

**DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**

Office of Dispute Resolution
1050 First Street, N.E., Third Floor
Washington, D.C. 20002

OSSE
Office of Dispute Resolution
February 01, 2024

<i>Student</i> , ¹)	Case No.: 2023-0203
through <i>Parent</i> ,)	
<i>Petitioner</i> ,)	Date Issued: 2/1/24
)	
v.)	Hearing Officer: Keith L. Seat, Esq.
)	
Office of the State Superintendent of)	Hearing Date (using Microsoft Teams):
Education (“OSSE”),)	1/26/24
Respondent.)	
)	

HEARING OFFICER DETERMINATION

Background

Petitioner, Student’s Parent, pursued a due process complaint alleging that Student had been denied a free appropriate public education (“FAPE”) in violation of the Individuals with Disabilities Education Improvement Act (“IDEA”) due to OSSE’s failure to provide adequate transportation services. OSSE responded that transportation services had largely been provided and there was no denial of FAPE.

Subject Matter Jurisdiction

Subject matter jurisdiction is conferred pursuant to the IDEA, 20 U.S.C. § 1400, *et seq.*; the implementing regulations for IDEA, 34 C.F.R. Part 300; and Title V, Chapter A30, of the District of Columbia Municipal Regulations (“D.C.M.R.”).

Procedural History

Following the filing of the due process complaint on 10/18/23, the case was assigned to the undersigned on 10/19/23. Respondent filed a response on 10/25/23 and objected to

¹ Personally identifiable information is provided in Appendix A, including terms initially set forth in italics. Personal pronouns and other terms that would indicate Student’s gender are omitted.

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portions of the complaint that purported to state a claim for systemic relief.² OSSE filed a Partial Motion to Dismiss on 10/25/23 asserting lack of subject matter jurisdiction by Hearing Officers over systemic violations, which was briefed and granted by order of the undersigned on 11/2/23.

In the absence of a resolution period in cases against OSSE, a final decision in this matter must be reached no later than 45 days after the due process complaint, as extended by a 70-day continuance, which requires a Hearing Officer Determination (“HOD”) by 2/10/24.

A prehearing conference was held on the record on 11/27/23 and a Prehearing Order was issued that same day addressing, among many other things, the use of a videoconference platform to conduct the due process hearing. The due process hearing took place on 1/26/24 and was closed to the public. Petitioner was represented by *Petitioner’s counsel*. OSSE was represented by *Respondent’s counsel*. Petitioner participated in a portion of the hearing.

On 11/22/23, Petitioner filed a Motion to Compel Respondent to Answer the Due Process Complaint and to Produce Documents. The parties agreed during the prehearing conference that the motion might be moot by 12/1/23, as memorialized in the Prehearing Order. The undersigned inquired about the need for the motion on 1/6/24 and noted that it would be considered moot unless it was renewed; Petitioner’s counsel responded on 1/9/24 that it should remain pending and the motion is hereby denied as moot.

Documents and Witnesses

Petitioner’s Disclosure, submitted on 1/19/24, contained documents P1 through P67, all of which were admitted over limited objections, except for P46p317-25 and P56, which were withdrawn by Petitioner. Respondent’s Disclosure, also submitted on 1/19/24, contained documents R1 through R5, which were admitted into evidence without objection.³

Petitioner’s counsel presented 2 witnesses in Petitioner’s case-in-chief (*see* Appendix A):

1. Parent

² At this time, the Hearing Officer has jurisdiction to decide all allegations in the complaint relating to the identification, evaluation or educational placement of Student or the provision of a free appropriate public education to Student. Challenges to jurisdiction may be made at any time.

³ Citations herein to the parties’ documents are identical except that Petitioner’s documents begin with a “P,” while Respondent’s documents begin with an “R,” followed by the exhibit number and then a “p” (for page) and the Bates page number or numbers (which are numbered consecutively through to the end of the exhibits), with any leading zeros omitted.

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2. *Special Education Expert* (qualified without objection as an expert in Special Education Services and Compensatory Education)

Respondent's counsel presented 1 witness in Respondent's case (*see* Appendix A):

1. *Associate Director*

Petitioner's counsel submitted no rebuttal evidence.

