OSSE
Office of Dispute Resolution
December 22, 2025

District of Columbia
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Confidential

Parent on Behalf of Student, [1] Petitioner, v. District of Columbia Public Schools (DCPS) Local Education Agency ("LEA") & Office of State Superintended of Education ("OSSE") ("SEA") Respondents Case # 2025-0158 Date Issued: December 22, 2025	HEARING OFFICER'S DETERMINATION Hearing Dates: November 17, 2025 November 18, 2025 November 19, 2025 December 4, 2025 Counsel for Each Party listed in Appendix A Hearing Officer: Coles B. Ruff, Esq.

[1] Personally identifiable information is in the attached Appendices A & B.

JURISDICTION:

The hearing was conducted, and this decision was made in accordance with the Individuals with Disabilities Act ("IDEA"), P.L. 101-476, as amended by P.L. 105-17, the Individuals with Disabilities Education Improvement Act of 2004, the District of Columbia Code, Title 38 Subtitle VII, and the District of Columbia Municipal Regulations, Title 5 Chapter 5-A30.

BACKGROUND AND PROCEDURAL HISTORY:

The student who is the subject of this due process hearing ("the Student") resides with the Student's parent in the District of Columbia. The District of Columbia Public Schools ("DCPS") is the Student's local education agency ("LEA"), and the District of Columbia Office of the State Superintendent of Education ("OSSE") is the Student state education agency ("SEA").

On June 12, 2024, DCPS determined the Student eligible for special education and related services pursuant to IDEA, with a disability classification of autism or autism spectrum disorder ("ASD"). DCPS developed the Student's initial individualized education program ("IEP") on July 11, 2024, and determined that the Student's least restrictive environment ("LRE") is a non-public special education day school.

On July 29, 2024, DCPS submitted a request to OSSE for a change in placement, after which OSSE sent admission packets to non-public day special education schools. One of these schools ("School A") accepted the student for admission on October 3, 2024, more than a month after the start of school year ("SY") 2024-2025.

On August 9, 2024, Petitioner's attorney informed DCPS that Petitioner was unilaterally enrolling the Student in a private general education school ("School B") and would seek reimbursement from DCPS for the Student's attendance at School B.

OSSE provided Petitioner's notification of Student's placement at School A on October 29, 2024, by which time the Student was already attending School B and actively participating in an internship at a tattoo studio. This internship is the Student's desired field of employment and served as motivation for the Student to attend school regularly. Petitioner alleges that School A indicated the Student would not be able to continue with that internship while attending School A. Petitioner claims that School A is not a good fit for the Student because it would be both educationally and emotionally harmful for the Student to leave School B, attend School A, and cease his/her internship. After School A was offered on October 29, 2024, Petitioner rejected the placement and continued the unilateral placement at School B, where the Student attended for the remainder of SY 2024-2025.

DCPS convened an annual review of the Student's IEP on June 5, 2025, and developed an updated IEP for the Student on that date. DCPS issued a location of services ("LOS") letter for the Student to attend a different non-public school ("School C") for SY 2025-2026. The Student began attending School C at the start of SY 2025-2026, where she/he seems content.

On September 4, 2025, the Student's mother ("Petitioner") filed this due process complaint ("DPC") against DCPS and OSSE on behalf of the Student,[2] alleging inter alia that both DCPS

[2] The Student has executed a power of attorney ("POA") for his/her mother to be her/his educational decision-maker and proceed with this case on his/her behalf. (DCPS Exhibit 3)

and OSSE denied the Student a free appropriate public education ("FAPE"). Petitioner asserted that OSSE and/or DCPS failed to offer the Student a timely and appropriate school placement for SY 2024-2025, that DCPS had inappropriately classified the Student with an ASD disability, and failed to develop an appropriate IEP for the Student on June 5, 2025. Petitioner seeks a finding that DCPS and/or OSSE denied the Student a FAPE and that either or both be ordered to reimburse Petitioner the full costs associated with attending School B for SY 2024-2025.

DCPS's Response to the DPC:

DCPS filed a response to the complaint on September 15, 2025. In its response, DCPS stated, inter alia, the following:

In June 2024, DCPS completed a psychological evaluation and determined the Student eligible for ASD. DCPS convened IEP meetings and proposed appropriate IEPs. The IEPs addressed school avoidance. Most of the goals in the IEPs were developed considering the information in the psychological report, which indicated a full-time removal from the general education setting.

The ASD classification serves only as a guide and is not definitive in determining the appropriate placement of services. DCPS properly considered and established the Student's eligibility. The OSSE certificate of approval ("COA") list for nonpublic schools is an OSSE decision. DCPS complied with its IEP, FAPE, and placement responsibilities. The Student's IEP and placement appropriately addressed the Student's educational needs and strengths, including attentional issues, Attention Deficit Hyperactivity Disorder ("ADHD"), social/emotional challenges, and school avoidance related to the Student's disability.

The Student engages in externalizing behaviors that require intervention, as reflected in the Petitioner's pleading: attention and task focus, attendance, school avoidance, and hyperactivity. Peers at school, whether they display externalizing behaviors or not, are not a sufficient reason to determine the location for implementing the Student's IEP. DCPS has not denied the Student a FAPE.

