

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

1050 First Street, N.E.; Washington, D.C. 20002
(202) 698-3819 www.osse.dc.gov

OSSE
Office of Dispute Resolution
December 8, 2025

Confidential

Parent on behalf of Student,¹)	Case Nos. 2025-0160
)	
Petitioner)	Hearing Dates: November 10 and 19, 2025
)	
v.)	Conducted by Video Conference
)	
District of Columbia Public Schools,)	Date Issued: December 8, 2025
)	
Respondent)	Terry Michael Banks,
)	Hearing Officer

HEARING OFFICER DETERMINATION

INTRODUCTION

Petitioner is the parent of an X-year-old student (“Student”) attending School B. On September 12, 2025, Petitioner filed a due process complaint notice (“*Complaint*”) alleging that the District of Columbia Public Schools (“DCPS”) denied Student a free appropriate public education (“FAPE”) when Student was attending School A by failing to provide appropriate Individualized Education Programs (“IEPs”), failing to conduct comprehensive evaluations of Student, and failing to provide Petitioner full access to Student’s educational records. On September 22, 2025, DCPS filed *District of Columbia Public Schools’ Response to Petitioner’s Administrative Due Process Complaint* (“*Response*”), denying that it had denied Student a FAPE in any way.

SUBJECT MATTER JURISDICTION

This due process hearing was held, and a decision in this matter is being rendered, pursuant to the Individuals with Disabilities Education Improvement Act (“IDEIA”), 20 U.S.C. Section 1400 *et seq.*, its regulations, 34 C.F.R. Section 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.

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

PROCEDURAL HISTORY

On September 12, 2025, Petitioner filed her *Complaint* alleging that DCPS failed to provide appropriate IEPs on September 5, 2024, March 3, 2025, and May 8, 2025. Petitioner asserted, *inter alia*, that the IEPs were inappropriate because (a) the goals did not address Student's escalating behaviors, (b) the IEPs did not provide behavior support services ("BSS"), (c) the IEPs were not based on current evaluative data, (d) the speech and language ("S/L") goals did not address articulation, the occupational therapy ("OT") goals were vague and not based on current data, and (e) the Present Levels of Academic Performance ("PLOPs") were not based on current evaluative data. Petitioner also alleged that DCPS denied Student a FAPE by failing timely to comply with her March 6, 2025 request for a comprehensive psychological evaluation, an OT evaluation, an FBA, an assistive technology ("A/T") evaluation, and an S/L evaluation. Additionally, Petitioner alleged that DCPS failed to provide Petitioner full access to Student's educational records that she requested on November 7, 2024. For relief, Petitioner requests, *inter alia*, (1) an order requiring DCPS to conduct and/or fund the following evaluations for the student: Functional Behavioral assessment, Comprehensive Psychological evaluation, updated Speech-Language Pathology evaluation, updated Occupational Therapy evaluation and an Assistive Technology evaluation, (2) compensatory education, (3) an order affording Petitioner to retain the right to request additional compensatory education upon completion of evaluations referenced above.

On September 22, 2025, DCPS filed its *Response* to the *Complaint* denying that it had denied Student a FAPE. DCPS asserted, *inter alia*, that it convened an IEP team meeting on or about September 5, 2024 and developed an IEP with Petitioner's participation that was reasonably calculated to enable Student to make appropriate progress considering Student's circumstances. On or about March 3, 2025, DCPS developed an Amended IEP with Petitioner's participation to update services for the extended school year ("ESY") and to establish eligibility for transportation services. On or about May 8, 2025, DCPS convened an Annual Review IEP team meeting and developed an IEP with Petitioner's participation. Student's services included five hours per week of specialized instruction inside general education setting, one hour and 30 minutes monthly of occupational therapy outside general education setting, and two hours and 30 minutes monthly of speech-language services outside the general education setting. The IEP was reasonably calculated to enable Student to make appropriate progress considering Student's circumstances. DCPS asserted further that it conducted a comprehensive psychological evaluation on August 27, 2024 and a Battelle Developmental Inventory (BDI) that were appropriate and timely for the 2024-2025 school year. Finally, DCPS asserted that it timely afforded Petitioner access to Student's educational records.

The parties conducted a resolution meeting on September 26, 2025 that did not result in a settlement. A prehearing conference in this case took place by video conference on October 16, 2025 and the *Prehearing Order* was issued the next day.

The due process hearing was conducted on November 10 and 19, 2025 by video conference facilities. The hearing was open to the public at Petitioner's request. Petitioner filed Five-day Disclosures on November 3, 2025, containing a witness list of five witnesses, and 36 documents-DCPS did not file objections to Petitioner's Disclosures. Petitioner's Exhibits P1-P36 were admitted into evidence.

Respondent filed Disclosures dated November 4, 2025 containing a witness list of four witnesses and 18 documents. That day, Petitioner filed an objection to Respondent's Disclosures on grounds that they were not timely filed. That objection was denied in an order I issued on November 5, 2025. On the first day of the hearing, I directed DCPS to file a new set of Disclosures as the Disclosures filed related to a different student with the same name as Student. On November 11, 2025, DCPS filed a new set of Disclosures including a witness list of four witnesses and 12 documents. Respondent's Exhibits R1-R12 were admitted into evidence without objection.

Petitioner presented as witnesses in chronological order: Witness A, Witness B, Petitioner, and Witness C. Witness A and Witness C were admitted as experts in special education. Respondent presented as witnesses in chronological order: Witness D, Witness E, and Witness F. Witness D was admitted as an expert in speech and language therapy, and Witness F was admitted as an expert in special education. At the conclusion of testimony, the parties' counsel provided oral closing arguments.

ISSUES

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

1. Whether DCPS denied Student a FAPE by failing to develop an appropriate IEP on September 5, 2024. Specifically, Petitioner asserts that the IEP is inappropriate because (a) the goals did not address Student's escalating behaviors, and (b) did not provide BSS. Petitioner also asserts that the IEP was not based on current evaluative data and that DCPS should have completed S/L, OT, comprehensive psychological, and A/T evaluations, as well as a functional behavior assessment ("FBA"). Additionally, the Adaptive and Cognitive goals were vague, the S/L goals did not address articulation, and the OT goals were vague and not based on current data. Petitioner also asserted that the PLOPs were not based on current evaluative data.
2. Whether DCPS denied Student a FAPE by failing to develop an appropriate amended IEP on March 3, 2025. Specifically, Petitioner asserts that the IEP is inappropriate because (a) the goals did not address Student's escalating behaviors, and (b) did not provide BSS. Petitioner also asserts that the IEP was not based on current evaluative data and that DCPS should have completed S/L, OT, comprehensive psychological, and A/T evaluations, as well as an FBA. Additionally, the Adaptive and Cognitive goals were vague, the S/L goals did not address articulation, and the OT goals were vague and not based on current data. Petitioner also asserted that the PLOPs were not based on current evaluative data.
3. Whether DCPS denied Student a FAPE by failing to develop an appropriate IEP on May 8, 2025. Specifically, Petitioner asserts that the IEP is inappropriate because (a) the goals did not address Student's escalating behaviors, and (b) did not provide BSS. Petitioner also asserts that the IEP was not based on current evaluative data and that DCPS should have completed S/L, OT, comprehensive

- psychological, and A/T evaluations, as well as an FBA. Additionally, the Adaptive and Cognitive goals were vague, the S/L goals did not address articulation, and the OT goals were vague and not based on current data. Petitioner also asserted that the PLOPs were not based on current evaluative data.
4. Whether DCPS denied Student a FAPE by failing timely to evaluate Student in all areas of suspected disability. Petitioner asserts that DCPS has not complied with her March 6, 2025 request for a comprehensive psychological evaluation, an OT evaluation, an FBA, an A/T evaluation, and an S/L evaluation.
 5. Whether DCPS denied Student a FAPE by failing to provide Petitioner full access to Student’s educational records. Petitioner asserts that she requested Student’s records on November 7, 2024 and made follow-up requests on December 16, 2024, January 23 2025, March 5, 2025, March 27, 2025, and May 1, 2025.

FINDINGS OF FACT²

1. Student is an X-year-old student who was in grade Q at School A during the 2024-25 school year and was eligible for special education services with a classification of Delay (“DD”).³

2. On or about August 19, 2024, Facility A completed a Psychological Evaluation for autism spectrum disorder (“ASD”). Petitioner reported to Examiner A that Student exhibited limited nonverbal communication to make her/himself understood, had difficulty participating in groups, and exhibited aggressive behavior, repetitive motor movements, and mouthing of nonfood items.⁴ Student attended daycare from approximately 12 months of age until about March 2024. Teachers reported significant difficulty with aggression towards peers, especially girls, and s/he was asked to leave.⁵ In a Battelle Developmental Inventory (“BDI-2”) conducted by Facility B⁶ in January 2024, Student scored in the Average range in Adaptive Skills (93), Mildly Delayed on the Cognitive Skills (75), and Below Average in Social/Emotional Skills (80) and Communication Skills (80). Student was found eligible for an Individualized Family Services Plan (“IFSP”) due to a 25% delay in cognitive and gross-motor development. After an evaluation by Facility C⁷ in June 2024, Student was found eligible for an IEP as a Student with a disability classification of DD.⁸ Student enrolled at School A in September 2024. S/he was reported to have had difficulty with receptive and expressive communication, requiring support to follow classroom routines.⁹

² The Findings of Fact includes all of the oral and written evidence that I considered material in rendering the decision in this matter. The quotations of oral testimony are from my notes during the hearing, not the transcript.

