

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

OSSE  
Office of Dispute Resolution  
July 11, 2025

---

PARENT, on behalf of STUDENT, <sup>1</sup>	)	Date Issued: July 11, 2025
	)	
Petitioner,	)	Hearing Officer: Peter B. Vaden
	)	
v.	)	Case No: 2025-0019
	)	
DISTRICT OF COLUMBIA	)	Online Videoconference Hearing
PUBLIC SCHOOLS,	)	
	)	Hearing Dates:
Respondent.	)	July 8 and 9, 2025
	)	

---

**HEARING OFFICER DETERMINATION**

**INTRODUCTION AND PROCEDURAL HISTORY**

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by the Petitioner parent under the Individuals with Disabilities Education Act, as amended (the IDEA), 20 U.S.C. § 1400, *et seq.*, and Title 5-A, Chapter 5-A30 of the District of Columbia Municipal Regulations (DCMR). In this administrative due process proceeding, the parent seeks reinstatement of special education eligibility, compensatory education and other relief for her child (STUDENT) from Respondent District of Columbia Public Schools (DCPS), on the grounds that DCPS allegedly denied Student a free appropriate public education (FAPE) by, *inter alia*, unlawfully exiting Student from special education during the 2024-2025 school year.

Petitioner's Due Process Complaint, filed on January 30, 2025, named DCPS as Respondent. The undersigned hearing officer was appointed on January 31, 2025. The

---

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

parties met for a Resolution Session Meeting on February 13, 2025 and did not resolve the issues in dispute. On February 11, 2025, I convened a telephone prehearing conference with counsel to discuss the issues to be determined, set the hearing date and address other matters. To accommodate Petitioner's counsel's availability, the due process hearing was set for April 23 and 24, 2025. On April 14, 2025, I granted Petitioner's request to extend the final decision due date to May 9, 2025. For health reasons, Petitioner's counsel was unable to proceed with the hearing on April 23-24, 2025 and the hearing dates were continued to July 8 and 9, 2025. To accommodate the later hearing dates, on May 6, 2025, I granted Petitioner's request to further extend the final decision due date to July 27, 2025.

On February 21, 2025, Petitioner filed a motion for stay-put protection for Student under 20 U.S.C. § 1415(j.) On February 28, 2025, DCPS filed a motion for summary adjudication. Following an on-the-record hearing on March 24, 2025, by order issued March 26, 2025, I granted Petitioner's motion for stay-put protection and denied DCPS' motion for summary adjudication.

With the parent's consent, the due process hearing was held online and recorded by the hearing officer using the Microsoft Teams videoconference platform. The hearing, which was open to the public, was convened before the undersigned impartial hearing officer on July 8 and 9, 2025. MOTHER appeared online for the hearing and was represented by PETITIONER'S COUNSEL. Respondent DCPS was represented by DCPS' COUNSEL. Petitioner's Counsel made an opening statement.

Petitioner testified and called as additional witnesses EDUCATIONAL ADVOCATE and PRIVATE SPEECH-LANGUAGE PATHOLOGIST. DCPS called as witnesses DCPS AUDIOLOGIST, CIEP SPEECH-LANGUAGE PATHOLOGIST and ASSISTANT PRINCIPAL. Petitioner's Exhibits P-2, P-4, P-6, P-8 through P-12, P-14, P-16 through P-26, P-28 through P-32, P-34, P-36, P-38 through P-40, P-46, P-50, P-53, P-54, and P-56 through P-58 were admitted into evidence, including Exhibits P-2 and P-14 admitted over DCPS objections. I sustained DCPS' objections to Exhibits P-35 and P-55. Exhibits P-1, P-3, P-5, P-7, P-13, P-15, P-27, P-33, P-37, P-41 through P-45, P-47 through P-49, P-51, P-52 and P-54 were not offered or withdrawn. DCPS' Exhibits R-1 through R-7, R-9 through R-28, R-30 through R-49, R-51 through R-66 and R-68 through R-79 were admitted into evidence, including Exhibits R-7, R-73 and R-74 admitted over Petitioner's objections. I sustained Petitioner's objection to Exhibit R-8. Exhibits R-29, R-50, R-67 and R-80 withdrawn or not offered by Respondent.

On July 9, 2025, after the close of all of the evidence, Petitioner's Counsel and DCPS' Counsel made oral closing arguments. There was no request to file written closings.