OSSE's Response to the DPC:

OSSE filed a response to the complaint on September 12, 2025. In its response, OSSE stated, inter alia, the following:

On July 29, 2024, OSSE received a change-in-placement ("CIP") request from DCPS for the Student, and on August 5, 2024, OSSE opened the case and sent an email to DCPS requesting documents and proposing dates for meetings. Because Petitioner was out of the country until August 19, 2024, OSSE scheduled and had a call with the parent for August 21, 2024, to explain the OSSE service location process, noting that service locations must be issued to programs with an OSSE COA. OSSE does not determine when an LEA submits a CIP request. In this case, OSSE scheduled the CIP meeting within 18 business days of receiving the request. OSSE acted as quickly as possible, and the CIP meeting was held on August 22, 2024. At the meeting, the team discussed the Student's needs and areas of concern. OSSE provided a state recommendation

that the Student warranted placement in a nonpublic day school. It was only a recommendation as OSSE does not play a deciding role in student placement.

OSSE must issue a service location to schools or programs that hold a COA to ensure programs meet the following criteria: students' age, grade, and disability classification. OSSE also explained to Petitioner that programs that hold a COA must abide by the rigorous requirements, including but not limited to having staff who are certified to teach students with disabilities, staff who have passed background checks, and facilities that meet safety codes. Neither Petitioner nor the LEA provided any suggested schools.

OSSE clarified that School B was not an option in the OSSE process because it lacked a COA. OSSE proceeded with identifying a service location and obtained parental consent to send admission packets on August 22, 2024. This left only one business day before the start of SY 2024-2025 on August 26, 2024, for OSSE to identify, apply to, and secure admission for the Student to an appropriate school. On August 26, 2024, OSSE sent out an admissions packet to at least four non-public schools, including School A.

On September 4, 2024, School A emailed OSSE to report that they had sent Petitioner emails and left voicemails to schedule a pre-admissions interview. On September 17, 2024, School A again emailed Petitioner to schedule an interview. Later that day, Petitioner responded and scheduled an interview for September 26, 2024. In September 2024, two COA schools considering admitting the Student faced a lack of cooperation from and/or delays by Petitioner.

On October 3, 2024, School A issued an acceptance letter for the Student to attend, indicating that it would implement the services outlined in the IEP. That same day, OSSE notified the parent and the LEA of School A's acceptance. Petitioner's attorney noted concerns with School A that Petitioner did not want to move forward with any school other than School B. Petitioner, through DCPS, sought to proceed with the CIP process, knowing that School B does not hold a COA with OSSE and is not a special education day school.

The required IEP meeting before placement, which OSSE neither schedules nor participates in, was held on October 29, 2024. On that same day, DCPS provided OSSE with the prior written notice ("PWN"), and OSSE issued its Notice of Service Location to School A. OSSE did not cause any delay in the Student's placement at School A. Placement at School A in late October does not constitute a mid-year transfer; however, if it did, School A regularly manages mid-year transfers with students facing emotional and other challenges.

Resolution Meeting and Pre-Hearing Conference:

Petitioner and DCPS participated in a resolution meeting on September 16, 2025. The parties did not mutually agree to shorten the 30-day resolution period. The DPC was filed on September 4, 2025. The 45-day period began on October 5, 2025, and ended, and the Hearing Officer's Determination ("HOD") was originally due on November 18, 2025. The parties were not available on the hearing dates offered. Petitioner filed a motion to align the timelines for the LEA and SEA and extend the HOD due date for the LEA and the SEA to account for the change in hearing dates requested, making the HOD due on December 9, 2025. The parties requested two additional

continuances to allow for another day of hearing on December 4, 2025, and to submit written closing arguments on December 12, 2025. The HOD is not due on December 22, 2025.

The undersigned impartial hearing officer ("IHO") conducted a pre-hearing conference ("PHC") on September 26, 2025, and issued a pre-hearing order ("PHO") on October 6, 2025, outlining, inter alia, the issues to be adjudicated.

ISSUES:

The issues adjudicated are:

1. Did DCPS deny the Student a FAPE by failing to find the Student eligible for special education services under the proper disability classifications on June 12, 2024, when it found the Student eligible as only having ASD?

2. Did DCPS deny the Student a FAPE by failing to offer a placement and/or location of services capable of implementing the Student's IEP prior to the first day of school for SY 2024-2025, justifying the unilateral placement at School B?

3. Did DCPS and/or OSSE deny the Student a FAPE by failing to place the Student in an appropriate program and location of services on October 29, 2024?

4. Did DCPS deny the Student a FAPE by failing to develop an appropriate IEP on July 10, 2025?

DUE PROCESS HEARING:

The Due Process Hearing was held on November 17, 2025, November 18, 2025, November 19, 2025, and December 4, 2025, using a video teleconference on the Microsoft Teams platform. The parties submitted written closing arguments on December 12, 2025.