³ Petitioner’s Exhibit (“P.”) 15 at page 199. The exhibit number is followed by the digital page number, i.e., P15:199.

⁴ P5:47.

⁵ *Id.* at 50.

⁶ Facility B is administered by the Office of the State Superintendent of Education (“OSSE”).

<https://osse.dc.gov/service/strong-start-dc-early-intervention-program-dc-eip>

⁷ Facility C is an evaluation center operated by DCPS. A child need not be enrolled in DCPS to be evaluated at Facility C. <https://www.earlystagesdc.org>.

⁸ P5 at 47-48.

⁹ *Id.* at 50.

Student was assessed through the Social Responsiveness Scale (“SRS-2”), a questionnaire that covers a range of symptoms pertaining to socialization and autistic behaviors in children. Student’s T-scores were in the Moderate range in Social Awareness (68) and Social Motivation (66) and in the Average range in Social Cognition (47), Social Communication (56), Restricted Interests and Repetitive Behavior (56), and for the Total score (58). On the Autism Diagnostic Observation Schedule (“ADOS-2”), in Language & Communication, Student used frequent single words, occasional two-word phrases, and strength in use of gestures, evinced difficulty in consistent pitch and intonation, used phrases in unusual ways, and demonstrated limited pointing. In Reciprocal Social Interaction, Student exhibited a neutral facial expression, showed pleasure in multiple activities, demonstrated strength in requesting, coordinating eye contact with gestures, spontaneously gave objects for the purpose of sharing or getting help, showed objects to share his/her interest, demonstrated clear initiation of joint attention, and made attempts at getting, maintaining, or directing the caregivers’ attention. However, Student did not consistently modulate eye contact to regulate social interaction, and did not respond to her/his name being called by the caregiver or examiner, but did respond to a familiar vocalization, social overtures were slightly unusual, and social responses did not match the situation. In Repetitive Behaviors, Focused Interests, and Play, Student demonstrated strength in functional play and imaginative play, and demonstrated difficulty transitioning between activities during the evaluation.¹⁰

Examiner A diagnosed Student with a Speech-Language Disorder but deferred on rendering a diagnosis of ASD. Nevertheless, she recommended that Student receive services with a disability classification of Speech-Language Impairment (“SLI”), DD, or ASD in a small class environment as well as increases in S/L and OT services.

Evaluation results (e.g., parent interview, parent report on standardized questionnaires, behavioral observations using structured ASD paradigms) indicate *increased likelihood* of a diagnosis of Autism Spectrum Disorder (Autism) as [s/he] demonstrates some differences in social communication and interaction skills. These include differences in social-emotional reciprocity (e.g., not consistently seeking others’ attention or responding to others’ attempts to get [her/his] attention, poor response to name, limited shared enjoyment) and patterns of repetitive behaviors in difficulty tolerating changes (e.g., tantrums triggered by demands to change activities). However, [Student] shows mixed skills in nonverbal communication (e.g., inconsistent eye contact and difficulties integrating eye contact with communication strategies, but clear strength in gestures and emerging pointing) and in developing and maintaining relationships (e.g., problems playing with peers and social overtures primarily focused on [his/her] needs, but definite social interest in giving and sharing with others). Although parent reported sensory differences and repetitive behaviors at home (e.g., putting objects in [his/her] mouth, hand flapping, repetitively turning lights off and on), these behaviors were not clearly observed on evaluation or elevated based on questionnaire results. No intense interests were reported or observed. Play skills were notable for age-appropriate functional and imaginative play. Given more limited concerns about nonverbal communication, developing and understanding relationships, and restricted, repetitive and sensory related behaviors and interests across settings, a

¹⁰ *Id.* at (52-53).

diagnosis of autism spectrum disorder is deferred at this time. However, [Student]'s social communication and interaction differences are interfering with language, social and adaptive functioning. However, [s/he] does demonstrate difficulties with functional communication (e.g., reduced length and complexity of speech, occasional unusual speech prosody, problems with consistently directing verbalizations) consistent with a speech-language disorder. [Student] should receive focused intervention related to speech. Additional concerns were noted regarding motor coordination which require further evaluation. Following intervention, ASD related concerns should continue to be closely monitored and further evaluated at future visits...

[Student] requires specialized supports to facilitate learning, including reduced pace and complexity of language for learning, social, and adaptive functioning demands; hands on learning and repetition with behavior principles such as reinforcement, shaping, etc., to increase attention and both verbal and nonverbal skills; teaching that emphasizes visual, as opposed to verbally mediated learning strategies. [S/he] requires more specialized instruction per week, including potential placement in a small, highly structured, special education preschool classroom with a low student-teacher ratio. [His/her] classroom should emphasize visual, as opposed to verbally mediated learning strategies. I support that [Student's] IEP include goals related to daily living skills such as learning-to-learn skills (i.e., attending, following directions, completing school routines) and self-care skills (e.g., toileting). Increased speech therapy given deficits in language and communication skills. Increased occupational therapy given deficits in fine-motor skills and sensory regulation. Physical therapy evaluation and services given concerns for gross motor skills including balance, coordination, and core strength.¹¹

3. Student was first enrolled in DCPS for the 2024-25 school year in grade Q at School A. On September 5, 2024, DCPS conducted an Initial IEP meeting. Student was classified as a Student with a DD.¹² In Special Considerations, the IEP team reported that Student's behavior did not impede her/his learning or that of others. In Communication, it was reported that Student had delays in receptive and expressive vocabulary and language skills. In Assistive Technology the IEP team determined that Student did not require an A/T device.¹³ In Adaptive Daily Living Skills ("ADLS"), the PLOP reported the results of the BDI-2 conducted by Facility C including strengths (feeds self, uses utensils, drinks from an open cup, drinks from a straw, can pull up pants if around ankles, can put arms in shirt if shirt is around his/her neck, and can brush teeth) and weaknesses (overstuffing mouth with food when eating, putting nonfood items in mouth, swallowing food whole, not potty trained, and transitions). The goals were: (a) Student will transition from one activity to another within 30 seconds without showing maladaptive behaviors, (b) when there is an urge to use the bathroom, Student will complete four toileting steps, and (c) provided fading, incremental steps to achieve independent completion of routine tasks and ongoing visual supports (visual task lists, etc.), Student will independently complete routine daily tasks at

¹¹ *Id.* at 54-55, emphasis added.

¹² Respondent's Exhibit ("R.") 2 at page 1. The exhibit number is followed by the exhibit page number followed by the digital page number in parentheses, i.e., R2:1 (14)..

¹³ *Id.* at 2 (15).

school, such as, arrival, snack/meal and bathroom routines, as exhibited by completing each step of at least 4 daily routines with fewer than two teacher prompts/redirections per routine task.¹⁴ In Cognitive, the PLOP reported that Student showed interest in and engaged with the various toys and manipulatives made available to him/her. S/he was observed to engage in imitative symbolic play of pretending to feed the baby doll and to give the doll something to drink. S/he also enacted a toileting routine with the baby doll. Student showed interest in books; however, s/he had difficulty scanning a picture scene. Student did not demonstrate knowledge of early academic concepts and skills of matching objects by color, labeling or identifying colors, counting, or labeling 20 or more common objects or actions. Sensory, repetitive and atypical behaviors were observed. S/he exhibited an increased level of physical activity, as s/he needed to move about and left her/his seat often. Student was somewhat impulsive but exhibited good listening skills. Socially, Student was mostly responsive to others' bids of engagement or the routine aspect of preferred social play. S/he did not initiate interactions but responded to social bids from others. The goals were: (a) given verbal and visual supports, Student will attend to and attempt to complete a familiar teacher-directed task (i.e., sorting/matching by attributes, completing a puzzle, building with blocks, painting) or another specific school activity or setting without demonstrating off-task behavior for at least 10 minutes, (b) s/he will actively participate in group activities for 4 to 7 minutes, repeating words or songs, and responding to questions with no more than two verbal cues, and (c) during unstructured play, Student will sustain positive interactions and use strategies for entering groups/play with one to two other children with no more than one adult model and prompt.¹⁵

In Communication/Speech and Language (“Communication”), the PLOP reported findings from Facility B’s evaluation in January 2024: Student completed basic commands when given gestural support. In a July 2024 observation, Student did not follow age-appropriate two-step directions, and did not demonstrate comprehension of early prepositions like “in” and “on.” The goals were: (a) given an alerting cue and no more than one repetition or gestural cue, Student will follow two-step directions, (b) given a field of at least three objects/images and verbal prompting, Student will identify 20 novel nouns, 20 action words, 5 personal pronouns, and 5 prepositions, and (c) given a field of at least three objects/images and given a gestural cue, Student will request an object/activity using a carrier phrase plus nouns/action word.¹⁶ In Motor Skills/Physical Development (“Motor”), the PLOP reported an observation conducted by Facility C in July 2024. Student exhibited an atypical gait pattern, walking with a wide base and her/his right foot appeared to turn slightly outward; s/he had difficulty grasping objects as her/his thumbs appeared hyperextended. Student exhibited social and situational awareness and social interest as s/he appeared to warm to the environment and evaluators. Over the course of the evaluation, Student was responsive to the evaluator’s greetings and bids to engage. S/he inconsistently responded to her/his name. Student was more likely to sustain attention to preferred activities. S/he showed interest in and manipulated the toys made available to her/him. Student showed interest in books but had difficulty scanning a picture scene. S/he could not match objects by color. Sensory, repetitive, and atypical behaviors were observed. S/he exhibited an increased level of physical activity in that s/he needed to move around and leave his/her seat often. The goals were: (a) provided strategies targeting multiple sensory systems, Student will remain in the designated area

¹⁴ *Id.* at 3-7 (16-20).