Issues and Relief Requested

The issue to be determined in this Hearing Officer Determination is:

Issue: Whether OSSE denied Student a FAPE by failing to provide consistent, reliable and appropriate transportation to Student during the 2022/23 school year and into the 2023/24 school year. (*Petitioner has the burden of persuasion on this issue.*)

The relief requested⁴ by Petitioner is:

1. A finding that Student has been denied a FAPE.
2. OSSE shall provide consistent, reliable and appropriate transportation to and from school pursuant to Student's IEP.
3. OSSE shall reimburse Petitioner for the costs of transporting Student to and from school when OSSE failed to do so.
4. OSSE shall notify Student's family of any changes to transportation, including changes to route, delays and cancellations.
5. OSSE shall provide compensatory education for any denials of FAPE, including tutoring and related services from providers of Petitioner's choice.⁵

⁴ At the beginning of the due process hearing, Petitioner's counsel withdrew without prejudice the relief requested in paragraph 5 of the Prehearing Order, which stated in full, "OSSE shall authorize comprehensive independent educational evaluations ("IEEs") of Student, including (a) psychoeducational, (b) speech-language, (c) assistive technology, (d) occupational therapy, and (e) neuropsychological."

⁵ Petitioner's counsel was put on notice at the prehearing conference that at the due process hearing Petitioner must introduce evidence supporting the requested compensatory education, including evidence of specific educational deficits resulting from Student's alleged denial of FAPE and the specific compensatory measures needed to best correct those deficits, i.e., to elevate Student to the approximate position Student would have enjoyed had Student not suffered the alleged denial of FAPE. Respondent was encouraged to be prepared at the due process hearing to introduce evidence contravening the requested compensatory education in the event a denial of FAPE was found.

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6. Any other appropriate relief.

Findings of Fact

After considering all the evidence, as well as the arguments of counsel, the Findings of Fact⁶ are as follows:

1. Background. Student is a resident of the District of Columbia; Petitioner is Student's Parent.⁷ Student is *Age, Gender* and attends *Public School*.⁸ Student is about 4-5 years behind general education peers, but loves school and playing musical instruments.⁹

2. IEPs. Student has had IEPs for a number of years.¹⁰ The first IEP relevant to this case is dated 4/22/22, which confirmed Student's disability as Autism Spectrum Disorder ("ASD"), provided 27 hours/week of specialized instruction outside general education and 120 minutes/month of speech-language services outside general education, along with special education transportation.¹¹ The other relevant IEP is Student's current IEP dated 3/30/23, which also provided 27 hours/week of specialized instruction outside general education and 120 minutes/month of speech-language services outside general education, along with special education transportation.¹²

3. Transportation. On the first day of school in 2022/23,¹³ Student was picked up by OSSE and taken to the wrong school; Parent only became aware of the problem when a second bus arrived later to pick up Student; Student was not located until noon or 1:00 p.m. and was "emotional."¹⁴ The next day there was no bus; Parent was told Student was not on the roster.¹⁵ Another time, the bus inexplicably delivered Student to an address where

⁶ Footnotes in these Findings of Fact refer to the sworn testimony of the witness indicated or to an exhibit admitted into evidence. To the extent that the Hearing Officer has declined to base a finding of fact on a witness's testimony that goes to the heart of the issue(s) under consideration, or has chosen to base a finding of fact on the testimony of one witness when another witness gave contradictory testimony on the same issue, the Hearing Officer has taken such action based on the Hearing Officer's determinations of the credibility and/or lack of credibility of the witness(es) involved.

⁷ Parent.

⁸ P1p8.

⁹ Parent; Special Education Expert.

¹⁰ Parent.

¹¹ P2p28,45,48.

¹² Special Education Expert; P1p8,22,25.

¹³ All dates in the format "2022/23" refer to school years.

¹⁴ Parent.