### **JURISDICTION**

The hearing officer has jurisdiction under 20 U.S.C. § 1415(f) and 5A DCMR § 3049.1.

### **ISSUES AND RELIEF SOUGHT**

The issues raised by Petitioner against DCPS are as follows:

- A. Did DCPS deny Student a free appropriate public education (FAPE) by inappropriately exiting him/her from special education services during the 2024-2025 School Year, without informing the parent that the process to exit the student from special education services had begun and without conducting an speech-language pathology (SLP) evaluation prior to exiting the student?
- B. Did DCPS deny Student a FAPE by failing to fully implement the student's Individualized Education Program (IEP) speech-language pathology services during the 2024-2025 school year?
- C. Did DCPS deny Student a FAPE by failing to fully and timely afford the parent access to Student's education records, based on requests initiated on or about November 18, 2024, including documents pertaining to the student's eligibility determination during the 2024-2025 school year and SLP service trackers (September 2024 to present)?

For relief, the Petitioner requests that the hearing officer order DCPS as follows:

DCPS shall reinstate the student's eligibility for special education and related services; DCPS shall reconvene Student's multidisciplinary/IEP team to review, revise and/or amend Student's expired January 17, 2024 IEP as appropriate; DCPS shall be ordered to fund compensatory education for Student for the alleged denials of FAPE.

### **FINDINGS OF FACT**

After considering all of the evidence received at the due process hearing in this case, as well as the argument of counsel, my findings of fact are as follows:

1. Student, an AGE youth, resides with Mother in the District of Columbia.

#### **Testimony of Mother.**

2. On January 4, 2024, Student was determined eligible for special education as a child with a Speech Language Impairment (SLI) and Petitioner contends that Student continues to be a student with an SLI disability. Exhibit P-11; Testimony of Mother.

3. Since August of 2023, except for three weeks at the start of the 2024-2025 school year, Student has been enrolled in CITY SCHOOL 2, a DCPS Public School. Mother enrolled Student in RELIGIOUS SCHOOL for the start of the 2024-2025 school year and after three weeks there, re-enrolled him/her at City School 2. Testimony of Mother. For the 2024-2025 school year, Student was in GRADE. Exhibit P-21.

4. At an eligibility meeting for Student on January 30, 2023, the DCPS team members felt that Student's speech and language issues did not have any academic impact on his/her education and DCPS determined that Student was no longer eligible for special education services. On July 21, 2023, Petitioner filed a prior due process complaint against DCPS contesting, *inter alia*, the January 30, 2023 ineligibility decision (Case No. 2023-0138.) Following a due process hearing in December 2023, Impartial Hearing Officer Michael Lazan issued a Hearing Officer Determination on December 29, 2023 (the December 29, 2023 HOD), holding, *inter alia*, that Student should not have been deemed ineligible at the January 2023 meeting or at subsequent meetings in February and March 2023, and that the Student was accordingly denied FAPE. Hearing Officer Lazan ordered, *inter alia*, that DCPS convene an IEP team to create an IEP for Student to receive an IEP, requiring 120 minutes per month of speech-language pathology for the remainder of the 2023-2024 school year. Hearing Officer Notice. (The December 29, 2023 HOD was attached as Exhibit A to Petitioner's February 21, 2025 Motion for Stay-Put Protection.)

5. On or about January 17, 2024, the City School 2 IEP team developed a new IEP which identified Student's disability as Speech Language Impairment (SLI) and provided for Student to receive 2 hours per month of speech language services, outside of general education. Exhibit P-10.

6. On April 24, 2024, Petitioner's Counsel wrote City School 2 to request that Student be evaluated with a psychological reevaluation to assess for the possibility of a specific learning disability. The City School 2 multidisciplinary team met on May 16, 2024 at which the school representatives determined that based upon of its review of Student's data, psychological testing was not needed. The same day, DCPS issued a Final Eligibility Determination Report stating that Student did not meet eligibility criteria as a student with a Specific Learning Disability (SLD). Exhibit R-36. Also on May 16, 2024, DCPS issued a Prior Written Notice (PWN) stating that the MDT proposed that Student should not be evaluated to determine eligibility for special education services and that Student did not qualify for special education services. Exhibit R-37.