¹⁵ *Id.* at 8-11 (21-24).

¹⁶ *Id.* at 12-15 (25-28). A fourth goal was identical to the third.

for 7 minutes with no more than two physical prompts for redirection, and (b) using a functional grasp, Student will copy pre-writing strokes and basic shapes with one visual model.¹⁷

The IEP team prescribed five hours per week of specialized instruction inside general education, two hours per month of speech and language pathology (“SLP”), one hour per month of OT services, and a number of Other Classroom Aids and Services: cognitive/behavioral strategies, strategies to enhance Student’s understanding of communication, strategies to improve his/her expressive communication, and sensory strategies.¹⁸

4. On November 7, 2024, Attorney B sent a letter by email and facsimile to the Principal at School A requesting a copy of Student’s educational records (“entire academic file”) for the previous two years.¹⁹ Having received no response, a legal assistant from Attorney B’s firm sent follow-up emails on December 16, 2024,²⁰ and January 23, 2025.²¹ On March 5, 2025, Attorney B specifically requested “a copy of any amended IEPs, Service Trackers or other logs indicated (sic) what related services have been provided by DCPS to date, Attendance logs, IEP Progress Reports, Report Cards for the current school year.”²² Having received no response to the May 5th email, the firm sent a follow-up email request on March 27, 2025.²³ On May 5, 2025, DCPS sent Attorney B a number of records including, but not limited to, report cards, progress reports, an attendance report, an IEP, an interventions report, and an Initial IFSP.²⁴

5. On March 3, 2025, DCPS issued an IEP Amendment to the September 5, 2025 IEP.²⁵ The amended IEP revised Student’s goals: (a) the prior ADLS transitioning goal was moved to the Cognitive section, (b) – (d), the previous three Cognitive goals, were unchanged. In ADLS, Communication, and Motor the goals were unchanged.²⁶ The IEP team prescribed transportation services for Student.²⁷ Finally, the IEP team determined that Student did not qualify for extended year services (“ESY”).²⁸

6. On March 5, 2025, in addition to making a request for records, as discussed in paragraph 4 above, Attorney B requested that DCPS conduct the following evaluations: comprehensive psychological, updated speech and language, OT, A/T, and a functional behavior assessment (“FBA”).²⁹

7. On April 21, 2025, DCPS issued Student’s IEP Progress Report for the quarterly reporting period ending on April 7, 2025. In Cognitive, Witness E, Student’s special education teacher, reported that s/he had Mastered two goals and was Progressing on the other two:

¹⁷ *Id.* at 16-19 (29-32).

¹⁸ *Id.* at 20-21 (33-34).

¹⁹ P32:357-8.

²⁰ *Id.* at 356-7.

²¹ *Id.* at 356.

²² *Id.* at 355-6.

²³ *Id.* at 355.

²⁴ P33:363.

²⁵ R3::1 (46).

²⁶ *Id.* at 5-21 (50-66).

²⁷ *Id.* at 25 (70).

²⁸ *Id.* at 27 (72).

²⁹ P32:356.

[Student] has mastered the goal of transitioning between scheduled activities within 30 seconds following a 2-minute countdown on an egg timer, with the support of a bell or transition song. [S/he] consistently responds to these auditory cues and follows classroom routines without displaying maladaptive behaviors such as crying, tantrums, or noncompliance. While [s/he] occasionally becomes enthusiastic during cleanup and may attempt to take materials from peers, this behavior does not interfere with their ability to follow transition directives. This excitement reflects a separate area of focus that will be addressed through other goals. Overall, [Student] has made strong progress in developing independence and responsiveness during transitions and should be commended for [his/her] success... [Student] has made significant progress toward the goal of attending to and completing teacher-directed TAS (task-aligned school) activities—such as sorting, matching by attribute, completing puzzle. [S/he] consistently engages in tabletop activities with enthusiasm and shows a strong preference for hands-on tasks involving fine motor skills. [S/he] no longer requires frequent use of visual supports such as a First Then board, Task Chart, or behavior poster. This progress is reflective of gains in receptive language and increased understanding of verbal directions. While occasional verbal cues like “First... Then...” may still be helpful, [Student] demonstrates growing independence and responsiveness to spoken instructions... [Student] continues to make steady progress toward the goal of actively participating in group activities, such as circle time or other structured school settings, for 4–7 minutes by maintaining appropriate levels of alertness and engagement (e.g., quiet hands and body, remaining seated, repeating words or songs, and responding to questions with no more than two verbal cues) during 80% of instructional opportunities. [Student] is showing significant improvement in this area. [S/he] is increasingly able to sit and attend during large group activities, follow teacher directions, participate in music and movement, and respond to questions with greater consistency. These gains are closely tied to improvements in both receptive and expressive language... [Student] continues to make meaningful progress in the area of shared peer engagement. [S/he] is increasingly learning how to participate in cooperative play during opportunities such as recess and choice time. With support from no more than one adult, [Student] is beginning to use appropriate strategies for entering and sustaining group play with one to two peers, including phrases such as “Can I play?”, “Can I have a turn?”, or offering a turn to a peer. While expressive language development remains an area of continued focus, [s/he] is showing a noticeable reduction in physical behaviors such as pushing, hitting, or taking items from peers. Instead, [s/he] is beginning to use words to express the desire to play or take a turn. This marks a significant improvement from the start of the school year, when [Student] primarily relied on physical actions to communicate needs.³⁰

In ADLS, Witness E reported that Student was Progressing on one goal and had Mastered the other:

[Student] continues to work toward independently completing four toileting steps: identifying the need to go, walking to the bathroom, removing clothing, and

³⁰ P14:192, 194-95.

eliminating in the toilet. When supported with a consistent, timed toileting schedule, [s/he] is doing very well with the last three steps. However, [Student] has not yet begun to independently indicate the need to use the bathroom... [Student] has mastered the goal of independently completing routine daily tasks at school—including arrival, snack time, and bathroom routines—by completing each step of at least four routines with fewer than two prompts or redirections per task on at least 90% of school days across five consecutive sessions. [S/he] consistently demonstrates independence with daily routines and rarely requires prompting. When occasional behavior concerns arise, visual task lists or verbal prompting from a teacher or paraprofessional remain effective tools for support. [Student] shows a clear understanding of expectations and can follow each step of familiar routines with confidence.³¹

In Communication, Witness D, Student's SLP provider, reported that s/he was Progressing on both goals:

Baseline: [Student] will follow related two-step directions in 60% of targeted opportunities with max cues. Currently: [Student] follows related two-step directions in 65% of targeted opportunities across with mod to max cues. Most of [Student's] difficulty with directions is not comprehension, but lack of attention (so [s/he] may miss parts of the directive) and/or behavior (compliance for preferred and non-compliance for non-preferred tasks)... Baseline: [Student] produces nouns (75%), action words (60%), personal pronouns (45%), 5 prepositional phrases (50%) all with mod-max cues. Currently: [Student] produces nouns (75%), action words (70%), personal pronouns (55%), 5 prepositional phrases (50%) all with mod-max cues... Baseline: [Student] will request an object/activity using a carrier phrase + nouns/action word (e.g., I want sandbox.) while refraining from using nonspecific labels with 75% accuracy with max cues. Currently: [Student] requests an object/activity using a carrier phrase + nouns/action word (e.g., I want sandbox.) while refraining from using nonspecific labels with 70% accuracy with mod to max cues. [Student] often wants to take things without naming or labeling them.³²

In Motor, Staff Member A, Student's OT provider, reported that s/he was Progressing on both goals:

Current: [Student] continues to make progress with adjusting to the routine of his/her classroom and meeting adult expectations. [S/he] enjoys being a teacher's helper and handing out supplies to [her/his] peers... Baseline: [Student] is close to mastering [the functional grasp] goal when there is an adult in close proximity cueing [him/her] and giving direct feedback on what to draw and when [s/he] is finished a drawing. [S/he] draws recognizable people. Current: [Student] continues to benefit from adult proximity and encouragement when completing fine motor tasks. {S/he} enjoys drawing and will draw when asked to do so.³³

³¹ *Id.* at 192-93

³² *Id.* at 195-97.

³³ *Id.* at 197.

