

**DISTRICT OF COLUMBIA**  
**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**  
Office of Dispute Resolution  
1050 First Street, NE, 3rd Floor  
Washington, DC 20002

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DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS,

Date Issued: July 6, 2021

Petitioner,

Hearing Officer: Peter B. Vaden

Case No: 2021-0053

v.

Online Video Conference Hearing

PARENTS,  
on behalf of STUDENT,<sup>1</sup>

Hearing Dates: May 27 and June 22, 2021

Respondents.

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**HEARING OFFICER DETERMINATION**

**INTRODUCTION AND PROCEDURAL HISTORY**

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by the local education agency (LEA), Petitioner District of Columbia Public Schools (DCPS), under the Individuals with Disabilities Education Act, as amended (the IDEA), 20 U.S.C. § 1400, *et seq.*, and Title 5-E, Chapter 5-E30 of the District of Columbia Municipal Regulations (“D.C. Regs.”). In response to a request from the parents’ representative for public funding for Independent Educational Evaluations (IEEs), DCPS seeks a determination that its fall 2019 special education reevaluations of Student were appropriate,.

Student, an AGE youth, is a resident of the District of Columbia. DCPS’ Due Process Complaint, filed on April 28, 2021, named FATHER and MOTHER as respondents. The undersigned Hearing Officer was appointed on April 29, 2021. The

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<sup>1</sup> Personal identification information is provided in Appendix A.

parents, by counsel, filed their response to DCPS' complaint on May 10, 2021. On May 5, 2021, I convened a telephone prehearing conference with counsel to discuss the hearing date, issues to be determined and other matters. Because the complaint in this case was brought by the LEA, not by the parents, there was no provision for a resolution period. See 34 C.F.R. § 300.510. My final decision was originally due by June 12, 2021.

On May 15, 2021, DCPS filed a motion for summary decision in its favor based on the doctrine of *res judicata*. Also, on May 15, 2021, the parents, by counsel, filed a motion to dismiss the complaint, or for a directed finding, on the asserted grounds that DCPS' complaint failed to state a claim for which relief may be granted and because DCPS unnecessarily delayed in the filing of its complaint. By order issued May 20, 2021, I denied the respective parties' motions.

Due to the closing of the hearing rooms at the Office of Dispute Resolution in the wake of the COVID-19 virus outbreak, the due process hearing was held on line and recorded, using the Microsoft Teams video conference platform. The hearing, which was closed to the public, was convened before the undersigned impartial hearing officer on May 27 and June 22, 2021. Mother appeared on line for the hearing and the parents were represented by RESPONDENTS' COUNSEL and RESPONDENTS' CO-COUNSEL. Spanish language interpreters interpreted the proceedings for Mother. DCPS was represented by LEA REPRESENTATIVE 1 and by DCPS' COUNSEL. The hearing was not completed on May 27, 2021. I scheduled a second hearing day, initially for June 25,

2021, which was rescheduled to June 22, 2021. To accommodate the additional hearing day, over the parents' objection, I granted DCPS' request to extend the final decision due date from June 12, 2021 to July 9, 2021.

Counsel for the respective parties made opening statements. DCPS called as witnesses LEA REPRESENTATIVE 2, DCPS PSYCHOLOGIST, DCPS SPEECH-LANGUAGE PATHOLOGIST (DCPS SLP), RESOLUTION SPECIALIST and LEA Representative 1. Mother testified for the Respondents and the parents called INDEPENDENT SPEECH-LANGUAGE PATHOLOGIST (Independent SLP) as an additional witness. Petitioner DCPS' Exhibits P-2 through P-4, P-5 (Pages 10 through 25 only), P-6 through P-16, P-18, P-21, P-25, P-28 and P-29 were admitted into evidence, including Exhibit P-8 admitted over the parents' objection. Respondent parents' exhibits, R-1 (Pages 5 through 9 only), R-2 through R-4, R-6, R-7, R-10 and R-12 through R-14 were admitted into evidence, including Exhibits R-1 (Pages 5 through 9), R-2 and R-4 admitted over DCPS' objections.<sup>2</sup>

On June 8, 2021, the parents, by counsel, filed a renewed motion for dismissal or for a directed finding, to which DCPS filed a response in opposition. By a written decision issued on June 16, 2021, I took the motion under advisement.