¹⁵ *Id.*

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Student had not lived in a couple of years, where Student had suffered a significant trauma.¹⁶

4. Student's morning bus did not show up for two weeks at the beginning of 2022/23; Parent was left to figure out Student's transportation.¹⁷ Parent called the Parent Center at OSSE once or twice a day until there was progress with Student's transportation; the hold time at OSSE was about 45 minutes for each call; Parent was very frustrated.¹⁸ Student often missed full days of school when the bus did not come in the morning.¹⁹

5. Parent had to be at work by 6:00 a.m. at a location an hour or more away; all the distractions caused by Student's transportation issues threatened Parent's employment; she was in meetings while on long holds to reach OSSE.²⁰ Student's 17-year-old sister would alert Parent to make arrangements when the bus didn't arrive.²¹ Parent would sometimes seek help from her friends; other times Student would go to school by Uber or Lyft with a 29-year-old cousin; Public School would sometimes pay for the Uber or Lyft.²² When there was no bus, Student was often hours late to school or had to stay home with cousin.²³ OSSE tried to improve the situation and promised at one point that the bus would arrive at 6:00 or 6:15 a.m., but it didn't arrive until 7:30 or 8:00 a.m.²⁴ Morning pick-up continued to be a problem through 2022/23.²⁵

6. At the beginning of 2023/24, Student was again not on the bus roster, so was late; Parent (at a new job) had to take Student to school.²⁶ OSSE failed to communicate to say whether the bus would be early or late; Parent would call OSSE to try to find out where the bus was.²⁷ Transportation finally improved in October 2023 when OSSE began sending a private van which consistently picked up Student, and the driver and assistant were very caring, so Student was able to relax about transportation.²⁸

7. Based on Special Education Expert's close review of OSSE's morning route analysis, and using OSSE's definition of lateness as arrival after the 8:45 a.m. bell at Public School, Special Education Expert concluded that Student was impacted by the bus not coming at the right time (or at all) on 50 out of 149 days in 2022/23 and 10 out of 24 days in the first portion of 2023/24, for a total of 60 days when Student was impacted by problems

¹⁶ Parent; Associate Director; P54p430.

¹⁷ R2p6; Parent; P54; P57.

¹⁸ Parent; P54; P54p426 ("at the end of my rope dealing with OSSE"); P55p438.

¹⁹ Parent; P54; P57.

²⁰ Parent. R3; Associate Director.

²¹ Parent.

²² Parent; P57.

²³ Parent.

²⁴ *Id.*

²⁵ Parent; R2.

²⁶ *Id.*

²⁷ Parent.

²⁸ *Id.*

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with the bus.²⁹ Associate Director's calculations of Student's problems with the bus in the morning were somewhat lower than Special Education Expert's; Associate Director did not undermine Petitioner's calculations.³⁰ In the afternoons, Student was dropped off late 92 out of 140 days.³¹

8. Applying OSSE's goal of getting children to school 10 minutes before the bell to allow them to get to the proper location in the building before the bell, Student was late 84 of 149 days in 2022/23.³² Student's bus was late 15 out of 24 days in 2023/24 if applying OSSE's goal of the bus arriving 10 minutes prior to the bell.³³

9. Impact. Transportation is very important to Student; Student was greatly impacted by lack of transportation or any change in routine; when there was no bus, Student was distraught all day.³⁴ If Student was unexpectedly home, Student would refuse to eat because that was what Student did upon arriving at school.³⁵ Arriving at school late would cause Student to miss part of the morning, including breakfast which was important beyond nutrition for the social interaction with general education peers.³⁶ Arriving home late in the afternoons did not impact Student's IEP services, but did interfere with Student's outside therapy and routines at home.³⁷

10. Student has a calendar to help Student understand when things will happen; it is a problem if things don't happen as expected, such as the bus coming early or late or not at all.³⁸ The snow days in January 2024 upset the routine and caused Student to be in "panic" mode.³⁹ When in panic mode, Student repeats words over and over.⁴⁰ It takes 10-30 minutes to calm Student from a small upset, and up to 3-4 hours to calm Student from a large upset to Student's routine when Student becomes dysregulated.⁴¹ When upset, Student is unavailable for instruction and cannot take in information.⁴²

11. Compensatory Education. Based on Special Education Expert's conclusion that Student was impacted 60 days going to school in the morning, as well as some impact from the many days the bus was late in the afternoons, along with how long it took Student to

²⁹ Special Education Expert; R2.

