

District of Columbia
Office of the State Superintendent of Education

Office of Dispute Resolution
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| Parent, on behalf of Student,¹ |) | |
| Petitioner, |) | |
| |) | Hearing Dates: 7/16/25 |
| v. |) | Hearing Officer: Michael Lazan |
| |) | Case No. 2025-0085 |
| District of Columbia Public Schools, |) | |
| Respondent. |) | |

HEARING OFFICER DETERMINATION

I. Introduction

This case involves an X-year-old student (the “Student”) who is currently eligible for services under the Individuals with Disabilities Education Act (“IDEA”). Pursuant to the IDEA, a due process complaint (“Complaint”) was received by District of Columbia Public Schools (“DCPS” or “Respondent”) on May 16, 2025. The Complaint was filed by the Student’s mother (“Petitioner”). A resolution meeting was held on May 27, 2025, without an agreement being reached. The resolution period expired on June 15, 2025.

II. Subject Matter Jurisdiction

This due process hearing was held, and a decision in this matter is being rendered, pursuant to the IDEA, 20 U.S.C. 1400 et seq., its implementing regulations, 34 C.F.R. Sect. 300 et seq., Title 38 of the D.C. Code, Subtitle VII, Chapter 25, and the District of Columbia Municipal Regulations (“DCMR”), Title 5-A, Chapter 30.

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

III. Procedural History

DCPS filed a response to the Complaint on May 27, 2025. A prehearing conference was held on June 18, 2025. Appearing were Attorney A, Esq., representing Petitioner, and Attorney B, Esq., representing DCPS. A prehearing conference order was issued on June 25, 2025, outlining the issue in the case.

The matter proceeded to trial on July 16, 2025. The hearing was conducted through the Microsoft Teams videoconferencing platform, without objection. During the proceeding, Petitioner was again represented by Attorney A, Esq., and DCPS was again represented by Attorney B, Esq. Petitioner moved into evidence exhibits P-1 through P-22 without objection. DCPS moved into evidence exhibits R-8 through R-10, R-14, and R-18 through R 35 without objection.

Petitioner presented as witnesses, in the following order: Petitioner; and Witness A, an educational advocate (expert in special education and IEP programming). DCPS did not present witnesses. At the end of testimony on July 16, 2025, the parties presented their closing arguments.

IV. Issue

As identified in the prehearing conference order and in the Complaint, the issue to be determined in this case are as follows:

Did DCPSs deny the Student a Free Appropriate Public Education (“FAPE”) by failing to fully implement the Student’s November 18, 2024 IEP?

Petitioner claimed that DCPS failed to provide the Student with his/her mandate of speech-language services. As relief, Petitioner seeks compensatory education for the Student.

V. Findings of Fact

1. The Student is an X-year old who is currently eligible for IDEA services. The parent was concerned about the Student's speech issues during the 2023-2024 school year. As a result, she contacted the Student's pediatrician, who recommended a referral to DCPS for a special education evaluation because of the Student's speech and language deficits. Concerns were also raised regarding autism spectrum disorder and sensitivities to loud sounds and touch. P-7-51.

2. Petitioner initiated the IDEA evaluation process. Testimony of Petitioner. On August 12, 2024, DCPS staff tested the Student through the Ages and Stages Questionnaire-3 ("ASQ-3") to determine whether the Student had developmental delays. Some of the testing measured the Student's occupational skills. The Student received a passing score on the fine motor section. However, occupational therapy services were recommended for the Student due to possible sensory concerns. P-7-50.

3. The Student attended School A for the 2024-2025 school year. On September 20, 2024, the Student's speech and language skills were evaluated by DCPS staff. On the Preschool Language Scales-5 ("PLS-5"), the Student scored within normal limits for receptive language and expressive language skills. The Student also scored within normal limits for pragmatic language skills. The evaluation found that the Student followed one-to-three step directions without difficulty, used sentences of four or more words in length, initiated and maintained social interactions with evaluators in the room, and identified photographs of objects, colors, shapes, and letters. The Student also understood inferences, analogies and negatives. The evaluation also indicated that there was no data to suggest a significant delay in oral musculature, fluency or vocal

development. However, the evaluation revealed that the Student had delays in articulation. Overall, the Student's speech was judged to be approximately at sixty to seventy-five percent intelligible (with and without contextual cues) to the trained listener. P-7-52-53.