8. On April 28, 2025, Examiner B completed an independent Speech and Language Evaluation. Petitioner requested the evaluation due to concerns for Student’s expressive and receptive speech skills.³⁴ On the Clinical Evaluation of Language Fundamentals (“CELF-P3”). Student’s standard score of 70 in Core Language placed her/him in the 2nd percentile. “This classifies [his/her] language disorder as severe.”³⁵

Based on clinical observations, parental reports, and standardized assessments, [s/he] presents with a mixed receptive-expressive language disorder (F80.2), as characterized by difficulty generating age-appropriate grammar structures and not meeting age-appropriate language milestones. This may impact [her/his] ability to effectively and efficiently communicate [her/his] wants and needs with peers and adults. Skilled speech therapy 2x/week is recommended to improve functional communication.³⁶

9. On May 1, 2025, Facility A conducted an Interdisciplinary Diagnostic Reevaluation – Addendum.³⁷ On the Childhood Autism Rating Scale (“CARS-2”), Student’s score of 27.5 was outside the range for ASD. Examiner C and Examiner D concluded that Student did not meet the criteria for a diagnosis of ASD and continued to meet the criteria for a diagnosis of Developmental Language Disorder. She recommended intensive speech language therapy, OT to support sensory and behavioral regulation, an emphasis on daily living skills, and ESY.³⁸

10. On May 8, 2025, DCPS conducted an IEP Annual Review meeting. Student’s disability classification was DD. Petitioner was represented at the meeting by Attorney A and Attorney B; DCPS was represented by Attorney C.³⁹ In Special Considerations, the IEP team determined that Student’s behaviors impeded his/her learning or that of others including hitting, inappropriate touching, and difficulty attending. In response, the team implemented interventions and supports including consistent visual cues, clear and predictable routines, and developmentally appropriate behavioral strategies. The team reported that while these interventions led to meaningful improvement in her/his ability to engage in the classroom, Student continued to require support to maintain positive behavior, build self-regulation skills, and develop appropriate social interactions. In the Communication section of Special Considerations, the team reported that Student presented with moderately delayed receptive and expressive vocabulary and language skills, and her/his social communication skills appeared delayed, consistent with her/his receptive-expressive language delays. In the Assistive Technology section, the team determined that Student did not require A/T devices and services.⁴⁰ In ADLS, the PLOP reported that Student was continuing to work toward greater independence with toileting. When supported with a consistent, timed toileting schedule, s/he demonstrated strong progress in completing three of the four targeted toileting steps; his/her weakness was indicating the need to use the bathroom. Thus, the toileting goal from the previous IEPs was repeated.⁴¹ In Cognitive, the PLOP reported that Student had

³⁴ P6:60.

³⁵ *Id.* at 62

³⁶ *Id.* at 63.

³⁷ P7:66.

³⁸ *Id.* at 69 – 70.

³⁹ P15:199-200.

⁴⁰ *Id.* at 201.

⁴¹ *Id.* at 202.

made measurable progress in his/her communication and early academic skills. S/he was now using words frequently throughout the day. S/he could identify her/himself by name and gender, state his/her age, and refer to familiar adults by name. S/he used short phrases spontaneously to express his/her wants, such as saying "I want Sheen" (toy microscope machine) while playing with Play-Doh. When given an item s/he requests, s/he regularly says "thank you" without adult prompting. In early literacy, Student could identify three capital letters in her/his name and recognize a total of four uppercase letters and two lowercase letters. In math, s/he could count to four and identify five colors. S/he was also able to sort by color, shape, and size. Socially and behaviorally, Student continued to benefit from structured support and adult redirection during small group activities. S/he responded well to repetition of directions and was learning to navigate classroom routines with support. The team reported that Student had demonstrated meaningful growth in expressive language, early academic concepts, and classroom participation. The second and third goals from the previous IEP were repeated. In addition, the team added: (c) given a chart of 10 uppercase and a chart of 5 lowercase letters, Student will verbally state the letter name, for the uppercase and lowercase letters, and (d) given a set of counters within 10 arranged in a row, Student will verbally state how many objects are in the set by counting the objects and stating that the last number said in the counting sequence is the number of objects in the set, with guiding questions (e.g., "Point to each object as you count. How many counters are there in all.")⁴²

In Communication, the PLOP reported that Student followed two-step directions in 65% of targeted opportunities with moderate cues but needed cues to follow directives with simple embedded concepts (in, on, behind, under) or when related to a modifier (color, shape, size). Student could identify 20 novel nouns, 20 action words, 5 personal pronouns, and 5 prepositions when named with 80% accuracy. Student could request an object or activity using a carrier phrase + nouns/action word (e.g., I want sandbox.) while refraining from using nonspecific labels (e.g., that and it) in 50% of targeted opportunities with moderate to maximum cues. S/he continued to point and say "That one" when requesting an item or activity. S/he could model a phrase with a carrier phrase with moderate support. Student was making documented progress with increasing his/her verbal output in terms of growing vocabulary and using more verbal language to request, protest and comment. S/he continued to produce 2-3 word phrases or sentences but was able to imitate 4-5 word phrases/sentences when broken down. The goals were: (a) Student will request an object/activity using a carrier phrase + nouns/action word (e.g., I want the sandbox, Can I have ____, Let's Play with ____.) while refraining from using nonspecific labels (e.g., that and it), (b) Student will use 4-5 word sentences to request, protest, comment during structured play, responding to "wh" and "yes/no" questions and picture scenes, (c) Student will produce age-appropriate phonemes in all position of words at the word and phrase level.⁴³ In Motor, the PLOP reported that Student made significant gains in attention and engagement during the school year. S/he could remain in a designated area and participate in structured classroom activities for up to 7 minutes with minimal prompting, reflecting strong improvement in self-regulation and focus. S/he showed strengths in fine motor development, demonstrating a functional grasp and nearing mastery of copying pre-writing shapes with visual models. Student was able to manipulate objects with control and precision. Mild sensory processing differences persisted across movement, proprioceptive, and oral areas. However, s/he showed improved regulation and transitions more easily between tasks. Repetitive behaviors such as hand flapping and mouthing objects decreased

⁴² *Id.* at 203-210.

⁴³ *Id.* at 211-214.

but still occurred. S/he demonstrated increased social awareness, responded more consistently to his/her name, and engaged in functional play. Gross motor delays, including a wide-based gait and clumsiness, were still present but did not significantly limit participation in classroom activities. The goals were: (a) the goal of remaining in the designated area for 7 minutes was repeated, and (b) using a functional grasp, Student will draw a person with a recognizable head and six body parts with minimal adult cueing.⁴⁴

The IEP team maintained Student's specialized instruction at five hours per week inside general education and added thirty minutes per month each to S/L services (2 hours and 30 minutes) and OT services (90 minutes). Other Classroom Aids and Services included visual supports (use of picture communication symbols (e.g., visual schedules, choice boards, task strips to support communication, understanding of routines, and transitions throughout the day, speech and language support (opportunities for frequent language modeling and simplified verbal prompts to support expressive language development), behavioral supports (use of a proactive behavior support plan, including positive reinforcement, visual cues, and calming strategies to address frustration related to communication delays), peer modeling and guided play (structured opportunities for guided play and interaction with peers to support the development of appropriate play and social skills), attention supports (use of frequent check-ins, movement breaks, reduced distractions, and visual timers to help sustain attention during activities), motor support (hand-over-hand prompting and adaptive writing tools, as needed, to support fine motor tasks such as drawing or writing), toileting support (access to a consistent toileting schedule and adult assistance, with positive reinforcement and visual cues to encourage independence), and consistent adult support (close adult support during transitions, new tasks, and unstructured activities to ensure understanding, reduce frustration, and promote engagement).⁴⁵

11. On May 16, 2025, DCPS completed a Review of Independent Educational Evaluation of Facility A's two evaluations of Student. Examiner E did not administer any additional assessments as part of her review, but she did interview Teacher A, Student's teacher. Teacher A reported that at the beginning of the school year, Student exhibited aggressive behaviors that posed safety concerns for both staff and peers including unprovoked physical outbursts, which required close monitoring and consistent intervention. Throughout the day, s/he would frequently get up and attempt to open the classroom door, requiring a child safety lock to be installed. Student also began accessing his/her lunch from his/her cubby multiple times a day, prompting its relocation to a higher shelf, but Student attempted to climb the cubbies to retrieve it, which led to further adjustments, including storing it on top of the teacher's desk organizer to minimize risk. Student consistently demonstrated a strong desire to communicate, often loudly and with enthusiasm, but her/her speech was largely unintelligible. When Student was unable to get his/her way, s/he often engaged in intense emotional outbursts including screaming and yelling, throwing objects, hitting peers, and dropping her/his body to the floor. During self-directed learning times, Student required close adult supervision at all times to ensure the safety and fairness of peer interactions. A teacher was consistently positioned near whatever center s/he chose to engage in, as her/his presence in group settings often required immediate redirection or support.

⁴⁴ *Id.* at 215-216.

⁴⁵ *Id.* at 217-18.