On June 22, 2021, after the presentation of evidence was completed, counsel for

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<sup>2</sup> In their respective prehearing disclosures, DCPS and the parents mislabeled their exhibits using erroneous "P" and "R" markings. In this matter, DCPS is the Petitioner and the parents are the Respondents. For this decision, all DCPS exhibits are referenced with the letter "P" prefix. All parent exhibits are referenced with the letter "R".

the respective parties made oral closing arguments. There was no request to file post-hearing briefs.

### **JURISDICTION**

The Hearing Officer has jurisdiction under 20 U.S.C. § 1415(f) and D.C. Regs. tit. 5-E, § 3029.

### **ISSUES AND RELIEF SOUGHT**

The following issue for determination was certified in the May 5, 2021 Prehearing Order:

Whether DCPS' December 5, 2019 comprehensive psychological reevaluation of the student, completed by DCPS Psychologist, and DCPS' November 15, 2019 speech-language reevaluation, completed by DCPS Speech-Language Pathologist, were appropriate, and the parents are not entitled to IEEs at public expense.

For relief, DCPS requests that the hearing officer determine that its 2019 psychological reevaluation and 2019 speech and language reevaluation of Student were appropriate and that the parents are not entitled to publicly-funded IEEs.

### **FINDINGS OF FACT**

After considering all of the evidence, as well as the argument of counsel, this Hearing Officer's Findings of Fact are as follows:

1. Student, an AGE youth, resides in the District of Columbia. Testimony of Mother. Student is eligible for special education as a student with an Intellectual Disability (ID). Exhibit P-9.
2. Student is bilingual in English and Spanish. Testimony of DCPS SLP.

Spanish is spoken in the home. Mother speaks only very little English. Testimony of Mother.

3. In a prior due process proceeding brought by the parents, Case No. 2020-0186, the parents alleged that DCPS denied Student a FAPE by improperly changing Student's school during the 2020-2021 school year; by conducting Individualized Education Program (IEP) meetings in the 2019-2020 and 2020-2021 school years without a certified Spanish language interpreter and by not providing Spanish translations of all IEPs, evaluations, and notices provided to the parents; by not providing timely access to Student's education records; by not providing Student an educational placement in the least restrictive environment in a spring 2020 IEP; and by excluding Student from instruction for more than 10 school days. Exhibit R-2.

4. In a February 2, 2021 Hearing Officer Determination (the February 2, 2021 HOD), Impartial Hearing Officer Michael Lazan found in favor of DCPS on all issues, except to determine that DCPS had denied Student a FAPE by providing certain IEPs, evaluations, and notices to the parents only in the English language. For relief, Hearing Officer Lazan ordered DCPS to fund a compensatory education evaluation, by an impartial expert, charged to recommend an appropriate compensatory education award for Student. Exhibit R-2. (In my Findings of Fact below, I adopt certain relevant Findings of Fact from the February 2, 2021 HOD. The adopted findings from the prior decision are cited as "R-2\*").

5. During the 2019-2020 school year when Student attended SCHOOL 1, a DCPS bilingual school, Student's teachers noticed that the Student was not making adequate progress despite interventions. As a result, DCPS decided to conduct a psycho-educational assessment, an occupational therapy assessment, and a speech and language assessment of Student. Exhibit R-2\*.

6. On November 14, 2019, DCPS SLP conducted a Speech and Language Reevaluation of Student. The assessment tools and strategies she used included a Teacher Report, Classroom Observation, Informal Oral Mechanism, Voice, Fluency, and Pragmatic Assessment, Behavioral Observations, the Receptive One-Word Picture Vocabulary Test-4 (ROWPVT-4), the Expressive One-Word Picture Vocabulary Test-4 (EOWPVT-4), the Clinical Evaluation of Language Fundamentals-5 (CELF-5) and the Goldman Fristoe Test of Articulation (GFTA-3). DCPS SLP administered the ROWPVT-4, EOWPVT-4 and CELF-5 in English, with the assistance of a trained Spanish language interpreter. Standardized scores could not be obtained for the administration of these assessment as they had not been normed for a bilingual population (ROWPVT-4, EOWPVT-4) or for the use of an interpreter (CELF-5). In her report issued on or about November 15, 2019<sup>3</sup>, DCPS SLP reported that Student's performance on the speech and language evaluation in 2019 revealed no change in ability since Student was last assessed in 2016 across all domains except articulation,

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<sup>3</sup> The report is dated, incorrectly, November 15, 2016.

where Student demonstrated slight growth, and receptive vocabulary, where Student demonstrated a slight decline. DCPS SLP recommended that Student's level of functioning indicated that Student's communication challenges do impact Student's ability to perform and function in the typical learning environment. Exhibit R-3.