4. On September 20, 2024, the Student was observed, with Petitioner present in the room, with respect to his/her skills. The Student made eye contact with the evaluators during conversations, responded to his/her name, and could pay attention to pictures or activities introduced to him/her. The Student presented with adequate muscle tone, postural control, strength, motor planning, and range of motion to navigate the school environment. The evaluator felt that the Student's fine and visual motor skills appeared to be age appropriate. P-7-54.

5. The Student's teacher responded to a questionnaire pertaining to the Student's academic functioning on November 4, 2024. The teacher reported that the Student was in a class with sixteen students and two adults, that the Student could identify all uppercase and lowercase letters, and that the Student could write his/her first name. The teacher also indicated that the Student was easily distracted, and was hesitant to speak to adults or peers. The teacher said that the Student "will communicate with you if s/he is comfortable talking to you. It will take him/her awhile to open up to talk to people, but s/he does communicate with her teachers and peers." P-7-51.

6. An IEP meeting was held for the Student on November 18, 2024. The IEP corresponding to this meeting reflected the Student's classification as a student with a speech language impairment. The IEP discussed the Student's September, 2024 speech evaluation, and recommended that the Student receive speech-language services as

follows: once a month, for one hour, inside general education; and once a month, for one hour, outside general education. The IEP's first date of service was to be November 18, 2024, and the services were to be provided through November 17, 2025. The IEP included goals pertaining to the Student's articulation issues. In one goal, the Student was expected to clearly express his/her thoughts using age-appropriate sounds at eighty-five percent accuracy. In another goal, the Student was expected to orally ask certain questions, using a complete, intelligible, sentence of at least four words, with at least eighty-five percent accuracy. P-8.

7. DCPS did not offer or deliver any of the required speech-language services on the Student's IEP between November 18, 2024 and the end of the 2024-2025 school year. Petitioner followed up multiple times with the Student's teacher and School A staff to try and obtain the services for the Student. P-11-75; P-20-116. On January 8, 2025, School A staff told Petitioner that the Student's school was understaffed, that the speech therapist was at capacity, and that Petitioner should have received a letter reflecting this shortage. The staff member who spoke to Petitioner apologized for the lack of services. P-11-75. A meeting was held to discuss a possible makeup plan for the Student, wherein the missed services were to be provided to the Student in the forthcoming school year. P-17. Petitioner rejected this plan. Testimony of Petitioner.

8. The Student's IEP progress report for the first term of the 2024-2025 school indicated that the Student made no progress on communication/speech and language goals. The report says that "The Division of Specialized Instruction (DSI) has experienced an interruption in the speech-language pathologist staffing at your child's school this marking period. When the staffing gap has been filled, all IEP goals will be

implemented, and all missed services will be addressed by the end of SY 24-25. If you have questions, please contact speech.audiology@k12.dc.gov.” P-10.

VI. Conclusions of Law

The burden of proof in special education litigation in the District of Columbia is defined as follows: “Where there is a dispute about the appropriateness of the child’s individual educational program or placement, 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 establishes a *prima facie* case. D.C. Code Sect. 38-2571.03(6)(A)(i). The issue here does not directly relate to the appropriateness of the Student’s program or placement. As a result, the burden of persuasion is on Petitioner. Schaffer v. Weast, 546 U.S. 49 (2005).

Did DCPSs deny the student a FAPE by failing to fully implement the Student’s November 18, 2024 IEP?

Petitioner claimed that DCPS failed to provide the Student with his/her mandate of speech-language services.