RELEVANT EVIDENCE CONSIDERED:

The IHO considered the testimony of witnesses[3] and the documents submitted in each party's disclosures (Petitioners' Exhibits 1 through 87, DCPS's Exhibits 1 through 62, and OSSE's Exhibits 1 through 25) that were admitted into the record and are listed in Appendix 2. The IHO also considered one prior HOD that the parties disclosed from a prior DPC filed by Petitioner

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[3] Petitioner presented five witnesses: (1) the Student, (2) the Student's mother (Petitioner), (3) the Student's vocational mentor, (4) the director of the School B that the Student attended, who testified as an expert; and (5) Petitioner's educational consultant, who testified as an expert. DCPS presented four witnesses, all who testified as experts: (1) a DCPS social worker, (2) the manager of DCPS's centralized IEP team, and (3) a DCPS school psychologist , (4) the DCPS general education teacher/ special education teacher on the centralized IEP team and LEA representative. OSSE presented two witness: (1) he behavior supervisor at School A, and (2) the OSSE placement manager. The IHO found the witnesses credible unless noted otherwise in the conclusions of law. Any material inconsistencies in the testimony of witnesses identified by the IHO are discussed in the conclusions of law.

against DCPS regarding, inter alia, the Student's unilateral placement in School B for SY 2022-2023. In limited instances, the IHO cited this HOD in the findings of fact.

SUMMARY OF DECISION:

DCPS bore the burden of persuasion on issues #3 and #4 after Petitioner presented a prima facie case on those issues. DCPS met the burden of persuasion by a preponderance of the evidence on issues #3 and #4 concerning the Student's June 5, 2025, IEP and the Student's placement at School A. Petitioner did not sustain the burden of persuasion by a preponderance of the evidence on issue # 1, but did so on issue #2. Petitioner satisfied the burden regarding reimbursement for the Student's tuition at School B, and the IHO ordered DCPS to reimburse the Petitioner for the Student's tuition for SY 2024-2025. The IHO dismissed the claim(s) against OSSE. The IHO also directed DCPS to review the Student's progress and current IEP.

FINDINGS OF FACT: [4]

1. The Student resides with the Student's parent in the District of Columbia. DCPS is the Student's LEA, and OSSE is the Student's SEA. (Mother's testimony, DCPS's Exhibit 44)

2. On June 12, 2024, DCPS determined the Student eligible for special education and related services pursuant to IDEA, with a disability classification of autism. DCPS developed the Student's initial IEP on July 10, 2024, and determined that the Student's LRE was a non-public day school. (DCPS's Exhibit 29)

3. The Student's initial IEP provided for the Student to receive 29 hours per week of specialized instruction outside general education, 3 hours per month of behavioral support services ("BSS") (individual), and 1 hour per month (group). As consultation services, the IEP provided for 1 hour per week for specialized instruction and 2 hours per week for BSS. (Petitioner's Exhibit 59, DCPS's Exhibit 29)

4. On July 29, 2024, DCPS submitted a request to OSSE for a change in placement ("CIP"). (OSSE's Exhibit 2)

5. On August 9, 2025, Petitioner's attorney notified DCPS that Petitioner was unilaterally placing the Student at School B, a private general education school, and would seek reimbursement from DCPS for the Student's attendance at School B. (DCPS's Exhibit 3)

6. On August 13, 2024, OSSE convened a meeting with DCPS regarding the CIP and sent an email to Petitioner to schedule a call with Petitioner to discuss the CIP process. Petitioner was not available to meet with OSSE until August 21, 2024. (OSSE's Exhibits 3, 4)

[4] The evidence (documentary and/or testimony) that is the source of the Findings of Fact ("FOF") is noted within parentheses following the finding. A document is noted by the exhibit number. If there is a second number following the exhibit number, that number denotes the page of the exhibit from which the fact was obtained or the PDF page number of the entire disclosure document. When citing an exhibit that has been submitted by more than one party separately, the Hearing Officer may only cite one party's exhibit.

7. On August 22, 2024, OSSE issued its recommendation that the Student attend a non-public day school, and Petitioner provided OSSE with written consent to send admission packets to non-public schools, including School A. (OSSE's Exhibits 5, 6)

8. On August 26, 2024, OSSE sent out an admissions packet to at least four non-public schools, including School A, and on that same day, notified Petitioner that the packets had been sent to those schools. Petitioner did not object to any of the schools. OSSE included language in its letter to the school with the admission packets, the following statement: "Please note, the family believes that [the Student's] AU diagnosis is secondary to the school anxiety [she/he] experiences" (Witness testimony, OSSE's Exhibits 7, 8, 9, 10, 11)

9. On August 26, 2024, and August 29, 2024, two of the schools issued letters to OSSE declining the Student admission. (OSSE's Exhibits 12, 13)

10. After considerable effort by another of the four schools to obtain a response from the Petitioner regarding an interview, the school conducted an interview with the Petitioner on September 23, 2024, and shared it with OSSE on October 2, 2024. As part of their admissions process, that school required the Student to attend one day and shadow another student. Following the interview, because the parent never scheduled a "shadow day", the school was unable to make an admissions decision. (OSSE's Exhibit 16)

11. On September 4, 2024, School A emailed OSSE to report that they had sent Petitioner emails and left voicemails to schedule a pre-admissions interview. On September 17, 2024, School A again emailed Petitioner to schedule an interview. Later that day, Petitioner responded and scheduled an interview for September 26, 2024. (OSSE's Exhibits 14, 15

12. School A accepted the Student for admission on October 3, 2024, more than one month after SY 2024-2025 had begun. (DCPS's Exhibit 57)

13. On October 29, 2025, OSSE notified Petitioner of the Student's placement at School A, and DCPS issued a PWN identifying School A to implement the Student's IEP. (Petitioner's Exhibit 59, DCPS's Exhibit 38)

14. School A is a therapeutic day program about an hour from D.C. School A holds an OSSE COA and offers services to students with various disabilities, including autism. Although School A has a behavior modification system, it doesn't implement behavior interventions for students who don't need them. School A is equipped to implement the Student's IEP. The classroom staff can serve as time-management and executive-functioning coaches to help students finish projects on time. There are no more than nine students in a class, allowing teachers to provide individualized opportunities for students to complete their work. School A has counselors who help students develop coping skills to manage their anxiety. All staff members are trained in trauma-informed care—right response. School A provides group and individual therapy and offers different career pathways. If a particular pathway isn't available, the School A transition coordinator can create partnerships, including a tattoo internship if a student is interested. School A has students who attend

half-days for some sessions with OSSE approval. Students can drive to school once a meeting is held and a student's IEP is reviewed to ensure all safety requirements are met. School A also offers mid-year transitions, allowing students to start any time during the school year.

