponderance of the evidence that, not including Student's absences, between January and June 2025, DCPS failed to implement approximately 12 hours of Student's IEP Behavioral Support Services. Exhibit R-55.

22. For the same period, the December 13, 2024 IEP provided for Student to receive approximately 10 hours of Speech-Language Pathology Services. It appears from the service tracker records that Student actually received only 90 minutes of speech-language services, but Student was absent without excuse, or on suspension, for three attempted 1-hour speech sessions. I find by the preponderance of the evidence that between January and June 2025, DCPS failed to implement approximately 6 hours of Student's IEP Speech-Language Pathology services. Exhibit R-56.

23. The City School IEP team met to update Student's IEP on June 10, 2025. During the meeting, Mother requested that she be provided work samples for Student. The work samples were not then available, due to the end of the school year and teacher

unavailability, and the IEP was not finalized. Later, Mother requested that the June 10, 2025 IEP be finalized based on the available information. On August 13, 2025, DCPS gave Prior Written Notice to Mother that the June 10, 2025 IEP draft would be final and implemented, retroactive from June 10, 2025 through June 9, 2026. Testimony of LEA Representative, Exhibit P-22.

24. In the June 10, 2025 IEP, finalized in August 2025, Reading, Mathematics, Written Expression, Hearing, Emotional, Social and Behavioral Development and Communication/Speech and Language were identified as goal areas for Student. The June 10, 2025 IEP continued to provide for Student to receive 30 hours per week of Specialized Instruction outside general education, 2 hours per month of group Speech-Language Pathology and 4 hours per month of individual Behavioral Support Services, as well as consultation services for school staff. The IEP provided that Student did not require the support of a dedicated aide. For Other Classroom Aids and Services, the IEP stated that Student benefitted from different classroom accommodations such as pre-teaching vocabulary, repeated directions, scaffolding of work, visual aids, checking for understanding, extended time on tests and assignments, captioned videos, written and signed directions and signed and speaking in clear view of the student; that he/she would benefit from speech to text applications on his/her school device and also benefit from dedicated space to calm as necessary. The IEP continued Student's eligibility for school transportation. The IEP team determined that Student was not eligible for

Extended School Year (ESY) services. Exhibit R-27. The appropriateness of the June 10, 2025 IEP is not at issue in this proceeding.

25. Student's final grades at City School for the 2024-2025 school year were fair – all C- or higher, except for a D+ in Information Technology. Testimony of Mother. Exhibit P-12.

26. Staff from the Extended School Year Program at ESY SCHOOL developed an updated IEP for Student in July 2025. Student was not attending ESY School. Neither Mother nor City School staff participated in this meeting. This IEP was not considered valid by DCPS and was not implemented for Student. In the 2025-2026 school year, City School is implementing the June 10, 2025 IEP, finalized in August 2025. Testimony of LEA Representative.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact and argument of counsel, as well as this hearing officer's own legal research, my Conclusions of Law are as follows:

Burden of Proof

As provided in the D.C. Special Education Student Rights Act of 2014, the party who filed for the due process hearing, the parent in this case, shall bear the burden of production and the burden of persuasion, except that where there is a dispute about the appropriateness of the child's IEP 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. *See* D.C. Code § 38-2571.03(6).

ANALYSIS

In this proceeding, Petitioner seeks compensatory education and other relief from DCPS on the grounds that DCPS allegedly denied Student a FAPE by failing to comply with Hearing Officer Lazan's order in the November 24, 2024 HOD to conduct a search of ASL-capable schools for Student, by not including the parent in development of Student's January 2025 Behavior Intervention Plan, by not conducting an Assistive Technology evaluation of Student and by failing to fully implement transportation, behavior support and Speech-Language Pathology services prescribed in Student's December 13, 2024 IEP. The parent alleges that OSSE separately denied Student a FAPE by not providing special education transportation services in accordance with the IEP and she also seeks compensatory education for Student from OSSE.