³⁰ Associate Director.

³¹ R3; Associate Director.

³² Special Education Expert; Associate Director; R2; P66p1132,1421 (OSSE goal for "on time performance" is the bus arriving at school at least 10 minutes before the bell).

³³ Special Education Expert; R2.

³⁴ Parent.

³⁵ *Id.*

³⁶ Special Education Expert; Parent.

³⁷ *Id.*

³⁸ Parent; Special Education Expert.

³⁹ *Id.*

⁴⁰ Parent.

⁴¹ Parent; Special Education Expert.

⁴² Special Education Expert.

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master an IEP goal and the hours of services missed, Special Education Expert credibly concluded that an award of 240 hours of 1:1 tutoring and 6 hours of speech-language services would be appropriate to restore Student to the position Student would have been in but for the denial of FAPE in this case.⁴³ Special Education Expert testified that such services would likely take more than a year to complete; Student would be willing to participate in that amount of services if incorporated into Student's routine.⁴⁴

Conclusions of Law

Based on the Findings of Fact above, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law are as follows:

The overall purpose of the IDEA is to ensure that "all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A). See *Boose v. Dist. of Columbia*, 786 F.3d 1054, 1056 (D.C. Cir. 2015) (the IDEA "aims to ensure that every child has a meaningful opportunity to benefit from public education").

"The IEP is 'the centerpiece of the statute's education delivery system for disabled children.'" *Andrew F. ex rel. Joseph F. v. Douglas County Sch. Dist. RE-1*, 137 S. Ct. 988, 994, 197 L. Ed. 2d 335 (2017), quoting *Honig v. Doe*, 484 U.S. 305, 311, 108 S. Ct. 592, 98 L. Ed. 2d 686 (1988). "The IEP is the means by which special education and related services are 'tailored to the unique needs' of a particular child." *Andrew F.*, 137 S. Ct. at 994, quoting *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 181, 102 S. Ct. 3034, 73 L. Ed. 2d 690 (1982).

Once a child who may need special education services is identified and found eligible, Respondent must devise an IEP, mapping out specific educational goals and requirements in light of the child's disabilities and matching the child with a school capable of fulfilling those needs. See 20 U.S.C. §§ 1412(a)(4), 1414(d), 1401(14); *Andrew F.*, 137 S. Ct. at 994; *Sch. Comm. of Town of Burlington, Mass. v. Dep't of Educ. of Mass.*, 471 U.S. 359, 369, 105 S. Ct. 1996, 2002, 85 L. Ed. 2d 385 (1985); *Jenkins v. Squillacote*, 935 F.2d 303, 304 (D.C. Cir. 1991); *Dist. of Columbia v. Doe*, 611 F.3d 888, 892 n.5 (D.C. Cir. 2010).

The IEP must be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Andrew F.*, 137 S. Ct. at 1001. The Act's FAPE requirement is satisfied "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." *Smith v. Dist. of Columbia*, 846 F. Supp. 2d 197, 202 (D.D.C. 2012), citing *Rowley*, 458 U.S. at 203. The IDEA imposes no additional requirement that the services so provided be sufficient to maximize each child's potential. *Rowley*, 458 U.S. at 198. In its decision, the Supreme

⁴³ *Id.*

⁴⁴ *Id.*

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Court made very clear that the standard is well above *de minimis*, however, stating that “[w]hen 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.” *Andrew F.*, 137 S. Ct. at 1001.

A Hearing Officer’s determination of whether a child received 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. 34 C.F.R. § 300.513(a). In other words, an IDEA claim is viable only if those procedural violations affected the child’s *substantive* rights. *Brown v. Dist. 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).

Petitioner carries the burden of production and persuasion, except on issues of the appropriateness of an IEP or placement on which Respondent has the burden of persuasion, if Petitioner establishes a *prima facie* case. D.C. Code Ann. § 38-2571.03(6); *Z. B. v. Dist. of Columbia*, 888 F.3d 515, 523 (D.C. Cir. 2018) (party seeking relief bears the burden of proof); *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62, 126 S. Ct. 528, 537, 163 L. Ed. 2d 387 (2005).