By the time of Examiner E's Review, Student's language skills had "significantly" increased while challenges with expressive language and impulse control remained. Student demonstrated the use of inappropriate language in various settings. On the playground, s/he referred to a staff member using profanity (calling another teacher a b---h), and in separate incidents, used explicit language toward peers (told the classroom co-teacher "They f---ing with me" referring to her/his peers on the playground) and in response to classroom technology not functioning ("What the f---k?!") Student demonstrated significant improvement in her/his ability to communicate his/her basic needs; letting teachers know when s/he needed to use the bathroom, would like water, or was ready for a snack. S/he demonstrated a strong understanding of boundaries and safety. Occasionally, when s/he heard or sensed someone at the door before the teachers did, s/he would take initiative by walking over and saying, "I'll get it," though s/he would stop when prompted to do so by a teacher before actually getting to the door. Student's habit of moving around the classroom freely throughout the day, at times distracting or bothering peers during work or play periods, and at other times simply exploring independently, required regular redirection and teacher proximity. While his/her expressive language was still emerging, her/his comprehension consistently appeared age-appropriate. S/he understood classroom expectations and verbal directions, even if s/he did not always comply with them. His/her outbursts, while less frequent than earlier in the year, continued to occur with the same intensity and required immediate adult attention, but s/he showed growth in her/his ability to recover from these episodes with less time and support than before. Socially, Student's relationships with peers had improved. Although his/her peers were hesitant or afraid to engage with her/him earlier in the school year, many were more open to including him/her in play. Teacher A opined that Student would benefit from a classroom environment with a lower student-to-teacher ratio; she believed Student required a great deal of individualized support and would thrive in a setting with more frequent one-on-one interactions are possible.⁴⁶

Examiner E recommended that the IEP team would concur with the continuation of the disability classification of DD as well as continued support in the areas of daily living skills, social-emotional functioning, academics, SLP, and OT services.⁴⁷

12. During the 2024-25 school year, Student was absent 21 days, all unexcused.⁴⁸

13. On or about September 26, 2025, Witness A, Petitioner's educational advocate, developed a Compensatory Education Proposal for Student.⁴⁹ The alleged denials of FAPE for which the Proposal was developed were (1) the failure to comprehensively evaluate, and (2) the failure to provide appropriate IEPs. The alleged periods of harm were from May 5, 2025 to the present for the failure to evaluate, and from April 8, 2024 to November 10, 2025 for the failure to provide appropriate IEPs. Witness A opined that but for the denials of FAPE:

[Student] would have been on track toward making a full year of progress toward individualized IEP goals if evaluations had been conducted in a timely manner and an IEP, with goals crafted specifically for [her/him], had been in place during that

⁴⁶ *Id.* at 78-79.

⁴⁷ P8:81.

⁴⁸ P29:340.

⁴⁹ P36:378.

time. It is my professional opinion that [Student] would have made significant progress in decreasing maladaptive behaviors, thus providing [him/her] with increased access to the curriculum, if a plan had been in place for [him/her]. Identifying the function of [her/his] behaviors in addition to staff observation would have resulted in a plan that would have provided positive reinforcement to decrease [Student's] maladaptive behaviors.⁵⁰

Witness A proposed as compensatory services: (1) the following evaluations: FBA, comprehensive psychological evaluation, updated speech-language pathology evaluation, updated occupational therapy evaluation and an assistive technology evaluation, (2) the parent shall retain the right to request additional compensatory education upon completion of evaluations referenced above, (3) 12 hours of Play Therapy (1 hour/month for 12 months) to offer Social, Emotional and Behavioral support, and (4) 110 hours of Tutoring (5 hours/week for 36 weeks).⁵¹

14. Witness A was Petitioner's educational advocate. When asked if the goals in the September 2024 IEP were appropriate, she opined that they were not because none of the goals addressed Student's behavior despite a finding in Facility B's January 2024 evaluation that Student had below average social/emotional skills, aggression toward his/her peers, and was asked to leave his/her prior nursery school, and was described as yelling and kicking things since enrolling at School A. When asked if the PLOPs were appropriate, Witness A replied that they provided limited information, should have required more information about Student's strengths and challenges, and teacher data was not included. Witness A opined that the goals and PLOPs in the March 2025 amended IEP were inappropriate as none were amended despite DCPS having sufficient data to update them. When asked if the May 2025 IEP was appropriate, Witness A opined that it was not because it did not include behavioral goals or behavior support services ("BSS"). Witness A further opined that DCPS should have conducted OT, physical therapy, and psychological evaluations because they were recommended in Facility A's evaluation of Student. She opined that an OT evaluation was necessary because of Student's maladaptive behaviors and the need for a sensory profile to determine if s/he was being overstimulated. A PT evaluation was necessary because of his/her unusual gait and concerns about his/her fine motor coordination. Witness A testified that she was responsible for editing the Compensatory Education Proposal in Petitioner's Exhibit 36. She testified that but for the denials of FAPE, Student would have been on track to make "a full year of academic progress," her/his maladaptive behaviors would have decreased, and s/he would have achieved all of her/his goals. On cross-examination, Witness A conceded that she had no contact with Petitioner or Student prior to three weeks before the hearing, had attended no meetings on Student's behalf, had never observed him/her in class, and had no interaction with anyone on Student's IEP team. Witness A also conceded that data collected earlier in 2024 was current for the 2024 IEP. She also could not identify the denial of FAPE that justified the tutoring in her compensatory education Proposal. Witness A further conceded that much of the activity in grade Q is designed play.⁵²

15. Witness B was a legal assistant from Attorney A's law firm. He testified that Petitioner had still not received Student's latest IEP and report card. In response to my question,

⁵⁰ *Id.* at 388-9.

⁵¹ *Id.* at 389.

⁵² Testimony of Witness A.

Witness B conceded that as of the hearing, Petitioner had received all of the requested records. On cross-examination, Witness B conceded that children of Student's age would not have standardized testing records or disciplinary records.⁵³

16. Witness C was another educational advocate for Petitioner. She testified that an FBA is necessary when the intensity or frequency of a student's behavior presents safety concerns or affects his or her ability to access the educational environment. She testified that Student's behaviors included putting non-edible items in her/his mouth, noncompliance, and impulsive behaviors, which were sufficient to warrant an FBA. Witness C testified that data in the March 2025 amended IEP revealed that Student continued to put non-edibles in her/his mouth, crying, tantrums, and a constant need for adult supervision to ensure safety. Witness C opined that DCPS should have conducted an FBA, developed a behavior intervention plan ("BIP"), and provided BSS no later than the March IEP amendment. She opined that the behaviors described in the May 2025 IEP were sufficient to warrant an FBA, a BIP, and BSS. She further opined that the May 2025 IEP was inappropriate because it did not adequately address Student's behaviors. On cross-examination, Witness C conceded that she has never observed Student, never attended a meeting on his/her behalf. She also conceded that tantrums are common for children of Student's age during the 2024-25 school year.⁵⁴

17. Witness D was Student's speech pathologist during the 2024-25 school years. She developed the Communication goals in Student's IEPs. In the September 2024 IEP, the first goal addressed two-step directions. She opined that it was appropriate because Student was following one-step directions but was having problems with two-step directions. The second goal was designed to address Student's limited vocalization. The goal addressed vocabulary for nouns, actions, and pronouns. Witness D opined that it was appropriate because it would help to build his/her vocabulary and expressive language. The third goal was designed to help Student use 2-3 word combinations rather than gestures or unintelligible vocalizations. It was intended to get him/her to request objects using nouns and carrier phrases.⁵⁵ Witness D opined that the two hours of SLP services per month prescribed in the September 2024 was adequate to provide the support Student needed. She testified that Student's behaviors emanated from frustration due to her/his inability to communicate. His/her behavior improved as his/her ability to communicate improved. Witness D testified that she did not develop any goals to address articulation due to Student's limited vocalization. Verbal output was more important; articulation could be addressed once Student was able to use more language. For the May 2025 IEP, the PLOP reflected that Student was improving; s/he had mastered one goal and Witness D had begun to address his/her articulation. The first goal was similar to the previous goal addressing making verbal requests, but there was additional complexity to address verbal output. The second goal was designed to elicit 4-5 word sentences; Student was doing well with 2-3 word phrases. The third goal was designed to address articulation as his/her verbal output had increased. Witness D agreed with the decision to add 30 minutes per month of services to increase the progress Student was making. Petitioner's team at the IEP meeting did not express any disagreement with the Communication goals. Witness D opined that Student did not need A/T devices; s/he was making progress throughout the year, her/his vocabulary had increased significantly, and s/he was capable of continuing to make

⁵³ Testimony of Witness B.

⁵⁴ Testimony of Witness C.

⁵⁵ There was a fourth goal, but it was a duplicate of the third.

progress independently without the need for A/T. Witness D also opined that Student did not need a S/L assessment at the end of the 2024-25 school year. Finally, she noted that Student was often absent.⁵⁶

18. Witness E was Student's special education teacher at School A. She supported Student in an inclusion environment in a general education classroom. She described Student as energetic, curious, and excited to be in class. At first, Student used behavior to get her/his points across due to his/her lack of expressive language: hitting, crying, running away from designated locations. Over time, s/he learned to sit for an entire morning and behaved age-appropriately. Witness E testified that the ADLS PLOP on the September 2024 IEP was typical of students of Student's age. She testified that she agreed with the amended IEP in March 2025 that did not prescribe ESY as Student made steady progress and did not show any signs of regression. Witness E testified that Student was often absent as well as tardy. Witness E testified that Student mastered the goals of transitioning and staying in designated areas without maladaptive behaviors, the toileting goal, and the goal of completing tasks. "[S/he] went from a little [boy/girl] with no words to: I need to go to the bathroom," showing increased independence. Witness E did not consider Student's initial behaviors to be intentionally aggressive; s/he was not verbal, so that was how s/he communicated. On cross-examination, Witness E opined that Student did not require an FBA because her/his early behaviors were typical of children of Student's age at that time, including hitting, biting, and pushing. She would not concede that these behaviors, for children at that age, were dangerous. She testified that she was aware of two incidents of Student hitting and biting. She never witnessed him/her biting anyone, but she did observe him/her pushing others on the playground at the beginning of the school year to get what s/he wanted. By the end of the school year, s/he had learned to wait her/his turn. At the beginning of the year, Student would hit others three out of five days per week; by the end of the year, hitting was minimal and age-appropriate. Some goals were repeated although Student had mastered them because Witness E believed s/he still benefitted from support. As for eloping, Student never left the classroom, but s/he would wander from his/her designated area.⁵⁷

19. Witness F was School A's Assistant Principal. He was aware of about ten incidents of Student hitting others "to communicate with [her/his] hands." Witness F did not consider the behavior dangerous and considered it to be typical for children of Student's age. The amended IEP in March 2025 provided Student transportation. Student had been absent a lot and Petitioner had inquired about transportation. Witness F concurred that Student did not require ESY as there was no indication of regression on her/his part after school breaks. Witness F opined that Student's behavior did not impede his/her learning. He testified that Petitioner never voiced concerns about Student's behavior. He testified that in response to Facility A's May 1, 2025 reevaluation, the IEP team increased Student's SLP and OT services by 30 minutes per month each.⁵⁸

⁵⁶ Testimony of Witness D.