A. Failure to Conduct School Search

In his November 24, 2024 HOD in Case No. 2024-0169, Hearing Officer Lazan ordered DCPS to conduct a search of, and apply on Student's behalf to, all public and private schools, located within fifty miles of the District of Columbia, where Student could be placed in a setting where he/she would be taught by an ASL teacher throughout the school day (ASL Schools). However, on December 16, 2024, Student

enrolled in City School, where he/she was provided an ASL interpreter and DCPS did not conduct a search of other public or private schools for Student. The parent contends that DCPS's failure to conduct the school search ordered by Hearing Officer Lazan denied Student a FAPE. I disagree.

I observe that this hearing officer is not empowered to enforce another hearing officer's final administrative decision. However, under the IDEA, a parent may file a due process complaint "with respect to any matter relating to the identification, evaluation, or educational placement of [a child with a disability] or the provision of a free and appropriate public education to such child." 20 U.S.C. § 1415(b)(6)(A). DCPS' alleged noncompliance with Hearing Officer Lazan's order to search for ASL Schools on Student's behalf relates to the provision of FAPE to the student. I find, therefore, that I have jurisdiction over this claim. Notwithstanding, Petitioner has not shown that DCPS' failure to conduct a search of ASL Schools, pursuant to the November 24, 2024 HOD, has resulted in a denial of FAPE to Student.

At the time Hearing Officer Lazan issued the November 24, 2024 HOD, Student had been out of school since the start of the 2024-2025 school year. The parent had wanted Student to be placed at City School, but DCPS had balked, maintaining that Student would pose a safety risk at City School, given his/her reported significant behaviors and academic delays. Finding that DCPS had "provided no other options" for Student, Hearing Officer Lazan order DCPS to conduct a search of all ASL schools within fifty miles and apply to any ASL school that had an opening. Fortunately,

subsequent to the HOD issuance and due to the parent's perseverance, circumstances changed. As ordered by Hearing Officer Lazan, Student was admitted to City School on December 16, 2024. City School was able to provide Student an ASL interpreter to accompany him/her throughout the building during the entire school day, as ordered in the November 24, 2024 HOD.

DHI School had determined at the end of the 2023-2024 school year that it was no longer an appropriate placement for Student because of his/her behavior challenges. City School was supposed to be an "interim setting" for Student, but it immediately became evident that the behavior challenges, which Student exhibited at DHI School, did not continue at City School. At City School, Student was found to be a different student from the young person characterized as in constant altercations at DHI School. Overall, at City School, Student presented as a typical student. He/she was very well mannered and teachers reported that he/she was generally an extremely respectful young person. There had not been anything on the classroom side that would mark Student as a "problem student." Mother agreed that Student's transition to City School was good. In fact, for the term ending February 21, 2025, Student made the honor roll and his/her grades were "fair" for the rest of the school year. I conclude that due to these major changes in circumstances, there was no longer a need for DCPS to look for another school for Student. Hence, I find that DCPS' failure to comply with that part of Hearing Officer Lazan's order did not deny Student a FAPE.

B. Assistive Technology Evaluation

In the November 24, 2024 HOD, Hearing Officer Lazan ordered DCPS to evaluate Student for assistive technology (AT) issues within ten days of the decision date. It appears that Hearing Officer Lazan ordered the AT evaluation because, following her August 2024 neuropsychological evaluation of Student, Neuropsychologist had recommended an AT evaluation to determine available resources for enhanced communication for the youth. *See Exhibit R-1 at p. 11.* The IDEA defines assistive technology service as “any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.” 20 U.S.C. § 1401(2). It includes “the evaluation of the needs of such child, including a functional evaluation of the child in the child’s customary environment.” 20 U.S.C. § 1401(2)(A). Such services, if necessary, are part of providing a FAPE to a child with a disability. *See 20 U.S.C. § 1400(d)(1)(A); R.P. v. Alamo Heights Indep. Sch. Dist., 703 F.3d 801, 812 (5th Cir. 2012).*

DCPS never conducted a formal AT evaluation of Student, but late in the 2024-2025 school year, Audiologist did conduct an audiology observation and spoke with Student regarding audiology technology needs. Student told Audiologist that he/she was not interested in wearing a hearing aid or a Cochlear Implant external device, leading Audiologist to conclude that if Student would not wear or use the hearing devices, then the student could not benefit from an FM external microphone system in the classroom.

Student’s disabilities include sensorineural hearing loss in both ears.