7. In a June 4, 2024 IEP Progress Report, Student's speech and language service provider at City School 2 reported that, as of June 4, 2024, Student's evaluation schedule was "Weekly" and that Student was progressing on his/her IEP speech and language goals. Exhibit P-19. DCPS service records reported that from January 4, 2024 through June 6, 2024, Student was offered Speech Language Pathology services

generally weekly through June 6, 2024, although Student was absent from services after May 16, 2024. Exhibit P-22.

8. On June 25, 2024, an education specialist at a private school, RELIGIOUS SCHOOL, wrote DCPS that Student had been enrolled at the private school and that the private school would like to initiate the process for Student to receive IEP and speech services at the school. In response, DCPS prepared a draft nonpublic school services plan for Student, which was based on Student's January 17, 2024 DCPS IEP and his/her IEP progress reports. A services plan meeting was scheduled for August 16, 2024. Exhibits P-36, P-37, Testimony of CIEP SLP. The August 16, 2024 services plan stated that Student's primary disability was SLI and that for the period August 16, 2024 through August 15, 2025, Student's services would be Speech Language Pathology Related Services, outside general education, for 2 hours per month and Speech Language Pathology Consultation Services for 30 minutes per month. Exhibit P-23. On September 5, 2024, Mother signed a DCPS consent form affirming that "I accept Special Education services on the Service Plan." Exhibit P-24.

9. Student attended Religious School for only 3 weeks at the start of the 2024-2025 school year, after which time Mother re-enrolled Student at City School 2. Testimony of Mother. On September 13, 2024, CITY SCHOOL 2 SLP wrote Mother to welcome Student. City School 2 SLP wrote that he was excited about the opportunity to work with Student as his/her Speech Language Pathologist. Exhibit P-39. From September 27, 2024 to December 13, 2024, City School 2 SLP regularly offered Student

Speech-Language Pathology services. However, Student was usually absent or unavailable on service dates. Exhibit P-22.

10. On or about July 30, 2024, the parent filed another prior due process complaint on behalf of Student (Case No. 2024-0137). The issues in that case were: 1.) Whether DCPS denied the student a FAPE by failing to fully implement the student's IEPs during the 2023-2024 school year by failing to provide the student with the full extent of his/her speech and language therapy; and 2.) Whether DCPS denied the student a FAPE by failing to timely and comprehensively conduct a comprehensive psychological evaluation and an Assistive Technology evaluation during the 2023-2024 school year. The parties settled that case. In a settlement agreement signed September 18, 2024, DCPS and the parent agreed that the settlement agreement was in full satisfaction and settlement of Case Number 2024-0137 and that the parent would "release [DCPS] from liability, and waive any and all claims, actions, causes of action, demands, liability, damages or expenses of any kind asserted in the [July 30, 2024 Due Process Complaint Notice] or that could have been asserted, whether known or unknown, pursuant to all D.C. statutes and regulations, the IDEA, Section 504 of the Rehabilitation Act of 1973, 42 U.S.C. § 1983, and the Americans with Disabilities Act (ADA)." Hearing Officer Notice. (The due process complaint and settlement agreement were attached as Exhibits R-17 and R-2, respectively, to DCPS' February 28, 2025 Motion for Summary Adjudication.)



11. In January 2025, the parent tried to schedule an IEP annual review meeting for Student. Mother was told at that time, for the first time, that Student was not eligible for special education services. Testimony of Mother. From January through March 2025, DCPS did not provide IEP speech-language services to Student. Exhibit R-77.

12. Student had frequent school absences in the 2024-2025 school year. For the school year, Student accrued over 85 absences as well as frequent tardies. Almost all of Student's absences were excused. Exhibit-78.

13. Over the 2024-2025 school year, City School 2 SLP attempted to provide speech and language services, but Student was often absent. Student was offered services for 45 minutes in September 2024 and at least 120 minutes per month from October through November 2024. Student was not offered services from January through March 2025. Speech and language services were reinstated for Student in April 2025 pursuant to the hearing officer's March 26, 2025 stay-put order in this case. Student was offered 165 minutes of services in April, 105 minutes in May and 45 minutes in June. Exhibit R-77.

### **CONCLUSIONS OF LAW**

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

#### **Burden of Proof**

As provided in the D.C. Special Education Student Rights Act of 2014, the party who filed for the due process hearing, the parent in this case, shall bear the burden of production and the burden of persuasion, except that where there is a dispute about the appropriateness of the child's IEP 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. *See* D.C. Code § 38-2571.03(6).