“Failure to implement” claims can be brought if a school district cannot materially implement an IEP. Turner v. District of Columbia, 952 F. Supp. 2d 31, 40–41 (D.D.C. 2013). A parent “must show more than a *de minimis* failure to implement elements of the IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP.” Beckwith v. District of Columbia, 208 F. Supp. 3d 34, 39 (D.D.C. 2016), citing to Houston Indep. Sch. Dist. v. Bobby R., 200 F.3d 341, 349 (5th Cir. 2000); Savoy v. District of Columbia, 844 F. Supp. 2d 23 (D.D.C. 2012) (no failure to implement where school setting provided ten minutes less of specialized instruction per day than was required by the IEP). This

approach affords school districts with some flexibility in implementing IEPs, but it still holds those agencies accountable for material failures. Houston Independent Sch. Dist. v. Bobby R., 200 F.3d 341, 349 (5th Cir. 2000); see also S.S. ex rel. Shank v. Howard Rd. Acad., 585 F. Supp. 2d 56, 67–68 (D.D.C. 2008); Wilson v. District of Columbia, 770 F. Supp. 2d 270, 274 (D.D.C. 2011).

Petitioner contended that the Student did not receive his/her required speech-language services pursuant to the November, 2024 IEP during the 2024-2025 school year, and Respondent does not argue otherwise. Petitioner proved that the Student did not receive speech-language services through her unrefuted testimony, as corroborated by an IEP progress report conceding that no speech-language services could be provided because there was not enough staff at School A, the Student’s assigned school. This Hearing Officer agrees with Petitioner that the Student was denied a FAPE because of DCPS’s failure to provide him/her with speech-language services during the 2024-2025 school year.

RELIEF

During closing argument, Petitioner sought compensatory education in the form of speech-language services, including transportation to and from the service.

As the Supreme Court has stated, the IDEA statute directs a hearing officer to “grant such relief as [he or she] determines is appropriate.” School Committee of the Town of Burlington v. Dep’t of Education, Massachusetts, 471 U.S. 359, 371 (1985). The ordinary meaning of these words confers broad discretion on a hearing officer, since the type of relief is not further specified, except that it must be “appropriate.” Hearing officers may award “educational services to be provided prospectively to compensate for

a past deficient program.” Reid v. District of Columbia, 401 F.3d 516, 521-523 (D.C. Cir. 2005). The award must be reasonably calculated to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place. Id., 401 F.3d at 524; Friendship Edison Public Charter School v. Nesbitt, 532 F. Supp. 2d 121, 125 (D.D.C. 2008) (compensatory award must be based on a “qualitative, fact-intensive” inquiry used to craft an award “tailored to the unique needs of the disabled student”). A parent need not “have a perfect case” to be entitled to a compensatory education award. Stanton v. District of Columbia, 680 F. Supp. 201 (D.D.C. 2011).

Starting in November, 2024, the Student was entitled to two hours per month of speech-language services, once a month inside general education for an hour, and once a month outside general education for an hour. Since the 2024-2025 school year ended in June, 2025, the Student has missed two hours per month of services for eight months. Witness A’s compensatory education proposal suggested sixteen hours of speech-language services. This amount is equal to the amount of speech-language services that the Student missed. While hearing officers should not automatically award compensatory relief based on the actual hours that the student missed, it is permissible to do so under certain circumstances. Herrion v. District of Columbia, No. CV 20-3470 (RDM), 2023 WL 2643881, at *23 (D.D.C. Mar. 27, 2023). Here, since the only expert witness testified in favor of this proposal, and no DCPS witness was called to contradict the proposal, I will order the relief as requested.

VII. ORDER

As a result of the foregoing:

Hearing Officer Determination
Michael Lazan, Hearing Officer
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DCPS shall pay for the Student to receive sixteen hours of compensatory speech-language services, including transportation to and from the sessions, to be delivered by a certified provider at a reasonable and customary rate in the community.

Dated: July 30, 2025

Michael Lazan
Impartial Hearing Officer

cc: Office of Dispute Resolution
Attorney A, Esq.
Attorney B, Esq.

VIII. Notice of Appeal Rights

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 days from the date of the Hearing Officer Determination in accordance with 20 USC Sect. 1415(i).

Dated: July 30, 2025

Michael Lazan
Impartial Hearing Officer