Petitioners's expert, Psychologist, opined that Student absolutely needed an AT evaluation. According to Psychologist, such an evaluation would focus not only on the audiology technology student already had, but on possible alternatives that would get Student to use those devices. As Psychologist explained, Student could also benefit from assistive technology outside of the classroom environment for transportation and recreation. I find that DCPS' failure to conduct a formal assistive technology of Student, especially in light of Hearing Officer Lazan's order in the November 24, 2024 HOD, was a procedural violation of the IDEA. *See, e.g., B.K. v. New York City Dep't of Educ.*, 12 F. Supp. 3d 343 (E.D.N.Y. 2014) (Failure to consider whether child needed assistive technology devices and services in developing IEP could amount to procedural violation of the IDEA.)

Procedural violations may only be deemed a denial of FAPE if the procedural inadequacies—

- (i) Impeded the child's right to a FAPE;
- (ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or
- (iii) Caused a deprivation of educational benefit.

34 C.F.R. § 300.513(a)(2). Per Hearing Officer Lazan's November 24, 2024 HOD, DCPS should have completed an AT evaluation of Student before the December 13, 2024 IEP meeting. Whether Student would have benefitted from additional or alternative assistive technology could not be known absent an appropriate AT evaluation. I

conclude, therefore, that DCPS' failure to conduct the AT evaluation, as ordered by Hearing Officer Lazan, impeded the parent's opportunity to participate in the decision making process for her child. This procedural violation was a denial of FAPE.

C. Participation in Development of Behavior Intervention Plan

In January 2025, a City School social worker completed a Functional Behavior Assessment (FBA) of Student. In the January 17, 2025 FBA, the social worker reported that there were no problematic behaviors reported by teachers at City School since Student had joined the school. On January 21, 2025, the City School Social Worker drafted a Behavior Intervention Plan - Level 1(BIP-1) for Student. The BIP-1 likewise noted that no problematic behaviors had been reported for Student. It appears that City School 1 did not provide the FBA or BIP-1 to Mother until July 2025. Mother contends that by not including her in the development of the BIP-1, City School denied Student a FAPE. I disagree.

As U.S. District Judge Richard Leon explained in *B.D. v. District of Columbia*, No. CV 15-1139 (RJL), 2021 WL 6049879 (D.D.C. Dec. 21, 2021),

[T]he Supreme Court has repeatedly emphasized, the central importance of parental participation in the creation of educational programs under the IDEA cannot be gainsaid. See [*Honig v. Doe*, 484 U.S. 305, 311 (1988)], ("Congress repeatedly emphasized throughout the [IDEA] the importance and indeed the necessity of parental participation in both the development of the IEP and any subsequent assessments of its effectiveness"); *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 205-06 (1982); *Lofton v. District of Columbia*, 7 F. Supp. 3d 117, 123 n.6 (D.D.C. 2013). However, not every minor procedural error on behalf of a school board results in the denial of a FAPE. See *Lesesne*, 447 F.3d at 834 (collecting cases). Instead, where the complaint centers on a deprivation of

the parental right to participate, plaintiffs must show that the procedural violations “significantly impeded” that right in order to show a FAPE denial. 20 U.S.C. § 1415(f)(3)(E)(ii).

B.D. at *7. Clearly, excluding parents from participation in their child’s IEP meeting would violate the IDEA. *See, e.g., B.D.* at *8. However, Petitioner has not cited any authority for requiring that a parent participate in the development of a child’s BIP, completed by a school social worker outside of an IEP meeting. *Cf. Simms v. District of Columbia*, No. 17-CV-970 (JDB/GMH), 2018 WL 4761625, at *12 (D.D.C. July 26, 2018), *report and recommendation adopted*, No. CV 17-970 (JDB)(GMH), 2018 WL 5044245 (D.D.C. Sept. 28, 2018) (finding against the parent on parental participation in the development of the child’s BIP.)

Even if a District were required to have the parent participate in the development of her child’s BIP, a failure to include the parent would, at most, be a procedural violation of the IDEA. *See B.D., supra*. As noted above, procedural violations may only be deemed a denial of FAPE if the procedural inadequacy—

- (i) Impeded the child’s right to a FAPE;
- (ii) Significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent’s child; or
- (iii) Caused a deprivation of educational benefit.