#### **ANALYSIS**

In this proceeding, the parent seeks to have Student's special education eligibility reinstated and additional relief. For the reasons explained below, I conclude that DCPS never properly exited Student from special education and that his/her IEP speech and language services must be resumed. Student is also entitled to compensatory education services for the period when his/her speech and language services were withheld in the last school year

A. Did DCPS deny Student a FAPE by inappropriately exiting him/her from special education services during the 2024-2025 School Year, without informing the parent that the process to exit the student from special education services had begun and without conducting a speech-language pathology (SLP) evaluation prior to exiting the student?

B. Did DCPS deny Student a FAPE by failing to fully implement the student's IEP speech-language pathology services during the 2024-2025 school year?

In this case, as clarified by Petitioner's Counsel in closing argument, Petitioner contends that DCPS denied Student a FAPE by inappropriately exiting him/her from special education eligibility in January 2025. I find that DCPS made an error in January 2025 when the time came for Student's annual IEP review, and concluded, mistakenly, that Student had been exited from special education in May 2024. I hold that after Student was determined eligible for special education on January 4, 2024 as having an SLI disability, Student was never determined ineligible for special education pursuant to the requirements of the IDEA.

Regarding termination of a student's special education eligibility, the federal IDEA regulations provide,

Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with §§ 300.304 through 300.311 before determining that the child is no longer a child with a disability. . . .

34 C.F.R. § 300.305(e)(1). The U.S. District Court for the District of Columbia interpreted this regulation in *Wimbish v. District of Columbia*, 381 F. Supp. 3d 22 (D.D.C. 2019):

A school district must not decide that the child is ineligible for special education services without conducting a reevaluation. *E.g.*, 20 U.S.C. §

1414(c)(5). IDEA expressly provides that “a local educational agency *shall* evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.” *Id.* § 1414(c)(5) (emphasis added); *see also* 34 C.F.R. § 300.305(e)(1) (“[A] public agency must evaluate a child with a disability in accordance with §§ 300.304 through 300.311 before determining that the child is no longer a child with a disability.”).

*Wimbish*, 381 F. Supp. 3d at 27.

In the December 29, 2023 HOD, Hearing Officer Lazan concluded that Student should *not* have been deemed ineligible under the Speech-Language Impairment (SLI) disability in the 2022-2023 school year and ordered, *inter alia*, that an IEP for Student be developed, requiring 120 minutes per month of speech-language pathology for the remainder of the 2023-2024 school year. DCPS ensured that the IEP was completed on January 17, 2024 pursuant to Hearing Officer Lazan’s order.

Subsequently, on April 24, 2024, Petitioner’s Counsel wrote City School 2 to request that Student be evaluated with a psychological reevaluation to assess for the possibility of a specific learning disability. When the City School 2 MDT team met on May 16, 2024, the team determined that Student did not meet eligibility criteria as a student with a Specific Learning Disability (SLD). Then, someone from DCPS issued a Prior Written Notice stating, apparently incorrectly, that the MDT had team determined that Student did not qualify for special education services.

The requirements of 34 C.F.R. § 300.305(e)(1) notwithstanding, DCPS did not reevaluate Student before its spring 2024 determinations. In fact, on May 16, 2024, DCPS issued a Prior Written Notice (PWN) to the parent stating that the

multidisciplinary team (MDT) proposed that Student should *not* be evaluated to determine eligibility for special education services.

No one from DCPS, who attended the May 16, 2024 MDT meeting, testified at the due process hearing in this case, but it appears more likely than not that the MDT team actually determined that Student did not meet criteria for an SLD—not that Student no longer qualified for special education as a student with an SLI. However, even if the May 16, 2024 MDT team did decide that Student was ineligible for special education, that decision was invalid because DCPS did not reevaluate Student before determining that he/she was no longer a child with a disability. *See Wimbish, supra*. I conclude, based on the preponderance of the evidence, that Student’s MDT team never actually determined that Student was no longer a child with a disability, within the meaning of 34 C.F.R. § 300.305(e)(1), but that at all times concerned Student has remained eligible for special education as a student with an SLI.