7. On December 5, 2019, DCPS Psychologist issued a Confidential Triennial Evaluation report concerning Student. DCPS Psychologist noted that Student had issues with instructions in class, and engaged in inappropriate activities such as raising Student's hand while not knowing the answer. On standardized testing, Student scored in the 1st percentile rank on the General Intelligence Assessment ("GIA"), a cognitive measure. On academic testing, on the Woodcock-Johnson Tests of Achievement IV ("WJ-IV"), Student's overall broad academic performance was low average. Student did receive higher scores in mathematics and writing on un-timed achievement tests. But on complex tasks, Student's scores were very low. Student also scored low on adaptive testing pursuant to the Adaptive Behavior Assessment System-Third Edition ("ABAS-III"). DCPS Psychologist recommended that the parents should be encouraged to consider the benefits of a smaller, more structured environment, and that Student should read and reread passages orally in English or Spanish, with Student's teachers or parents providing guidance and feedback. Exhibit R-2\*.

8. On or about December 10, 2019, DCPS Psychologist and a School 1 special education staff person met with Mother and reviewed the recent assessments of Student

in Spanish. On December 16, 2019, an eligibility meeting was held for Student. DCPS staff gave Mother a copy of the evaluations, and then explained them to her in Spanish. It was decided that Student should be determined to be eligible for special education as a student with an Intellectual Disability. Exhibit R-2\*.

9. Due to the COVID-19 pandemic, DCPS schools closed for in-person classes in March 2020. Hearing Officer Notice. Student attended on-line virtual instruction at School 1 for approximately five days at the start of the 2020-2021 school year. Shortly thereafter, Student was no longer able to access the virtual classes at School 1 and the school asked for its computer back. DCPS then “manually” enrolled Student at SCHOOL 2 so that Student could access virtual classes. On September 24, 2020, School 2 sent a welcome email to the parents. Exhibit R-2\*.

10. In the February 2, 2021 HOD, Hearing Officer Lazan noted that the parents had requested, as relief, an IEE of Student, but that this request for an IEE was not clarified or discussed during closing argument. In the final decision, Hearing Officer Lazan expressly denied the parents’ IEE request. Exhibit R-2.

11. On February 4, 2021, Respondents’ Counsel wrote School 2 staff, on behalf of Mother. The attorney requested an IEP meeting and requested all IEP-related, academic, behavioral and attendance records for Student. In the February 4, 2021 email, Respondents’ Counsel stated that “the parent disagrees with DCPS’s 2019 evaluation that labeled [Student] as a student with ‘intellectual disability’ . . .” In that



email, Respondents' Counsel did not request IEE assessments of Student. Exhibit R-1.

12. On March 24, 2021, School 2 convened a virtual IEP team meeting for Student. Mother and Respondents' Counsel attended by telephone. In a follow-up email sent March 31, 2021, Respondents' Counsel wrote that in accordance with Mother's disagreement about the evaluations, Mother requested at the March 24, 2021 IEP meeting that DCPS provide authorization for IEEs. Exhibit R-1. Mother testified at the due process hearing in this case. From the responses in her testimony, it did not appear that Mother was knowledgeable the IDEA's provision for IEEs – that is, an evaluation at public expense, by an examiner not employed by DCPS, if the parent disagrees with an evaluation obtained by the District. *See* 34 C.F.R. § 300.502(a). Testimony of Mother. DCPS denies that Mother requested an IEE at the March 24, 2021 meeting. I find that Respondents have not established, by a preponderance of the evidence, that at the March 24, 2021 IEP team meeting, Mother requested an IEE of Student, within the meaning of 34 C.F.R. § 300.502(a). Respondents have established, and DCPS does not dispute, that Mother, by counsel, requested an IEE in the March 31, 2021 email from Respondents' Counsel.