⁵⁷ Testimony of Witness E.

⁵⁸ Testimony of Witness F.

CONCLUSIONS OF LAW

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

Where there is a dispute about the appropriateness of the child's individual educational program or placement, or of the program or placement proposed by the public agency, the public agency shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement; provided, that the party requesting the due process hearing shall retain the burden of production and shall establish a prima facie case before the burden of persuasion falls on the public agency. The burden of persuasion shall be met by a preponderance of the evidence.⁵⁹

The issues in this case involve the alleged failure of DCPS to provide appropriate IEPs. Under District of Columbia law, DCPS bears the burden of persuasion as to these issues. Petitioner bears the burden as to all other issues.⁶⁰

Whether DCPS denied Student a FAPE by failing to develop an appropriate IEP on September 5, 2024. Specifically, Petitioner asserts that the IEP is inappropriate because (a) the goals did not address Student's escalating behaviors, and (b) did not provide behavior support services ("BSS"). Petitioner also asserts that the IEP was not based on current evaluative data and that DCPS should have completed speech and language ("S/L"), occupational therapy ("OT"), comprehensive psychological, and assistive technology ("A/T") evaluations, as well as a functional behavior assessment ("FBA"). Additionally, the Adaptive and Cognitive goals were vague, the S/L goals did not address articulation, and the OT goals were vague and not based on current data. Petitioner also asserted that the Present Levels of Academic Performance ("PLOPs") were not based on current evaluative data.

The Supreme Court's first opportunity to interpret the predecessor to IDEA, The Education of the Handicapped Act ("EHA"), came in *Board of Education of the Hendrick Hudson Central School District v. Rowley*.⁶¹ The Court noted that the EHA did not require that states "maximize the potential of handicapped children 'commensurate with the opportunity provided to other children.'"⁶² Rather, the Court ruled that "Implicit in the congressional purpose of providing access to a 'free appropriate public education' is the requirement that the education to which access is

⁵⁹ D.C. Code § 38-2571.03(6)(A)(i).

⁶⁰ *Schaffer v. Weast*, 546 U.S. 49 (2005).

⁶¹ 458 U.S. 176, 187 (1982).

⁶² *Id.* at 189-90, 200

provided be sufficient to confer some educational benefit upon the handicapped child...⁶³ Insofar as a State is required to provide a handicapped child with a ‘free appropriate public education,’ we hold that it satisfies this requirement by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction... In addition, the IEP, and therefore the personalized instruction should be formulated in accordance with the requirements of the Act and, if the child is being educated in the regular classrooms of the public school system, should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.”⁶⁴

More recently, the Court considered the case of an autistic child under IDEA who, unlike the student in *Rowley* was not in a general education setting.⁶⁵ The Tenth Circuit had denied relief, interpreting *Rowley* “to mean that a child’s IEP is adequate as long as it is calculated to confer an ‘educational benefit [that is] merely... more than *de minimis*.”⁶⁶ The Court rejected the Tenth Circuit’s interpretation of the state’s obligation under IDEA. Even if it is not reasonable to expect a child to achieve grade level performance,

... [h]is educational program must be appropriately ambitious in light of [his/her] circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives... It cannot be the case that the Act typically aims for grade-level advancement for children with disabilities who can be educated in the regular classroom, but is satisfied with barely more than *de minimis* progress for those who cannot.⁶⁷

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

When all is said and done, a student offered an educational program providing “merely more than *de minimis*” progress from year to year can hardly be said to have been offered an education at all. For children with disabilities, receiving instruction that aims so low would be tantamount to “sitting idly... awaiting the time when they were old enough to drop out...” The IDEA demands more. The IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.⁶⁸

The provision of a FAPE must be “in conformity with the [child's] individualized education program required under section 1414(d)...”⁶⁹ An IEP “is the means by which special education and related services are tailored to the unique needs of a particular child.”⁷⁰ An IEP must be in

⁶³ *Id.* at 200.

⁶⁴ *Id.* at 203-04.

⁶⁵ *Andrew F. ex rel. Joseph F. v. Douglas County School District RE-1*, 137 S.Ct. 988 (2017).

⁶⁶ *Id.* at 997.

⁶⁷ *Id.* at 1000-01 (citations omitted).

⁶⁸ 137 S.Ct. at 1000-01.

⁶⁹ 20 U.S.C. § 1401(9)(D). *See id.* § 1414(d)(2).

⁷⁰ *Andrew, supra*, 580 U.S. at 391, quotation marks omitted, quoting *Rowley, supra*. 458 U.S. at 181.

place for each disabled student “[a]t the beginning of each school year,”⁷¹ and must outline a comprehensive plan to “meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum.”⁷² IEPs must be reviewed and updated annually.⁷³

I will address Petitioner’s assertions of inappropriateness individually:

The goals did not address Student’s escalating behaviors and did not provide BSS.

The predicate of Petitioner’s assertion, that Student had “escalating behaviors,” undermines the validity of the assertion. Student was enrolled at a DCPS school, School A, for the first time for the 2024-25 school year. The first day of school for grade Q students that year was August 27th. The IEP was developed four school days later. There was no testimony or documentation that Student engaged in any unsafe or disruptive behaviors during the first few days of the 2024-25 school year.

The only evidence in the record of Student’s disruptive behavior at that time was a two-line history in Examiner A’s August 19, 2024 Psychological Evaluation in which she reported that Student was asked to leave her/his daycare due to aggression towards peers. However, this was reported to Examiner A by Petitioner. Examiner A’s evaluation was an independent evaluation, and there was no documentation in the record that it was provided to DCPS prior to the September 5th IEP meeting. Moreover, Examiner A did not diagnose Student with ASD or a behavior-related disability. Instead, she diagnosed Student with a Speech-Language Disorder, and she made no recommendations for behavioral supports. Thus, I conclude that Petitioner has failed to make a *prima facie* case that the IEP was inappropriate for failing to provide behavior-specific goals or BSS.

The IEP was not based on current evaluative data and DCPS should have completed speech and language, occupational therapy, comprehensive psychological, and assistive technology evaluations, as well as a functional behavior assessment.

Petitioner’s argument that the September 2024 IEP was not based on current evaluative data is absurd. In her Psychological Evaluation conducted less than three weeks before the IEP meeting, Examiner A cited the results of a BDI-2 assessment conducted in January 2024 by OSSE’s Facility B and a second evaluation conducted by DCPS’ Facility C in June 2024. Thus, Student was administered three evaluations within eight months during 2024 at the age of Y. The evaluations conducted by the OSSE and DCPS facilities predated Student’s enrollment in DCPS and Petitioner did not offer these evaluations into evidence. Each of the PLOPs in the IEP references the findings from one or both of the evaluations conducted earlier in the year by Facility B and Facility C.

As for the laundry list of evaluations that Petitioner suggests DCPS should have administered, I note first that Student was but Y years old when s/he was enrolled at School A, was attending school for the first time, and had undergone three developmental evaluations with the

⁷¹ 20 U.S.C. § 1414(d)(2)(A).

⁷² *Id.* at § 1414(d)(1)(A)(i)(II)(aa).

⁷³ 34 C.F.R. § 300.324(b)(1)(i).

previous eight months. Witness A, one of Petitioner's advocates, opined that DCPS should have conducted OT, physical therapy, and psychological evaluations because they were recommended in Facility A's evaluation of Student. In fact, Examiner A recommended only a physical therapy evaluation, which Petitioner did not include in her prayer for relief. Witness A opined that an OT evaluation was necessary because of Student's behaviors and the need for a sensory profile to determine if s/he was being overstimulated. Witness C, the other advocate, did not address the need for the evaluations at the time of the 2024 IEP. Witness A was not an expert in psychology, OT, S/L, or A/T. Moreover, Petitioner's offered no testimony of documented maladaptive behaviors or documentation supporting deficits warranting further evaluations at that time. From the January and June 2024 evaluations and the July 2024 observation, DCPS had determined that Student had developmental delays. These evaluations were sufficient for DCPS to determine that Student was eligible for services and to provide the staff the information necessary to develop an initial IEP for a Y-year-old attending school for the first time.

Thus, I conclude that Petitioner has failed to make a *prima facie* case that the IEP was inappropriate because DCPS failed to conduct speech and language, occupational therapy, comprehensive psychological, and assistive technology evaluations, as well as an FBA before developing the IEP.

The Adaptive and Cognitive goals were vague.