15. Petitioner and the Student visited School A. The Student found the school bells loud and jarring. The Student perceived the other students as less excited about being there and voiced this, and was anxious to see a new kid arrive. Another student told the Student not to come there and that he/she would fight him/her. The Student believed, based on what he/she saw at School A, that he/she would need to be escorted out of class, which felt to him/her like "being on a leash." The Student did not think School A would allow him/her to leave early to continue the apprenticeship, and the Student said that if he/she had to attend School A, he/she would just not go at all. (Student's testimony)

16. As a result of their visit to School A, Petitioner and the Student considered the school placement inappropriate, and Petitioner decided to keep the Student at School B. Petitioner and the Student believed the Student would not be able to continue the apprenticeship. Based on interactions with other Students during the visit, the Student did not want to attend School B, and Petitioner believed that if the Student were forced to attend, he/she would revert to school avoidance behaviors and refuse to go. Petitioner declined the offer for the Student to attend School A and kept the Student at School B, where he/she attended for the rest of SY 2024-2025. (Petitioner's testimony, Student's testimony)

17. School B is a small independent school in the District of Columbia serving middle and high school students who have struggled in traditional school settings. Approximately 50 to 60 percent of School B's students have diagnosed disabilities. The high school program serves 43 to 47 students. There are no more than 12 students in a class. All students are on the diploma track. School B is accredited by the Association of Independent Maryland Schools. Private School does not hold an OSSE COA to serve students with disabilities. The annual tuition is $43,800. Although the Student had attendance difficulties at School B during SY 2024-2025, with tutoring and School B providing the Student with scheduling accommodations, the Student was able to earn high school credits while attending School B. (Witness 2's Testimony, Petitioner's Exhibit 59)

18. DCPS convened an annual review of the Student's IEP on June 5, 2025, and developed an updated IEP for the Student on that date. The Student's initial IEP provided for the Student to receive 30 hours per week of specialized instruction outside general education, 3 hours per month of BSS. As consultation services, the IEP provided for 1 hour per week for specialized instruction and 1 hour per week for BSS. (DCPS's Exhibit 44).

19. DCPS issued an LOS letter for the Student to attend a different non-public school special education day school with an OSSE COA ("School C") for SY 2025-2026. The Student began attending School C at the start of SY 2025-2026. (Petitioner's Exhibit P-78, pdf page 888)

20. Both Petitioner and the Student believe that School C can fulfill the Student's educational, social/emotional, and vocational needs. Petitioner and the Student visited and toured School C, and both liked what they saw and heard. The school assured them it could accommodate the Student's apprenticeship. School C offered the Student acceptance during the interview and tour, and both the Student and Petitioner indicated they wanted to accept the offer and have the Student attend for SY 2025-2026. The Student started attending School C at the beginning of the SY 2025-2026 school year in late August 2025 and has reports feeling content at School C. (Mother's testimony, Student's testimony)

CONCLUSIONS OF LAW:

Pursuant to IDEA §1415 (f)(3)(E)(i), a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education ("FAPE").

Pursuant to IDEA §1415 (f)(3)(E)(ii), in matters alleging a procedural violation, a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies impeded the child's right to FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of FAPE, or caused the child a deprivation of educational benefits. An IDEA claim is viable only if [DCPS'] procedural violations affected the student's substantive rights." *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006)

34 C.F.R. § 300.17 provides:
A free appropriate public education or FAPE means special education and related services that-- (a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the SEA, including the requirements of this part; (c), Include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Sec. 300.320 through 300.324

Pursuant to 5A DCMR 3053.6, the burden of proof is the responsibility of the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528 (2005). The burden of persuasion shall be met by a preponderance of the evidence. See, e.g., *N.G. V. District of Columbia* 556 f. Sup. 2d (D.D.C. 2008) see also 20 U.S.C. §1451 (i)(2)(C)(iii). DCPS held the burden of persuasion on issues #3 and #4 after Petitioners presented a prima facie case on those issues. Petitioners held the burden of persuasion on the remaining issues. [5]

[5] DC Code § 38-2571.03 (6) provides:
(A) In special education due process hearings occurring pursuant to IDEA (20 U.S.C. § 1415(f) and 20 U.S.C. § 1439(a)(1)), the party who filed for the due process hearing shall bear the burden of production and the burden of persuasion; except, that:

(i) 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.

(ii) Where a party seeks tuition reimbursement for unilateral placement, the party seeking

ISSUE 1: Did DCPS deny the Student a FAPE by failing to find the Student eligible for special education services under the proper disability classifications on June 12, 2024, when it found the Student eligible as only having ASD?