### **CONCLUSIONS OF LAW**

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

Burden of Proof

As provided in the D.C. Special Education Students Rights Act of 2014, except where there is a dispute about the appropriateness of the child’s IEP or placement, or of the program or placement proposed by DCPS, the party who filed for the due process hearing bears the burden of production and the burden of persuasion. As the Petitioner in this case, DCPS has the burden of persuasion. The burden of persuasion shall be met by a preponderance of the evidence. *See* D.C. Code § 38-2571.03(6).

Analysis

1. Did DCPS request a hearing, without unnecessary delay, to show that its fall 2019 assessments of Student were appropriate?

The IDEA regulations provide parents with a limited right to obtain an IEE at public expense. An independent evaluation is one “conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.” 34 C.F.R. § 300.502(a)(3)(i). The limited right arises only after the LEA has procured an evaluation with which the parent “disagrees.” 34 C.F.R. § 300.502(b). The regulations limit the parent to one independent evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. *Id.* Once the parent expresses her disagreement, she may request an independent reevaluation at public expense, which the agency must, “without unnecessary delay,” either provide – or file a due process complaint to establish that its evaluation is “appropriate.” *See* 34 C.F.R. § 300.502(b)(2). The IDEA and its implementing regulations provide no

additional guidance on what constitutes an “unnecessary delay.” *Hill v. District of Columbia*, No. 14-CV-1893 (GMH), 2016 WL 4506972, at \*19 (D.D.C. Aug. 26, 2016).

In this case, following Mother’s 2021 request for an publicly-funded IEE for Student, based upon Mother’s expressed disagreement with DCPS’ 2019 reevaluations of Student, DCPS filed a due process complaint to establish that its 2019 psychological and speech and language reevaluations of Student were appropriate. Respondents assert as a defense that DCPS unnecessarily delayed filing its due process complaint following Mother’s request for an IEE of Student at public expense.

In their prior due process complaint in Case No. 2020-0186, the parents requested a publicly funded IEE of Student. In the February 2, 2021 HOD, Hearing Officer Lazan expressly denied the parents’ IEE request. Subsequently, by an email to DCPS sent March 31, 2021, Respondents’ Counsel renewed Mother’s request for an IEE of Student. On April 28, 2021, DCPS filed its due process complaint in the present case to establish that its December 2019 evaluations of Student were appropriate. DCPS was on Spring Break from April 12 through 16, 2021.

I find that in light of the intervening DCPS Spring Break, the lapse of time – less than 30 days – between Mother’s March 31, 2021 IEE request and DCPS’ filing its due process complaint in this case did not amount to unnecessary delay, particularly considering that Hearing Officer Lazan had denied the parents’ request for an IEE of Student in the February 2, 2021 HOD. *Compare Hill, supra* (81 day delay, without

explanation, unreasonable.)

2. Was DCPS' December 5, 2019 comprehensive psychological reevaluation of Student appropriate?

Generally, when a child has been evaluated for special education eligibility and the appropriateness of the LEA's evaluation is at issue, the hearing officer must consider whether the agency adequately gathered functional, developmental and academic information about the child's needs to determine the content of the IEP in all areas of suspected disability and that the evaluation was sufficiently comprehensive to identify all of the child's needs. 20 U.S.C. §§ 1412(a)(6)(B), 1414(b)(1–3); 34 C.F.R. § 300.304(b)(1–3), (c)(4, 6). When a student is evaluated for a specific disability, IDEA regulations require the following of the education agency: Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent; not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; use technically sound instruments which are selected and administered so as not to be discriminatory on a racial or cultural basis; and use the instruments for the purposes for which the assessments or measures are valid and reliable, administered in accordance with any instructions provided by the producer of the assessments. The LEA must also ensure that the assessments are administered by trained and knowledgeable personnel. *See* 34 C.F.R. § 300.304(b), (c).

Federal IDEA law and regulations do not impose any specific requirements on the content of a psychological evaluation. *See Richardson v. District of Columbia*, 273 F. Supp. 3d 94, 100. *See, also, Hill v. District of Columbia*, No. 14-CV-1893 (GMH), 2016 WL 4506972 (D.D.C. Aug. 26, 2016) (“In fact, the IDEA lacks specific parameters regarding the content of psychological evaluations, or for that matter, of other evaluations. It merely requires that such evaluations ‘use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.’ 20 U.S.C. § 1414(b)(2)(C). Its implementing regulations provide only that students be ‘assessed in all areas related to the suspected disability’ and that such evaluations use ‘[a] variety of assessment tools and strategies . . . to gather relevant functional and developmental information about the child [ . . . ] that may assist in determining – [t]he content of the child’s IEP.’ 34 C.F.R. § 300.304(b)(1), (c)(4).”)