34 C.F.R. § 300.513(a)(2). I find that, Mother did not establish that DCPS’ not including her in the development of the January 21, 2025 BIP impeded Student’s right to a FAPE, caused a deprivation of educational benefit or significantly impeded the parent’s

opportunity to participate in the decision-making process for her child.

D. Implementation of Behavioral Support and Speech-Language Services

The City School December 13, 2024 IEP provided for Student to receive 4 hours per month of Behavioral Support Services and 2 hours per month of Speech-Language Pathology Services. Mother alleges that the City School related services providers did not fully provide these services. Both sides rely on DCPS' related services providers' service records for Student. These records confirm that Student did not receive the bulk of his/her IEP related services in the 2024-2025 school year.

In my findings of fact, I have found, from the preponderance of the evidence, that from January 2025 through the end of the regular school year, DCPS failed to provide Student approximately 12 hours of IEP Behavioral Support Services. For the same period, I found that DCPS failed to provide Student approximately 6 hours of IEP Speech-Language Pathology Services. The respective parties' evidence does not sufficiently establish whether Behavioral Support and Speech-Language Pathology related services were or were not regularly implemented in the 2025-2026 school year through the hearing date.

U.S. District Judge Rudolph Contreras explained in *Middleton v. District of Columbia*, 312 F. Supp. 3d 113 (D.D.C. 2018), that a material failure to implement substantial or significant provisions of a child's IEP may constitute a denial of FAPE.

A school district "must ensure that . . . special education and related services are made available to the child in accordance with the child's IEP." 34 C.F.R. § 300.323(c)(2). A material failure to implement a

student's IEP constitutes a denial of a FAPE. *Johnson v. District of Columbia*, 962 F.Supp.2d 263, 268–69 (D.D.C. 2013). To meet its burden, the moving party “must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP.” *Beckwith v. District of Columbia*, 208 F.Supp.3d 34, 49 (D.D.C. 2016) (quoting *Hous. Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000)). “Generally, in analyzing whether a student was deprived of an educational benefit, ‘courts . . . have focused on the proportion of services mandated to those actually provided, and the goal and import (as articulated in the IEP) of the specific service that was withheld.’ “ *Id.* (quoting *Wilson v. District of Columbia*, 770 F. Supp. 2d 270, 275 (D.D.C. 2011)).

Middleton at 144. I find that DCPS’ failure to provide to Student some 12 hours of Behavioral Support Services and some 6 hours of Speech-Language Pathology services between January and June 2025 was a failure to implement substantial provisions of the December 13, 2024 IEP. This was a denial of FAPE.

E. Special Education Transportation

Petitioner alleges that DCPS and OSSE denied Student a FAPE by failing to provide him/her with special education transportation in accordance with the December 13, 2024 IEP. In the IEP, the City School IEP team determined that Student was eligible for special education transportation. LEA Representative testified that she sent a Transportation Request Form (TRF) for Student to OSSE over the 2024-2025 winter break, but learned from Mother that she had used an out-of-date address for Student on the TRF. LEA Representative submitted the corrected TRF to OSSE on February 8, 2025. From February 10, 2025 through the end of the 2024-2025 school year, OSSE

dispatched a school bus to transport Student to and from school. However, Student never used the OSSE bus transportation.

Mother testified that, at least before March 2025, she was not aware that OSSE was sending a bus to pick up Student, although OSSE's records indicated that the agency had left text and voicemail messages on Mother's mobile phone about the bus service for Student would start on February 10, 2025. Mother admitted that she never contacted either City School or OSSE to inquire about why special education transportation services for Student were supposedly not being provided. Considering that Mother was aware that the December 13, 2024 IEP provided for transportation services and she had spoken to LEA Representative to correct the pick-up address for Student, I find that the parent did not act reasonably in not following up with City School or OSSE when she mistakenly believed that Student's school transportation was not being provided. I conclude that Mother did not establish that, from February 10, 2025 forward, DCPS or OSSE failed to implement Student's special education transportation services. Nor was it established that OSSE failed to timely provide transportation services for Student after City School submitted the TRF on February 8, 2025. Parent has not met her burden of persuasion that OSSE denied Student a FAPE.