Conclusion: Petitioner did not sustain the burden of persuasion by a preponderance on this issue.

The Individuals with Disabilities Education Act ("IDEA") was enacted to ensure that all disabled students receive a "free appropriate public education." 20 U.S.C. § 1400(d)(1)(A). "Commonly referred to by its acronym 'FAPE,' a free appropriate public education is defined as 'special education and related services that' are 'provided at public expense, under public supervision ...;' and that 'meet the standards of the State educational agency;' as well as 'conform[ ] with [each disabled student's] individualized education program.' " *Charles H. v. District of Columbia*, 2021 WL 2946127 (D.D.C. June 16, 2021) (quoting 20 U.S.C. § 1401(9)) (alterations in original). "Special education" is defined as "specially designed instruction, at no cost to parents, [that] meet[s] the unique needs of a child with a disability." 20 U.S.C. § 1401(29). "Related services," on the other hand, are defined as "such developmental, corrective, and other supportive services ... as may be required to assist a child with a disability to benefit from special education." Id. § 1401(26)(A).

34 CFR § 300.306 Determination of eligibility, provides: (a) General. Upon completion of the administration of assessments and other evaluation measures— (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in § 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

IDEA requires that upon completion of an eligibility evaluation, the LEA eligibility team, including the parents, determines whether the child is a child with an IDEA disability who, by reason thereof, needs special education and related services. See 34 C.F.R. § 300.8. Regardless of the disability classification for special education eligibility relied upon by the LEA, the LEA must ensure that IEP special education and related services are tailored to the unique needs of each child. See *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch*. Dist. RE-1, 137 S. Ct. 988, 994, 197 L. Ed. 2d 335 (2017).

IDEA does not require school districts to classify a student with a disability in a particular category or categories. See, e.g. Letter to Anonymous, 48 IDELR 16 (OSEP 2006) (Child's identified needs, not the child's disability category, determine the services that must be provided to her); *Heather S. v. State of Wis.*, 125 F.3d 1045, 1055 (7th Cir. 1997) (IDEA not concerned with labels, but with

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reimbursement shall bear the burden of production and the burden of persuasion on the appropriateness of the unilateral placement, provided, that the hearing officer shall have the authority to bifurcate a hearing regarding a unilateral placement; provided further, that if the hearing officer determines that the program offered by the public agency is appropriate, it is not necessary to inquire into the appropriateness of the unilateral placement.
(B) This paragraph shall apply to special education due process hearings resulting from complaints filed after July 1, 2016.

whether a student is receiving a FAPE); *Lauren C. by & through Tracey K. v. Lewisville Indep. Sch. Dist*., 904 F.3d 363, 377 (5th Cir. 2018) (IDEA promises--a FAPE--regardless of child's diagnosis.)

As far as the identification of the student's disability classification is concerned, "the particular disability diagnosis affixed to a child in an IEP, will, in many cases, be substantively immaterial because the IEP will be tailored to the child's specific needs." *Fort Osage R-1 School District v. Sims*, 641 F.3d 996, 1004 (8th Cir. 2011).

So long as a child meets criteria for an IDEA disability, the Act does not require school districts to use specific assessment instruments to classify a child for a particular disability category or categories . See, e.g. *Heather S. v. State of Wis*., 125 F.3d 1045, 1055 (7th Cir. 1997) (IDEA not concerned with labels, but with whether a student is receiving a FAPE); Letter to Anonymous, 48 IDELR 16 (OSEP 2006) (Child's identified needs, not the child's disability category, determine the services that must be provided to her); *Lauren C. by & through Tracey K. v. Lewisville Indep. Sch. Dist*., 904 F.3d 363, 377 (5th Cir. 2018) (IDEA promises--a FAPE--regardless of child's diagnosis.)

Petitioner alleged that the autism classification significantly limited the appropriate options OSSE had for placement on the approved non-public school list; and by refusing to reconsider the Student's disability classification on August 23, 2024, upon parent and counsel's request, even after DCPS was told that the OSSE representative agreed that the SEA had limited placement/school options for the Student based on DCPS' eligibility decision.

Despite Petitioner's assertion, DCPS presented evaluative data and a credible expert witness who testified that the Student's evaluation (s) supported the Student's autism disability classification. The Student's disability classification has not changed and remains autism. Although the Student is diagnosed with other conditions in addition to autism, the DCPS psychologist credibly testified that, based on the evaluative data, the Student's autism is a primary factor in the Student's challenges in the educational setting. There were no witnesses who credibly refuted this expert testimony.

Petitioner's main objection to the autism disability classification was her and her attorney's belief that this classification would limit the school placements available to the Student. An OSSE witness testified that the disability classification meant OSSE would refer the Student to non-public schools holding an OSSE COA to serve students with autism, and initially OSSE referred the Student for acceptance to four non-public schools.

Nonetheless, the Student's disability classification has not changed, yet the Student was referred to many more schools in SY 2025-2026, one of which the Student was accepted to and currently attends, and it meets both the Student's and Petitioner's expectations and desires. The fact that such a placement was made without a change in the Student's disability classification is sufficient proof that the classification does not limit the Student's school opportunities, although OSSE may have sent applications to fewer schools in SY 2024-2025 than in SY 2025-2026.

Consequently, the IHO concludes that Petitioner failed to sustain the burden of persuasion by a preponderance of the evidence that DCPS denied the Student a FAPE by failing to find the Student

eligible for special education services under a disability classification other than autism on June 12, 2024, when it found the Student eligible for special education.