I find that DCPS has met its burden of persuasion that its December 2019 psychological reevaluation of Student was appropriate. The assessor, DCPS Psychologist, was trained and knowledgeable in conducting psychological evaluations of students with disabilities. She qualified at the due process hearing as an expert witness with respect to evaluating students for special education in English and in Spanish. DCPS Psychologist has a masters degree in educational psychology and holds licensure or certification in the District of Columbia in Psychology and for teaching English as a

second language. Because the December 2019 assessment Student was one of the first comprehensive evaluations DCPS Psychologist had conducted, since she obtained certification as a school psychologist in August 2019, her mentor reviewed the evaluation to make sure she was doing the right things.

The IDEA regulations, 34 C.F.R. § 300.304(c)(1)(ii), consistent with section 614(b)(3)(A)(ii) of the Act, require that assessments and other evaluation materials used to assess a child be provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do. *See* Department of Education, *Assistance to States for the Education of Children with Disabilities*, 71 Fed. Reg. 46540 at -642. (August 14, 2006). "Native language" means the language normally used by the child and not that of the parents, if there is a difference between the two. *Id.* at -565.

Student comes from a Spanish-speaking home and Mother has only limited English. According to DCPS Psychologist, English was Student's preferred language at school. DCPS SLP testified that Student is as strong in English as in Spanish, or possibly stronger in English. DCPS Psychologist, who is bilingual, conducted the assessment of Student mostly in English, but she was attentive to reinforce the English with Spanish to make sure that Student understood the evaluation process and instructions. I find that DCPS Psychologist assured that the December 2019 psychological assessment was administered in the language form – primarily English – most likely to yield accurate

information on what Student knew and could do.

In her assessment of Student, DCPS Psychologist used a variety of cognitive, educational and behavioral assessment tools. These included review of previous psychological/educational assessments, review of student records, review of Student's current achievement assessment, Student/Parent/Teacher interviews, standardized assessments (i-Ready, Woodcock Johnson Test of Achievement, Woodcock Johnson Tests of Cognitive Abilities, Adaptive Behavior Assessment System Third Edition (ABAS-3), Reading Inventory (RI), classroom observations, review of Student's IEP progress from special education progress reports, IEPs, report cards, etc. There was no evidence that any of these instruments was not technically sound or not used in accordance with the respective developers' instructions.

In her December 5, 2019 evaluation report, DCPS Psychologist summarized her assessment findings:

In summary [Student's] scores on cognitive assessments indicate a significant global deficit in intellectual functioning. [Student's] in-school performance shows significantly below grade level in math and reading. Reports from [Mother] and teachers revealed significant deficits in multiple areas of adaptive functioning. Such as social skills, self-direction and Functional Academics. Therefore, the data strongly suggests that Student meets the eligibility criteria as a student with an Intellectual Disability (ID) and not a Specific Learning Disability (SLD).

Exhibit R-6. DCPS Psychologist met with Mother in December 2019 for two hours to go over the evaluation report and make sure that Mother understood it. She also provided Mother a Spanish translation of the Educational Implications and recommendations

from her evaluation report.

DCPS Psychologist opined that her December 2019 psychological evaluation of Student was reliable and appropriate. I found DCPS Psychologist to be a credible witness and her testimony went largely unrebutted by the Respondents, who did not call an expert in psychological assessments. In sum, I find that DCPS has met its burden of persuasion that its December 2019 psychological reevaluation of Student was appropriate.

3. Was DCPS' November 2019 speech-language reevaluation of Student appropriate?

On or about November 15, 2019, DCPS SLP issued a Speech & Language Reevaluation report for Student. DCPS SLP compared Student's performance in 2019 to Student's performance on a 2016 speech-language evaluation and found no change in Student's ability across all domains, except in articulation (slight growth) and receptive vocabulary (slight decline). In her report, DCPS SLP cautioned that while the results of the assessments she gave were believed to be valid, they should be interpreted with caution because Student, who is bilingual, did not represent the population for whom the standardized testing was intended and also because, Student did not pass a hearing screening. DCPS SLP also did not report standard scores for Student because the tests she administered were not normed for bilingual students.