I do find that DCPS denied Student a FAPE by failing to fully implement his/her IEP speech-language pathology services during the 2024-2025 school year. A material failure to implement a child’s IEP constitutes a denial of a FAPE. *Johnson v. District of Columbia*, 962 F.Supp.2d 263, 268–69 (D.D.C. 2013). To meet her evidentiary burden, the Petitioner “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, 49 (D.D.C. 2016), *quoting Hous. Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000).

The January 17, 2024 IEP provided for Student to receive 2 hours per month of speech-language pathology services, outside of general education. Mother calculated that Student was not provided those services for much of the school year. However, DCPS' service trackers indicate that Student was offered speech and language services from late September through December 2024 and from April to June 2025. Student missed the greater part of his/her services because he/she was frequently absent from school.

In the September 18, 2024 settlement agreement, Mother released DCPS from all claims prior to that date. Therefore Student is not entitled to compensatory education for any failure to implement his/her IEP before September 18, 2024.

After DCPS concluded, erroneously, in January 2025 that Student had been exited from special education, DCPS did not offer him/her speech and language services from January through March 2025 – leaving a deficit of some 6 hours of prescribed services. I conclude that DCPS' not providing Student speech and language services for a period of some three months was a failure to implement substantial or significant provisions of the January 17, 2024 IEP and that Student is entitled to compensatory education relief.

“If a hearing officer concludes that the school district denied a student a FAPE, he has ‘broad discretion to fashion an appropriate remedy,’ which may include compensatory education. *See B.D. v. District of Columbia*, 817 F.3d 792, 800 (D.C. Cir. 2016).” *Butler v. District of Columbia*, Case No. 16-cv-01033 (D.D.C. Aug. 14, 2017). In

this case, I find that it would be appropriate to award Student 10 hours of speech and language services as compensatory education. This is somewhat in excess of the hours which the Petitioner established that DCPS failed to provide. However, in light of the prejudice to Student and the parent resulting from DCPS' suspending Student's services in January 2024, I find that an award of 10 hours of compensatory Speech-Language Pathology services is an appropriate and equitable remedy in this case. *See Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 525 (D.C. Cir. 2005) (Eschewing hour-for-hour formula.)

C. Did DCPS deny Student a FAPE by failing to fully and timely afford the parent access to Student's education records, based on requests initiated on or about November 18, 2024, including documents pertaining to the student's eligibility determination during the 2024-2025 school year and SLP service trackers (September 2024 to present)?

Petitioner also asserted a claim that DCPS failed to provide her full access to Student's education records, as requested by LAW FIRM in November 18, 2024. Under the IDEA and the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, a child's local education agency (LEA) must permit parents to inspect and review any education records relating to their child with a disability, that are collected, maintained, or used by the agency. *See* 34 C.F.R. §§ 300.613(a), 300.501(a); *Friendship Edison Public Charter School Collegiate Campus v. Murphy* 2006 WL 2711524, 4 (D.D.C. 2006). At the due process hearing, Petitioner did not establish which, if any, education record maintained by DCPS for Student were not provided to the law firm. Nor did she establish whether Law Firm's allegedly not receiving all of Student's

education records impeded Student's right to a FAPE, caused a deprivation of educational benefit or significantly impeded Mother's opportunity to participate in the decision-making process. *See* 34 C.F.R. § 300.513(a)(2) (When a procedural violation may be deemed a denial of FAPE.) On this evidence, I find that Petitioner did not meet her burden of persuasion that DCPS denied Student a FAPE by not providing Law Firm access to all of Student's education records.

ORDER

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

ORDERED:

1. Student is determined to be a student with a disability, as having a Speech or Language Impairment, retroactive to January 4, 2024. DCPS shall ensure that in time for the start of the 2025-2026 school year, Student's January 17, 2024 IEP is reviewed and revised, as appropriate, pursuant to 34 C.F.R. § 300.324(b), by his/her IEP team including the parent and her representatives. Until a revised IEP is completed, DCPS shall provide Student services in accordance with his/her January 17, 2024 IEP.
2. As compensatory education for the denial of FAPE found in this decision, DCPS shall promptly issue funding authorization to the Parent for Student to receive 10 hours of speech and language services provided by a qualified speech-language pathologist. These hours may be added to any compensatory education hours previously approved for Student.
3. All other relief requested by the Petitioner herein is denied.

Date: July 11, 2025

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).

cc: Counsel of Record  
Office of Dispute Resolution