ISSUE 2: Did DCPS deny the Student a FAPE by failing to offer a placement and/or location of services capable of implementing his IEP prior to the first day of school for SY 2024-2025, justifying the unilateral placement at the School B.

Conclusion: Petitioner sustained the burden of persuasion by a preponderance of the evidence that denied the Student a FAPE by failing to offer a placement and/or location of services capable of implementing his IEP prior to the first day of school for SY 2024-2025.

The starting point in this analysis is that "the IEP is the vehicle through which school districts typically fulfill their statutory obligation to provide a free appropriate public education and that officials must have an IEP in place for each student with a disability '[a]t the beginning of each school year. U.S.C. § 1414(d)(2)(A)); 34 C.F.R. 300.322(a), 300.323(a). *See also Dist. of Columbia v. Wolfire*, 10 F. Supp. 3d 89, 95 (D.D.C. 2014) ("there is no requirement that the child be currently enrolled in a public school in order to trigger the LEA's obligation to develop an IEP for that child"); *Dist. of Columbia v. Oliver*, 2014 WL 686860, at 6 (D.D.C. 2014).

The D.C. Circuit Court explained in *Leggett* that, "[a]s interpreted by the Supreme Court, IDEA requires school districts to reimburse parents for their private-school expenses if (1) school officials failed to offer the child a free appropriate public education in a public or private school; (2) the private-school placement chosen by the parents was otherwise 'proper under the Act; and (3) the equities weigh in favor of reimbursement – that is, the parents did not otherwise act 'unreasonabl[y].'" *Leggett*, 793 F.3d at 66-67 (*citing Carter*, 510 U.S. at 15- 16, 114 S. Ct. 361; 20 U.S.C. § 1412(10)(C)(iii)(III)).

There is no dispute that DCPS did not have an educational placement for the Student at the start of SY 2024-2025. The evidence shows that DCPS determined the Student was eligible for special education and related services on June 12, 2024, developed the Student's initial IEP on July 10, 2024, and concluded that the Student's LRE was a non-public day school.

On July 29, 2024, DCPS submitted a request to OSSE for a change in placement, and on August 26, 2024, OSSE sent out an admissions packet to at least four non-public schools, including School A, and on that same day, notified Petitioner that the packets had been sent to those schools.

On August 26, 2024, and August 29, 2024, two of the schools issued letters to OSSE declining the Student admission. Petitioner and the Student visited and interviewed at School A in September 2025. School A accepted the Student for admission on October 3, 2024, more than one month after SY 2024-2025 had begun.

On October 29, 2025, OSSE notified Petitioner of the Student's placement at School A, and DCPS issued a PWN identifying School A to implement the Student's IEP, approximately two months after the school year had started. There was insufficient evidence to support a claim that Petitioner was responsible for any delay in offering a school placement to the Student at the start of SY 2024-2025.

"As interpreted by the Supreme Court, IDEA requires school districts to reimburse parents for their private-school expenses if (1) school officials failed to offer the child a free appropriate public education in a public or private school; (2) the private-school placement chosen by the parents was otherwise "proper under the Act"; and (3) the equities weigh in favor of reimbursement—that is, the parents did not otherwise act "unreasonabl[y]." *Leggett v. District of Columbia*, 793 F.3d 59, 66–67 (D.C. Cir. 2015) (citing Carter, supra, 510 U.S. at 15–16, 114 S.Ct. 361; 20 U.S.C. § 1412(10)(C)(iii)(III)).

Based on the evidence presented, the IHO concludes that DCPS, by failing to have any educational placement available for the Student to implement the Student's IEP at the start of SY 2024-2025 until a school placement was made on October 29, 2024, that DCPS denied the Student a FAPE.

ISSUE 3: Did DCPS and/or OSSE deny the Student a FAPE by failing to place the Student in an appropriate program and location of services on October 29, 2024?

Conclusion: DCPS and OSSE sustained the burden of persuasion by a preponderance of the evidence that they placed the Student in an appropriate program and location of services on October 29, 2024.

In determining the educational placement of a child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and is made in conformity with the least restrictive environment provisions of the IDEA; and the public agency must ensure that the child's placement is determined at least annually, is based on the child's IEP, and is as close as possible to the child's home. See 34 C.F.R. § 300.116.

Removing a child with disabilities "from the regular education environment occurs only when the nature or severity of the disability is such that education in regular classes cannot be achieved satisfactorily." 34 C.F.R. § 300.550; 34 C.F.R. §300.114 see also 20 U.S.C. § (a)(5)(A) (a disabled child is to participate in the same activities as non-disabled children to the "maximum extent appropriate"); *Roark ex rel. Roark v. District of Columbia*, 460 F.Supp.2d 32, 43 (D.D.C. 2006) ("The IDEA requires school districts to place disabled children in the least restrictive environment possible.")