However, I find that DCPS failed to timely submit the RFT for Student to OSSE after the December 13, 2024 IEP team meeting. This should have been done in time for Student to receive transportation when school resumed after the 2024-2025 winter break. *See* 34 C.F.R. § 300.323(c)(2) (District's obligation to implement IEP as soon as

possible.) I conclude that the parent is entitled to reimbursement from DCPS for her transportation expenses for Student from the return to school after winter break until February 10, 2025.

Relief

In this decision, I have determined that Petitioner met her burden of persuasion that DCPS denied Student a FAPE by (1) not conducting an Assistive Technology evaluation, as ordered in the November 24, 2024 HOD; (2) not fully implementing Student's IEP Behavioral Support and Speech-Language Pathology related services in the 2024-2025 school year and (3) not ensuring that special education transportation was provided for Student from on or about January 2, 2025 through February 10, 2025. For relief, the parent requests, *inter alia*, that DCPS be ordered to fund a private AT evaluation of Student, fund private transportation to and from school and provide compensatory education. When a hearing officer finds a denial of FAPE, he has "broad discretion to fashion an appropriate remedy, which can go beyond prospectively providing a FAPE, and can include compensatory education. . . . [A]n award of compensatory education must be reasonably calculated to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place." *B.D. v. District of Columbia*, 817 F.3d 792, 797-98 (D.C. Cir. 2016) (internal quotations and citations omitted.)

In her testimony, Petitioner's expert, Psychologist, proposed a compensatory education remedy, but her recommendation went well beyond compensating Student

for the harm in this case – namely, failure to provide Student some 12 hours of Behavioral Support Services and some 6 hours of Speech-Language Pathology services between January and June 2025.

In *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, (D.C.Cir.2005) the District of Columbia Court of Appeals rejected “mechanical hour-counting,” and emphasized that an award must be designed to meet the student’s unique needs. *Reid*, 401 F.3d at 524. However an award created with the aid of a formula is not *per se* invalid, so long as the evidence provides a “sufficient basis for an individually-tailored assessment.” See *Stanton ex rel. K.T. v. District of Columbia*, 680 F.Supp.2d 201, 206-07 (D.D.C.2010). Because of the limited hours of related services missed by Student due to DCPS’ failure to fully implement Student’s IEP in the 2024-2025 school year, I will order DCPS to provide funding authorization for Student to receive a total of 20 hours of independent Behavioral Support or Speech-Language services to be utilized as the Mother determines would most benefit Student. If the respective related services providers are not fluent in ASL, DCPS shall also fund the services of an ASL interpreter, if needed, for these sessions.

I will also order DCPS to conduct a comprehensive AT evaluation of Student. DCPS has its own AT team and Petitioner has shown no reason why this evaluation needs to be conducted by a private AT evaluator.

Lastly, I will order DCPS to reimburse the parent for her transportation expenses, if any, to transport Student to and from City School from January 2, 2025 through

February 10, 2025, when OSSE first made transportation services available for Student.

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby

ORDERED:

1. As compensatory education for DCPS failure to fully implement Student's IEP Behavioral Support and Speech-Language Pathology services, DCPS shall promptly issue funding authorization for the parent to obtain 20 hours of independent behavior support and/or speech-language services for Student to be utilized as the parent may decide would most benefit Student. If the provider(s) chosen by the parent are not fluent in ASL, DCPS shall also provide funding for the parent to secure an ASL interpreter to interpret for these compensatory services. If needed to attend the compensatory education sessions, DCPS shall provide transportation for Student or reimburse the parent for reasonable transportation expenses;

2. Within 15 school days of the date of this decision, DCPS shall conduct a comprehensive Assistive Technology evaluation of Student and provide a written evaluation report for the consideration and use of the parent and Student's IEP team;

3. Upon receipt of reasonably required documentation of payment by the parent, DCPS shall reimburse the parent for her transportation expenses incurred to transport Student to and from City School from January 2, 2025 through February 10, 2025;

4. All of Petitioner's claims against OSSE are dismissed with prejudice and

5 All other relief requested by the Petitioner herein is denied.

Date: December 1, 2025

s/ Peter B. Vaden
Peter B. Vaden, Hearing Officer

NOTICE OF RIGHT TO APPEAL

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

cc: Counsel of Record
Office of Dispute Resolution