As noted in the preceding section, IDEA regulations require that special education evaluators use technically sound instruments for the purposes for which the



assessments or measures are valid and reliable, administered in accordance with any instructions provided by the producer of the assessments. Independent SLP, who was qualified as an expert witness in Speech-Language Pathology and in bilingual evaluations of Spanish-speaking students, opined that DCPS' November 2019 speech-language reevaluation of Student did not meet this standard. Specifically, Independent SLP opined that for a bilingual child like Student, the DCPS evaluator should have used the 4<sup>th</sup> edition of the Clinical Evaluation of Language Fundamentals (CELF-4), which was available in Spanish and was normed for a bilingual population, instead of the CELF-5 which DCPS SLP administered to Student in English. According to Independent SLP, there were also bilingual versions of the Receptive One-Word Picture Vocabulary Test and the Expressive One-Word Picture Vocabulary Test, which DCPS SLP should have used for the 2019 reevaluation and which would have produced norm-based standard scores. Independent SLP opined that without norm-based standard scores for the assessments, DCPS' SLP's qualitative scores for Student were not valid.

Although Independent SLP never met or evaluated Student, I found her to be well-informed on appropriate instruments for assessing the speech and language needs of the bilingual, Spanish speaking, student population. I found credible and persuasive her testimony regarding the inappropriateness of the English language instruments selected by DCPS SLP for her evaluation of the bilingual student. I conclude that DCPS did not meet its burden of persuasion that its November 2019 Speech & Language

Reevaluation of Student was appropriate.

The failure to conduct an appropriate speech and language reevaluation of a student is a procedural violation of the IDEA. *See, e.g., I.T. ex rel. Renee T. v. Department of Educ.*, 2012 WL 3985686, 16 (D.Haw., Sept. 11, 2012). *D.K. v. Abington Sch. Dist.*, 696 F.3d 233, 249 (3d Cir. 2012). Procedural violations may only be deemed a denial of FAPE if the procedural inadequacies—

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

34 C.F.R. § 300.513(a)(2).

In this case, I find that DCPS' failure to ensure that Student's level of communication skills was evaluated in the November 2019 reevaluation, using technically sound instruments designed to assess bilingual Spanish speaking children, significantly impeded Mother's opportunity to participate in subsequent eligibility and IEP development meetings. This was a denial of FAPE.

#### Remedy

With respect to remedying DCPS' not conducting an appropriate speech and language reevaluation of Student in 2019, the Respondents request that I order DCPS to fund a comprehensive Independent Educational Evaluation (IEE) of Student. The

Respondents also sought an IEE for Student in Case No. 2020-0186, because they disagreed with DCPS' 2019 reevaluations of Student. In the final decision in that case, Hearing Officer Lazan found that the parents did not establish their entitlement to a publicly funded IEE. Since DCPS prevailed with respect to the parents' claim for an IEE in the prior case, I find that it would be inequitable to grant their IEE request here. *See, e.g., Stanton v. D.C. Ct. of Appeals*, 127 F.3d 72, 78 (D.C. Cir. 1997) (Final, valid judgment on the merits precludes any further litigation between the same parties on the same cause of action.) Instead, I will order DCPS to conduct a new speech and language evaluation of Student to be administered, using appropriate instruments, by a bilingual Speech-Language Pathologist, who is qualified to evaluate students who are bilingual in Spanish and English.

**ORDER**

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

ORDERED:

Within 30 business days of the date of this decision, subject to obtaining the parents' consent, DCPS shall ensure that Student is reevaluated for speech and language needs by a qualified Speech-Language Pathologist who is bilingual in English and Spanish and experienced in evaluating bilingual children. Upon receipt of the new speech-language evaluation report, DCPS shall promptly convene Student's IEP team to review the data and revise Student's IEP as appropriate;

The Respondents' request for publicly funded Independent Educational Evaluations of Student is denied;

Based upon the findings and conclusions of law herein, the Respondents' June 8, 2021 renewed motion for dismissal or for a directed finding is denied; and

All other relief requested by the respective parties in this matter is denied.

Date: July 6, 2021

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

**NOTICE OF RIGHT TO APPEAL**

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

Case No. 2021-0053  
Hearing Officer Determination  
July 6, 2021

cc: Counsel of Record  
Office of Dispute Resolution  
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