"The IDEA requires that children with disabilities receive education in the regular classroom whenever possible" *Z.B. v. District of Columbia*, 888 F.3d 515 (D.C. Cir. 2018) citing *Endrew F.*, supra, 137 S. Ct. at 999 (quoting Rowley, 458 U.S. at 202)

The legal standard under the IDEA is that DCPS "must place the student in a setting that is capable of fulfilling the student's IEP." *Johnson v. Dist. of Columbia*, 962 F. Supp. 2d 263, 267 (D.D.C. 2013). *See also O.O. ex rel. Pabo v. Dist. of Columbia*, 573 F. Supp. 2d 41, 53 (D.D.C. 2008) (placement must be in a school that can fulfill the student's IEP requirements).
Pursuant to D.C. Code § 38-2561.02(c) Special education placements shall be made in the following order of priority; provided, that the placement is appropriate for the student and made in accordance with the IDEA and this chapter: (1) DCPS schools, or District of Columbia public

charter schools pursuant to an agreement between DCPS and the public charter school; (2) Private or residential District of Columbia facilities; and (3) Facilities outside of the District of Columbia.

Petitioner alleges that School A was too restrictive in that it served students with externalizing behaviors and behavior systems in place to address aggressive behaviors, and that at School A, the student could not continue his/her apprenticeship, which had become a primary motivation for attending school regularly.

The evidence demonstrated that School A is a therapeutic day program with an OSSE COA that offers services to students with various disabilities, including autism. The School A witness credibly testified that, although the school has a behavior modification system, it does not provide behavior interventions for students who do not need them. The evidence confirmed that School A is capable of implementing the Student's IEP, and staff can serve as time-management and executive-functioning coaches and counselors, as well as provide individual and group therapy to help the Student develop coping skills for managing any anxiety the Student might experience at school. School A also offers different career pathways, and if a particular pathway is unavailable, the transition coordinator can establish partnerships, including a tattoo internship if a student is interested.

Petitioner and the Student testified about their visit to School A. However, their visit was limited in time and scope. The IHO credited the testimony of the School A witness because of her experience at the school and her work with various students over the years. She effectively rebutted the testimony of the Petitioner and the Student and discussed the diversity of School A's student body and the school's behavior modification system, which would not be overly restrictive for the Student if he/she attended. Additionally, she credibly testified about the opportunity for the Student to continue an apprenticeship, which seemed to be a main reason why the Student and Petitioner concluded that School A was not suitable.

Based on the evidence presented, the IHO concludes that OSSE and DCPS offered the Student an appropriate school placement for SY 2024-2025 where the Student's IEP could be implemented. Consequently, the IHO concludes that the placement at School A was appropriate.

ISSUE 4: Did DCPS deny the Student a FAPE by failing to develop an appropriate IEP on July 10, 2025?

Conclusion: DCPS sustained the burden of persuasion by a preponderance of the evidence that the IEP(s) it developed were reasonably calculated to enable the Student to make progress appropriate in light of the Student's circumstances.

The Individuals with Disabilities Education Act ("IDEA") was enacted to ensure that all disabled students receive a "free appropriate public education." 20 U.S.C. § 1400(d)(1)(A). "Commonly referred to by its acronym 'FAPE,' a free appropriate public education is defined as 'special education and related services that' are 'provided at public expense, under public supervision ...;' and that 'meet the standards of the State educational agency;' as well as 'conform[ ] with [each disabled student's] individualized education program.' " *Charles H. v. District of Columbia*, 2021 WL 2946127 (D.D.C. June 16, 2021) (quoting 20 U.S.C. § 1401(9)) (alterations in original). "Special education" is defined as "specially designed instruction, at no cost to parents, [that]

meet[s] the unique needs of a child with a disability." 20 U.S.C. § 1401(29). "Related services," on the other hand, are defined as "such developmental, corrective, and other supportive services ... as may be required to assist a child with a disability to benefit from special education." Id. § 1401(26)(A).

"Under [the] IDEA and its implementing regulations, students with disabilities ... are entitled to receive [a] FAPE through an Individualized Education Program (or IEP)." *Charles H*., 2021 WL 2946127 (quoting 20 U.S.C. § 1401(9)(D)). An IEP is a written document that lays out how the student will obtain measurable annual goals and that mandates specific special education and related services that the student must receive. 20 U.S.C. § 1414(d)(1)(A)(i). It is created for each student by a special "IEP Team," consisting of the child's parents, at least one regular-education teacher, at least one special-education teacher, and other specified educational experts. Id. § 1414(d)(1)(B). An IEP is the main tool for ensuring that a student is provided a FAPE. See *Charles H*., 2021 WL 2946127 (quoting Lofton v. District of Columbia, 7 F. Supp. 3d 117, 123 (D.D.C. 2013)). " (*Robles v. District of Columbia* 81 IDELR 183 D.D.C. August 26, 2022*)*

In *Board of Education v. Rowley*, the United States Supreme Court set forth a two-part inquiry for determining whether a school district has satisfied the FAPE requirement. First, the state must have "complied with the procedures set forth in the Act." *Rowley*, 458 U.S. at 206. Second, the IEP that is developed must be "reasonably calculated to enable the child to receive educational benefits." *Rowley*, 458 U.S. at 206-07. To be appropriate under 34 C.F.R. § 300.324, the IEP must consider the (i) strengths of the child; (ii) concerns of the parents; (iii) results of the initial or most recent evaluation; and (iv) academic, developmental, and functional needs of the child.