Issue: *Whether OSSE denied Student a FAPE by failing to provide consistent, reliable and appropriate transportation to Student during the 2022/23 school year and into the 2023/24 school year. (Petitioner has the burden of persuasion on this issue.)*

This case is entirely focused on the related service of school transportation. Related services must be provided if required to assist a student with a disability to benefit from special education. See 34 C.F.R. § 300.34(a). “The [IDEA] makes specific provision for services, like transportation, for example, that do no more than enable a child to be physically present in class.” *Irving Independent Sch. Dist. v. Tatro*, 468 U.S. 883, 891, 104 S. Ct. 3371, 3376, 82 L. Ed. 2d 664 (1984) (citing 20 U.S.C. § 1401(17)). The definition of “transportation” clearly includes “[t]ravel to and from school and between schools....” 34 C.F.R. § 300.34(c)(16)(i). In this case, Student’s IEPs unambiguously provided for school transportation, and the issue is simply whether they were appropriately implemented. The undersigned concludes that Petitioner did meet her burden of persuasion on the issue of IEP implementation of transportation, which was not seriously contested by OSSE.

With a failure to implement claim, the IDEA is only violated when a school district deviates materially from a student’s IEP. See *Middleton v. Dist. of Columbia*, 312 F. Supp. 3d 113, 144 (D.D.C. 2018); *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 822 (9th Cir. 2007). A material deviation requires more than a minor discrepancy or a “*de minimis* failure to implement all elements of [the student’s] IEP.” *Johnson v. Dist. of Columbia*, 962 F. Supp. 2d 263, 268 (D.D.C. 2013), quoting *Catalan ex rel. E.C. v. Dist. of Columbia*, 478 F. Supp. 2d 73, 75 (D.D.C. 2007). Courts are clear that it is “the proportion of services mandated to those provided that is the crucial measure for purposes of determining whether there has been a material failure to implement.” *Turner v. Dist. of*

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Columbia, 952 F. Supp. 2d 31, 41 (D.D.C. 2013), citing *Wilson v. Dist. of Columbia*, 770 F. Supp. 2d 270, 275 (D.D.C. 2011). Notably, there is “no requirement that the child suffer educational harm in order to find a violation” in a failure to implement claim. *James v. Dist. of Columbia*, 194 F. Supp. 3d 131, 139 (D.D.C. 2016).

Here, OSSE does not dispute that Student was entitled to transportation as a related service pursuant to Student’s IEPs. Nor is there serious controversy over the extent of OSSE’s failure to provide timely and appropriate transportation to Student, who is autistic and in need of as much regularity in daily schedules as can be provided. OSSE’s own route analysis of its bus service for Student was the basis for Petitioner’s expert to conclude that Student was impacted by the bus not coming at the right time – or at all – on some 50 out of 149 days in 2022/23 (34% of the time), and another 10 out of 24 days (42%) in the first portion of 2023/24, for a total of 60 days. While Associate Director’s calculations of Student’s problems with the bus in the morning were somewhat lower than Petitioner’s, the undersigned does not view Associate Director as undermining Petitioner’s calculations and Respondent’s counsel explained the closeness of the numbers. The afternoon figures were even more dramatic, with Student dropped off late 92 out of 140 days, or 66% of the time.

It is noteworthy that OSSE uses bell time (here 8:45 a.m.) in advocacy to determine whether its buses are late, which was adopted by Special Education Expert in his calculations. OSSE’s actual goal is to get children to school 10 minutes before the bell to allow them to get situated in the proper location in the school building before the bell. By this standard, Student was late 84 of 149 days in 2022/23 (56% of the time), and late 15 out of 24 days in 2023/24 (62% of the time).