The ADLS and Cognitive goals are described in paragraph 3 above. The ADLS goals address (1) inattention, organization, and timely and orderly transitioning, (2) the four toileting steps, and (3) completing routine daily tasks. The Cognitive goals address (1) completing teacher-directed tasks, (2) participating in group activities for 4-7 minutes and responding to questions with minimal cues, and (3) sustaining positive interaction with peers during unstructured play. Petitioner offered no testimony to explain why these goals were vague. Thus, I conclude that Petitioner has failed to make a *prima facie* case that the IEP was inappropriate due to the vagueness of ADLS and Cognitive goals.

The S/L goals did not address articulation.

Witness D, Student's SLP provider, testified that she did not develop any goals to address articulation due to Student's limited vocalization upon his/her enrollment at School A. She testified that increasing verbal output was more important for Student at that time; articulation could be addressed once Student was able to use more language. This testimony was credible and uncontroverted; an essentially nonverbal student is inherently inarticulate. While Petitioner met her burden by merely noting the absence of articulation goals for a student with obvious S/L deficits, DCPS met its burden of persuasion with testimony that such goals would have been premature for this student.

The OT goals were vague and not based on current data.

The Motor goals are described in paragraph 3 above. The first goal addressed sensory stimulation, requiring Student to remain in his/her designated area for 7 minutes with minimal redirection, and the second goal addressed copying pre-writing strokes and common shapes with a

functional grasp on writing utensils. Petitioner offered no testimony as to why these goals were vague or otherwise inappropriate. As for the goals not being based on current data, OSSE's Facility B and DCPS' Facility C conducted two evaluations in 2024 that Petitioner did not offer into evidence. An occupational therapist, school psychologist, and a speech therapist also observed Student at Facility C in July 2024.⁷⁴ During her evaluation of Student, Examiner A observed only that "Motor functioning was notable for poor coordination (e.g., tripping, stepping on toys)," but she did not recommend an OT evaluation. From the findings in the two 2024 developmental evaluations and the July 2024 observation by Staff Member B, an occupational therapist at Facility C, the IEP team developed the IEP goals described above and prescribed an hour per month of OT services. Therefore, I conclude that DCPS has met its burden of proving that in light of Student's age, lack of prior school history, and the evaluations and observation conducted earlier in the year, the OT goals in the September 2024 IEP were reasonably calculated to enable Student to make progress.

The PLOPs were not based on current evaluative data.

As discussed earlier in the analysis of this issue, Facility B and Facility C conducted two evaluations of Student in January and June of 2024, respectively, and Facility C conducted an observation by a school psychologist, a speech therapist, and an occupational therapist in July 2024. The data derived enabled DCPS to find Student eligible for services and to develop goals in ADLS, Cognitive, Communication, and Motor. Each of the PLOPs cited one or both of the 2024 evaluations or the July observation as the foundation for the PLOP. Thus, I conclude that Petitioner has failed to make a *prima facie* case that the IEP was inappropriate because the PLOPs were not based on current evaluative data.

Although Examiner A completed her evaluation on August 19, 2024, DCPS did not reference it in the September 2024 IEP and did not formally review it until May 16, 2025. Examiner A recommended a small class environment for Student. However, this was an independent evaluation, and there is no documentation in the record that DCPS was provided the evaluation prior to the September 5, 2024 IEP meeting. My determination that the PLOPs were based on current evaluative data is based entirely on the evaluations conducted by Facility B and Facility C.

Therefore, I conclude that DCPS has met its burden of proving that the IEP developed on September 5, 2024 was reasonably calculated to enable Student to make academic progress consistent with her/his unique circumstances.

Whether DCPS denied Student a FAPE by failing to develop an appropriate amended IEP on March 3, 2025. Specifically, Petitioner asserts that the IEP is inappropriate because (a) the goals did not address Student's escalating behaviors, and (b) did not provide BSS. Petitioner also asserts that the IEP was not based on current evaluative data and that DCPS should have completed S/L, OT, comprehensive psychological, and A/T evaluations, as well as an FBA. Additionally, the Adaptive and Cognitive goals were vague, the S/L goals did not address articulation, and the OT goals were vague and not based on current

⁷⁴ R2:16 (29).

data. Petitioner also asserted that the PLOPs were not based on current evaluative data.

IDEA regulations require IEPs to be updated annually.⁷⁵ Thus, a local education agency (“LEA”) is not obligated to revise an IEP unless the failure to do so would constitute a denial of FAPE. DCPS revised Student’s IEP on March 3, 2025 primarily to provide Student transportation services. Student’s goals and services were unchanged, although one goal was moved from the ADLS section to Cognitive, as discussed in paragraph 5 above. As will be discussed in the following section, Student’s academic performance had not deteriorated in any aspect during the school year. Thus, DCPS was not obligated to modify Student’s goals or services when the September 2024 IEP was amended. Therefore, I conclude that DCPS has met its burden of proving that the IEP developed on September 5, 2024, as amended on March 3, 2025, was reasonably calculated to enable Student to make academic progress consistent with her/his unique circumstances.

Whether DCPS denied Student a FAPE by failing to develop an appropriate IEP on May 8, 2025. Specifically, Petitioner asserts that the IEP is inappropriate because (a) the goals did not address Student’s escalating behaviors, and (b) did not provide BSS. Petitioner also asserts that the IEP was not based on current evaluative data and that DCPS should have completed S/L, OT, comprehensive psychological, and A/T evaluations, as well as an FBA. Additionally, the Adaptive and Cognitive goals were vague, the S/L goals did not address articulation, and the OT goals were vague and not based on current data. Petitioner also asserted that the PLOPs were not based on current evaluative data.

I will address Petitioner’s assertions of inappropriateness individually:

The goals did not address Student’s escalating behaviors and did not provide BSS.

Although there was insufficient data to prescribe behavioral goals and services in Student’s initial IEP in September 2024, School A’s witnesses testified that at the beginning of the school year, s/he exhibited aggressive behaviors to express her/his needs. Witness D, Student’s SLP provider, testified that Student’s behaviors emanated from frustration due to her/his inability to communicate. His/her behavior improved as his/her ability to communicate improved. Witness E, Student’s special education teacher, testified that at the beginning of the year, Student used behavior to get her/his points across due to his/her lack of expressive language: hitting, crying, running away from designated locations. Over time, s/he learned to sit for an entire morning and behaved age-appropriately. Witness E testified that Student mastered the goals of transitioning and staying in designated areas without maladaptive behaviors, the toileting goal, and the goal of completing tasks. “[S/he] went from a little [boy/girl] with no words to: I need to go to the bathroom,” showing increased independence. Witness E did not consider Student’s initial behaviors to be intentionally aggressive; s/he was not verbal, so that was how s/he communicated. Witness E opined that Student did not require an FBA because her/his early behaviors were typical of a children of Student’s age at that time, including hitting, biting, and pushing, and Witness E

⁷⁵ 34 C.F.R. § 300.324(b)(1)(i).

did not concede that these behaviors, for children at that age, were dangerous. At the beginning of the year, Student would hit others three out of five days per week; by the end of the year, her/his physical aggression was minimal and age-appropriate. Witness F, the Assistant Principal, testified that he did not consider Student's behavior dangerous and concurred with Witness E that the hitting was typical for children of Student's age. Witness F opined that Student's behavior did not impede his/her learning and that Petitioner never voiced concerns about Student's behavior. Witness C, Petitioner's second educational advocate, conceded that tantrums were common among children of Student's age. The testimony of DCPS' witnesses that Student's physical aggression had moderated significantly to the level of being minimal and age-appropriate by the time of the May 2025 IEP was uncontroverted by Petitioner's witnesses.

The IEP was not based on current evaluative data and DCPS should have completed S/L, OT, comprehensive psychological, and A/T evaluations, as well as an FBA.

Petitioner's request for a battery of evaluations for a Y-year-old was unjustified at the beginning of the school year and much less so for a Z-year-old by the end of the school year. Petitioner's team completely ignores the dramatic improvements documented in Student's IEP Progress Report issued immediately prior to the May IEP meeting. The comments of Student's special education teacher, SLP provider, and OT provider are provided in paragraph 7 above, and were uncontroverted by Petitioner's witnesses. To summarize his/her progress:

In Cognitive, Student had Mastered two goals and was Progressing on the other two. Student's special education teacher reported that Student had mastered transitioning goal, s/he consistently responded to auditory cues and followed classroom routines without displaying maladaptive behaviors such as crying, tantrums, or noncompliance. Overall, Student had made strong progress in developing independence and responsiveness during transitions. Student had made significant progress toward the goal of attending to and completing teacher-directed activities. S/he demonstrated growing independence and responsiveness to spoken instructions and continued to make steady progress toward the goal of actively participating in group activities. S/he was able to sit and attend during large group activities, follow teacher directions, participate in music and movement, and respond to questions with greater consistency "These gains are closely tied to improvements in both receptive and expressive language." Student showed meaningful progress in shared peer engagement: learning how to participate in cooperative play. Student also showed a noticeable reduction in physical behaviors such as pushing, hitting, or taking items from peers, a significant improvement from the start of the school year, when s/he primarily relied on physical actions to communicate his/her needs.

In ADLS, Student was Progressing on both goals. In toileting, s/he was doing very well with the last three of the four steps, but did not always indicate s/he needed to use the bathroom. S/he had mastered the goal of independently completing routine daily tasks at school—including arrival, snack time, and bathroom routines. Student consistently demonstrated independence with daily routines and rarely required prompting. When occasional behavior concerns arose, s/he was responsive to a visual task lists or verbal prompting from a teacher or paraprofessional. S/he showed a clear understanding of expectations and could follow each step of familiar routines with confidence.