The second substantive prong of the *Rowley* inquiry is whether the IEP developed was reasonably calculated to enable Student to make progress appropriate in light of Student's individual circumstances. In *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist*. RE-1, 137 S. Ct. 988 (2017), the U.S. Supreme Court elaborated on the "educational benefits" requirement pronounced in *Rowley*: To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. . . . Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal. . . . When a child is fully integrated into the regular classroom, as the Act prefers, what that typically means is providing a level of instruction reasonably calculated to permit advancement through the general curriculum. . . . If that is not a reasonable prospect for a child, his IEP need not aim for grade-level advancement. But his educational program must be appropriately ambitious in light of his 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. *Endrew F*., supra, 137 S. Ct. at 999–1000 (citations omitted).

Pursuant to *Schaefer v. Weast*, 554 F.3d 470 (U.S. App. 2009), the Hearing Officer must "focus on the adequacy of the IEP at the time it was created, and ask if it was reasonably calculated at that time to enable the student to receive educational benefits."

The key inquiry regarding an IEP's substantive adequacy is whether taking account of what the school knew or reasonably should have known of a student's needs at the time, the IEP offered was

reasonably calculated to enable the specific student's progress…."Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal." *Z.B. v. District of Columbia*, 888 F.3d 515 (D.C. Cir. 2018) citing *Endrew F*., supra, 137 S. Ct. 988.

Petitioner alleges the IEP did not properly and sufficiently describe and address Students' deficits as they were known at the time including the impact of his/her ADHD and the ongoing school-avoidance and related attendance issues, contained insufficient reading goals and inappropriate and unreasonable math goals that did not appropriately address the data available to the team; and failed to incorporate some of the changes DCPS had agreed to make at an IEP meeting.

Petitioner presented an educational consultant who testified about the IEPs that DCPS developed for the Student. Principally this witness testified that she did not like the IEP goal and does not think it was written well, and did not believe that IEP adequately addressed the Student social emotional issues and school avoidance. The IHO found the testimony in this regard unpersuasive. DCPS presented witnesses who participated in the development of the Student's IEP and credibly testified that about the details of the IEP and the appropriateness of the goals and services. The IHO found the DCPS witnesses more credible based on their greater and more recent experience in delivering school-based services to students and developing IEP and implementing IEP services. Consequently, the IHO concludes that DCPS sustained the burden of persuasion by a preponderance of the evidence that the IEP(s) it developed were reasonably calculated to enable the Student to make progress appropriate in light of the Student's circumstances.

However, in light of the Student's recent matriculation at School C, the IHO directs in the order below that DCPS review the Student's progress at School C and review the Student's current IEP.

Remedy:

Under the IDEA, parents who unilaterally decide to place their disabled child in a private school without obtaining the consent of local school officials, "do so at their own financial risk." A school district may be required to pay for educational services obtained for a student by the student's parent, if the services offered by the school district are inadequate or inappropriate, the services selected by the parent are appropriate, and equitable considerations support the parents' claim, even if the private school in which the parents have placed the child is unapproved. *Florence County Sch. Dist. Four v. Carter*, 510 U.S. 7, 15, 114 S.Ct. 361, 126 L.Ed.2d 284 (1993) (quoting *Sch. Comm. of the Town of Burlington v. Dep't of Educ*., 471 U.S. 359, 374, 105 S.Ct. 1996, 85 L.Ed.2d 385 (1985)).

"As interpreted by the Supreme Court, IDEA requires school districts to reimburse parents for their private-school expenses if (1) school officials failed to offer the child a free appropriate public education in a public or private school; (2) the private-school placement chosen by the parents was otherwise "proper under the Act"; and (3) the equities weigh in favor of reimbursement—that is, the parents did not otherwise act "unreasonabl[y]." *Leggett v. District of Columbia*, 793 F.3d 59, 66–67 (D.C. Cir. 2015) (citing Carter, supra, 510 U.S. at 15–16, 114 S.Ct. 361; 20 U.S.C. § 1412(10)(C)(iii)(III)).

Petitioner seeks reimbursement for the year of tuition at School B SY 2024-2025. DCPS denied the Student a FAPE by not providing the Student an educational placement at the start of SY 2024-2025. The evidence demonstrates that at School B, the Student received some educational benefits and showed improvement in educational performance.

There was no evidence of Petitioners actions or inaction that would nullify or indicate any need to reduce the reimbursement. The equities in this instance support reimbursement.

Based upon this evidence, the IHO concludes that School B meets the requirements for the Petitioners' reimbursement for the Student's tuition and costs of attendance for SY 2024-2025.

ORDER:

1. Within thirty (30) calendar days of Petitioner presenting DCPS with appropriate documentation of her payment(s) to School B, DCPS shall reimburse Petitioner for the payment(s) they personally made to School B for the Student's attendance at School B for SY 2024-2025.

2. Within thirty (30) calendar days of the issuance of this order, DCPS shall convene an MDT to review the Student's progress at School C and review and revise the Student's EIP as appropriate.

3. The claims raised in Petitioner's DCPS against OSSE are hereby dismissed with prejudice.

4. All other relief requested by Petitioner is denied.

APPEAL PROCESS:

The decision issued by the Hearing Officer is final, except that any party aggrieved by the findings and decision of the Hearing Officer shall have ninety (90) days from the date of the decision of the Hearing Officer to file a civil action with respect to the issues presented at the due process hearing in a District Court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. §1415(i)(2).

/S/ *Coles B. Ruff*

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Coles B. Ruff, Esq.
Hearing Officer
Date: December 22, 2025

Copies to: Counsel for Petitioners
Counsel for Respondent LEA
ODR due.process@dc.gov