While the difficulty of providing safe, timely and reliable bus service to Student and other children in need of transportation may be daunting, that does not excuse OSSE from more than a *de minimis* failure to provide required transportation services. *See, e.g., Middleton*, 312 F. Supp. 3d at 145 (20% deviation from IEP requirements was material and could not be excused as *de minimis*); *Wade v. Dist. of Columbia*, 322 F. Supp. 3d 123, 133 (D.D.C. 2018) (27% deviation was material). The undersigned concludes that OSSE’s failures to provide consistent, reliable and appropriate transportation to Student were far more than *de minimis* and rise to a denial of FAPE by preventing access to Student’s education, resulting in remedies including an award of compensatory education, discussed next.

Remedies

Having analyzed and resolved the issue in this case, what remains is to consider suitable remedies, including an award of compensatory education, to make up for the denial of FAPE found above. As an initial matter, OSSE is ordered to comply with Student’s IEP and improve its transportation for Student going forward (which may well benefit other children as well), along with providing communication to Student’s family about transportation changes to the extent practicable. Petitioner included a request for relief which included reimbursement for the cost of Parent transporting Student to and from school when OSSE did not. However, Parent noted the burden of trying to calculate the

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expense and did not submit even an estimate in the record, so reimbursement is not awarded.

In determining the scope of compensatory education for the denial of FAPE, there is often “difficulty inherent in figuring out both what position a student would be in absent a FAPE denial and how to get the student to that position,” *B.D. v. Dist. of Columbia*, 817 F.3d 792, 799 (D.C. Cir. 2016), but that does not permit the effort to be avoided. See *Henry v. Dist. of Columbia*, 750 F. Supp. 2d 94, 98 (D.D.C. 2010) (a disabled student who has been denied special education services is entitled to a tailored compensatory education award and limitations of the record are no excuse). Moreover, a student is not required “to have a perfect case to be entitled to compensatory education.” *Cousins v. Dist. of Columbia*, 880 F. Supp. 2d 142, 148 (D.D.C. 2012) (citations omitted). Further, with a failure to implement claim, as here, Petitioner need not even show that there was educational harm to Student. *James*, 194 F. Supp. 3d at 139.

Special Education Expert testified that Student should be provided 240 hours of specialized instruction and 6 hours of speech-language services to make up for the dozens of times that the bus was late or failed to arrive in the morning during 2022/23 and the first part of 2023/24. Special Education Expert affirmed that such compensatory education would restore Student to the position in which Student should have been, but for the denial of FAPE. At the due process hearing, OSSE acknowledged that it lacked a basis to dispute Petitioner’s compensatory education assertions, which the undersigned adopts.

This determination by the undersigned has been specifically tailored to address Student’s unique needs as a matter of equity, as “hearing officers are reminded that ‘[t]he essence of equity jurisdiction’ is ‘to do equity and to mould each decree to the necessities of the particular case.’” *Lopez-Young v. Dist. of Columbia*, 211 F. Supp. 3d 42, 55 (D.D.C. 2016), quoting *Reid ex rel. Reid v. Dist. of Columbia*, 401 F.3d 516, 523-24 (D.C. Cir. 2005). All compensatory education hours are to be used within 24 months, although the undersigned encourages Parent to get Student engaged as quickly as possible to ensure that the remedial services that Student needs are implemented without delay.

ORDER

Petitioner has prevailed on the sole issue in this case, as set forth above. Accordingly, **it is hereby ordered that:**

1. OSSE shall provide consistent, reliable and appropriate transportation to and from Public School pursuant to Student’s IEP and, to the extent practicable, notify Student’s family of any changes to Student’s transportation, including changes to route, delays and cancellations.
2. As compensatory education for the denial of FAPE found herein, within 10 business days after request by Petitioner, OSSE shall provide a letter(s) of authorization for (a) 240 hours of 1:1 academic tutoring, and (b) 6 hours of speech-language services, from independent providers chosen by Petitioner; all hours are to be used within 24 months and any unused hours shall be forfeited. .

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Any and all other claims and requests for relief are **dismissed with prejudice**.

IT IS SO ORDERED.

Dated in Caption

/s/ *Keith Seat*

Keith L. Seat, Esq.
Hearing Officer

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within ninety (90) days from the date of the Hearing Officer Determination in accordance with 20 U.S.C. § 1415(i).

Copies to:

Counsel of Record (Appendix A, by email)
ODR (hearing.office@dc.gov)