In Communication, Witness D, Student's SLP provider, reported that s/he was Progressing on both goals. S/he was following two-step directions in 65% of targeted opportunities. Student was producing nouns (75%), action words (70%), personal pronouns (55%), 5 prepositional phrases (50%) all with moderate to maximum cues and was able to request an object or activity using a carrier phrase plus a noun/action word (e.g., I want sandbox.) while refraining from using nonspecific labels.

In Motor, Staff Member A, Student's OT provider, reported that s/he was Progressing on both goals. Student was adjusting to the routine of his/her classroom and meeting adult expectations. Student was close to mastering the functional grasp goal with adult support. S/he was able to draw recognizable people.

There are two purposes for evaluations: to determine continued eligibility and to assist in determining programming needs.⁷⁶ Petitioner's eligibility for services is not disputed. In light of Student's significant progress in every area of concern, particularly verbal expression and social interaction, it is also apparent that the School A staff did not require additional evaluations to develop an educational program for Student that would enable him/her to make academic progress.

The ADLS and Cognitive goals were vague.

The ADLS and Cognitive goals are described in paragraph 10 above. I find them to be clear, concise, and measurable. As in the first issue presented above, Petitioner offered no testimony to support the assertion that the goals are vague.

The speech and language goals did not address articulation.

The third Communication goal specifically addresses articulation. Witness D testified that she did not develop any goals to address articulation on the September 2024 IEP due to Student's limited vocalization. However, during the school year, Student's vocalization significantly improved. Thus, Witness D began working with Student on his/her articulation and added a goal to the May 2025 IEP to address it.

The OT goals were vague and not based on current data.

The OT goals are also described in paragraph 10 above. I find them to be clear, concise, and measurable. As in the first issue presented above, Petitioner offered no testimony to support the assertion that the goals are vague. The IEP team increased Student's OT services by 30 minutes per month based on the recommendation in Facility A's May 1, 2025 reevaluation.

The PLOPs were not based on current evaluative data.

OSSE's January and DCPS' June 2024 evaluations and Facility A's August 2024 and May 2025 evaluations were all current as of the May 8, 2025 IEP meeting.

The significant progress that Student made during the 2024-25 school year in all areas

⁷⁶ 34 C.F.R. § 300.305(a)(2).

supports a finding that the September 2024 IEP was appropriate and justified the development of an updated IEP built on the progress Student made. Therefore, I conclude that DCPS has met its burden of proving that the IEP it developed on May 8, 2025 was reasonably calculated to enable Student to make academic progress consistent with her/his unique circumstances.

Whether DCPS denied Student a FAPE by failing timely to evaluate Student in all areas of suspected disability. Petitioner asserts that DCPS has not complied with her March 6, 2025 request for a comprehensive psychological evaluation, an OT evaluation, an FBA, an A/T evaluation, and an S/L evaluation.

IDEA regulations require that LEAs evaluate children with disabilities in all areas of suspected disabilities:

Each public agency must ensure that... the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities...⁷⁷

As discussed in the previous issue presented, there are two purposes for evaluations: to determine continued eligibility and to assist in determining program needs.⁷⁸ Petitioner's eligibility for services is not disputed. In light of Student's significant progress in every area of concern, particularly verbal expression and social interaction, it is also apparent that the School A staff did not require additional evaluations to develop an educational program for Student that would enable him/her to make academic progress. Student's progress in ADLS, Communication, and Motor Skills is documented in the IEP Progress Reports and the PLOPs. The improvement in Student's behavior throughout the 2024-25 belied the need for an FBA. Petitioner offered no credible expert testimony justifying the need for an A/T evaluation. Witness D, Student's SLP provider, opined that Student did not need A/T devices; s/he was making progress throughout the year, her/his vocabulary had increased significantly, and s/he was capable of continuing to make progress independently without the need for A/T. Witness D also opined that Student did not need a speech and language assessment at the end of the 2024-25 school year.

I conclude that Petitioner has failed to meet her burden of proving that DCPS denied Student a FAPE by failing to honor Attorney B's March 5, 2025 request for a comprehensive psychological evaluation, an OT evaluation, an FBA, an A/T evaluation, and an S/L evaluation.

⁷⁷ 34 C.F.R. § 300.304 (c)(4).

⁷⁸ 34 C.F.R. § 300.305(a)(2).

Whether DCPS denied Student a FAPE by failing to provide Petitioner full access to Student’s educational records. Petitioner asserts that she requested Student’s records on November 7, 2024 and made follow-up requests on December 16, 2024, January 23 2025, March 5, 2025, March 27, 2025, and May 1, 2025.

The regulations require the local education agency to allow parents to examine their student’s records:

- (a) Opportunity to examine records. The parents of a child with a disability must be afforded, in accordance with the procedures of §§ 300.613 through 300.621, an opportunity to inspect and review all education records with respect to—
 - (1) The identification, evaluation, and educational placement of the child; and
 - (2) The provision of FAPE to the child.
- (b) Parent participation in meetings.
 - (1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to—
 - (i) The identification, evaluation, and educational placement of the child; and
 - (ii) The provision of FAPE to the child.
 - (2) Each public agency must provide notice consistent with § 300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section.⁷⁹

and

- (a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request *without unnecessary delay and before any meeting regarding an IEP*, or any hearing pursuant to § 300.507 or §§ 300.530 through 300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made.
- (b) The right to inspect and review education records under this section includes—
 - (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
 - (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and the right to have a representative of the parent inspect and review the records.⁸⁰

Under the District’s regulations, a parents’ requests for a student’s records must be honored as soon as possible, but in no case more than forty-five days.⁸¹

⁷⁹ 34 C.F.R. §300.501.

⁸⁰ 34 C.F.R. §300.613, emphasis added.

⁸¹ 5-E DCMR § 2600.6.

On November 7, 2024, Attorney B requested that DCPS provide Petitioner Student's "entire academic file" for the previous two years. I note that Student did not enroll in a DCPS school until August 2024, and the "entire academic file" at that time would have consisted only of the Facility B and Facility C evaluations that DCPS conducted earlier that year.

The failure timely to provide a parent access to educational records is a procedural violation. A hearing officer's determination of whether a child was denied a FAPE must be based on substantive grounds. In matters alleging a procedural violation, a Hearing Officer may find that a child did not receive a FAPE only 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.⁸² In other words, an IDEA claim is viable only if procedural violations affected the child's substantive rights.⁸³

The first response in the record to Petitioner's request for records was on May 5, 2025, when DCPS sent Attorney B a number of records including, but not limited to, report cards, progress reports, an attendance report, an IEP, an interventions report, and an Initial IFSP.

While DCPS clearly violated its obligation to comply with the request within 45 days, the failure to respond timely would constitute a denial of FAPE in this case only if it significantly impeded Petitioner's opportunity to participate in the decision-making process. Here, Attorney B's March 5, 2025 letter requesting additional records did not assert that there were any unfulfilled requests at that time. DCPS then sent additional records on May 5, 2025, again beyond the 45-day deadline for the March 5th requests. However, at the hearing, Witness B, the law firm's legal assistant, first testified that Petitioner had still not received Student's latest IEP and report card. However, Petitioner included the latest IEP, May 8, 2025, in her Disclosures, and children in grade Q do not receive report cards. Subsequently, in response to my question, Witness B conceded that as of the hearing, Petitioner had received all of the requested records. Neither of Petitioner's educational advocates testified that Petitioner's team was in any way disadvantaged in preparing for the hearing by DCPS' failure timely to respond to the requests for records. Therefore, I conclude that Petitioner has failed to meet her burden of proving that the procedural violations rose to the level of substantive violations that constituted a denial of FAPE.

RELIEF

For relief, Petitioner requests, *inter alia*, (1) an order requiring DCPS to conduct and/or fund the following evaluations for the student: Functional Behavioral assessment, Comprehensive Psychological evaluation, updated Speech-Language Pathology evaluation, updated Occupational Therapy evaluation and an Assistive Technology evaluation, (2) compensatory education, (3) an order affording Petitioner to retain the right to request additional compensatory education upon

⁸² 34 C.F.R. 300.513(a).

⁸³ *Leggett v. District of Columbia*, 793 F.3d 59, 67 (D.C. Cir. 2015); *Brown v. District of Columbia*, 179 F. Supp. 3d 15, 25-26 (D.D.C. 2016), quoting *N.S. ex rel. Stein v. Dist. of Columbia*, 709 F. Supp. 2d 57, 67 (D.D.C. 2010).

completion of evaluations referenced above.⁸⁴

ORDER

Upon consideration of the *Complaint*, the *Response*, the *Prehearing Order*, the exhibits that were admitted into evidence, the testimony presented during the hearing, and the closing arguments of counsel for the parties, it is hereby

ORDERED that the *Complaint* is **DISMISSED** with prejudice.

APPEAL RIGHTS

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

Terry Michael Banks
Terry Michael Banks
Hearing Officer

Date: December 8, 2025

Copies to: Attorney A, Esquire
Attorney C, Esquire
OSSE Office of Dispute Resolution

⁸⁴ The Prehearing Order noted that hearing officers have no role in the awarding of attorneys' fees in this jurisdiction.