

**District of Columbia**  
**Office of the State Superintendent of Education**

Office of Dispute Resolution  
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<b>Parent, on behalf of Student,<sup>1</sup></b>	)	
<b>Petitioner,</b>	)	
	)	<b>Hearing Date: 6/27/25</b>
<b>v.</b>	)	<b>Hearing Officer: Michael Lazan</b>
	)	<b>Case No. 2025-0070</b>
<b>District of Columbia Public Schools,</b>	)	
<b>Respondent.</b>	)	

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**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 April 15, 2025. The Complaint was filed by the Student’s father (“Petitioner”). On April 25, 2025, Respondent filed a response. A resolution meeting was held on April 24, 2025, without an agreement being reached. The resolution period expired on May 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 USC 1400 et seq., its implementing regulations, 34 CFR 300 et

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

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.

### **III. Procedural History**

A prehearing conference was held on June 13, 2025. Appearing were Attorney A, Esq., representing Petitioner, and Attorney B, Esq., representing DCPS. A prehearing conference order was issued on June 18, 2025, outlining the issues in the case. On June 18, 2025, Respondent moved for dismissal of Issue #2. This motion was denied by an order dated June 26, 2025. On June 27, 2025, Petitioner filed a motion for a continuance of the Hearing Officer Determination (“HOD”) deadline to July 18, 2025. This motion was granted without opposition on June 27, 2025.

The matter proceeded to trial on June 27, 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-35. Objections were filed with respect to exhibits P-2, P-3, P-5, P-6, P-15 through P-18, P-21 through P-23, P-34, and P-35. These objections were overruled. Exhibits P-1 through P-35 were admitted. DCPS moved into evidence exhibits R-2 through R-15 without objection. The HOD was due on July 18, 2025.

Petitioner presented as witnesses, in the following order: Petitioner; and Witness A, an educational advocate (expert in special education). DCPS presented as witnesses, in the following order: Witness B, a DCPS manager of paraprofessional support and medical education support programs (expert in special education); and Witness C, principal of School A (expert in special education). Closing arguments were presented at

the end of testimony on June 27, 2025. Respondent filed a list of citations on July 3, 2025. Petitioner filed a supplemental closing statement on July 7, 2025. Respondent sought to admit additional documentation into the record, without leave, on July 15, 2025. Petitioner objected to the submission. The documents were not admitted into evidence pursuant to the five day evidence rule. 34 CFR 300.512(a)(3).

#### **IV. Issues**

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

**1. Did DCPS fail to implement the Student's IEP(s) during the 2024-2025 school year to present? If so, did DCPS deny the Student a FAPE?**

**The contention is that the Student did not receive his/her dedicated aide.**

**2. Did DCPS fail to comply with an HOD that was issued in February, 2025? If so, did DCPS deny the Student a FAPE?**

As relief, Petitioner sought an order for DCPS to immediately implement the Student's IEP to provide the student with the services of a dedicated aide; an order that DCPS should immediately comply with the HOD in case 2024-0207 by issuing the authorization for the 108 hours of tutorial services and an IEE for a comprehensive psychological evaluation; and compensatory education.

#### **V. Findings of Fact**

1. The Student is an X-year-old child with disabilities. The Student has been diagnosed with cerebral palsy, and requires a feeding tube in order to eat. The Student constantly needs care to monitor his/her feeding bag, to make sure the Student is not drooling or the like, and to address related issues. The Student functions out of a wheelchair. Testimony of Witness C; Testimony of Petitioner.

2. On June 14, 2024, Petitioner participated in an initial IEP meeting for the Student. The Student had been determined to be eligible for services as a student with Other Health Impairment. The corresponding IEP, which was amended on September 25, 2024, stated that the Student required a series of supports to perform in school, including a dedicated aide. The IEP said that a dedicated aide would help the Student participate in learning, move around the classroom, transition to the nurse, and use assistive technology. The IEP stated that the Student is a very pleasant and positive child, and that, due to the Student's relative lack of schooling, access to obtaining more up-to-date cognitive information was not possible. The IEP relied on information from the Student's earlier testing from 2020 and 2021. The IEP said that the Student had delays in pre-academic skills, receptive and expressive language skills, gross motor skills, fine motor skills, and adaptive skills. The IEP said that the team "highly recommends" that a comprehensive psychological evaluation be administered once the Student begins attending school regularly in order to obtain more accurate cognitive present levels of performance. The IEP said that the Student's attention span had improved so that s/he could work on a learning activity for up to five to ten minutes, that the Student could explore objects by turning them and inspecting them, and that the Student tried to put shapes into a "shape sorter." The Student was described as enjoying "knocking over a stack of blocks." The IEP said that the Student will attempt to follow directions, and will push buttons on a variety of toys, showing that the Student's understanding of cause and effect was emerging. The IEP recommended that the Student receive specialized instruction outside general education for twenty-seven hours weekly, with related services of speech-language pathology (outside general education, three hours a month,

group), occupational therapy (outside general education, four hours a month, group) and physical therapy (outside general education, four hours a month, individually). The IEP stated that the Student had significant medical needs that required him/her to have particular nursing staff in the building to support with daily living skills, and that the Student needed adult support and supervision at all times in order to function safely in the school environment. The IEP also discussed the Student's history of g-tube dependency, that the Student's g-tube feeding was to be administered by the school nurse, and that the Student would be administered medication, daily, for control of symptoms. The IEP required emergency medication if needed and ordered by his/her physician. R-1.

3. For the 2024-2025 school year, the Student attended School A. At the start of the school year, there were some difficulties between Petitioner and the Student's teacher. The school therefore allowed Petitioner to be in the classroom with the Student for some time. Testimony of Witness C. The Student's IEP progress report for the first reporting period of the 2024-2025 school year reflected goals in "cognitive," motor skills/physical development, health/physical, and communication speech and language. All of the Student's goals were deemed to be "just introduced." The IEP progress report said that the Student was showing the ability to express him/herself, as well as identify common vocabulary, if s/he received increased processing time. The Student was also observed to name items given increased processing time. The IEP progress report explained that many of the Student's goals were "just introduced" because of the Student's recent enrollment. It reported that the Student was able to walk up to seventy-five feet at a time using a walker (with moderate assistance for propelling the walker, maintaining his/her balance, and initiating and taking forward steps). R-2. The Student's

IEP progress report for the second report period of the 2024-2025 school year indicated that the Student made little to no progress on every goal because of the Student's many absences. R-3.

4. On February 9, 2025, Hearing Officer Peter Vaden issued an HOD with respect to the Student. The HOD addressed claims that DCPS denied the Student because no psychological evaluation had been conducted of the Student. Petitioner contended that DCPS should not have relied on July 6, 2020 and February 4, 2021 cognitive and academic assessments conducted by Prince George's County, Maryland special educators. Hearing Officer Vaden agreed, noting that the June 14, 2024 DCPS IEP team recommended that a comprehensive psychological evaluation be conducted as soon as Student begins to attend school regularly. Hearing Officer Vaden also ruled that this failure was a procedural violation that did not deny the Student a FAPE. Pursuant to 34 CFR 300.502(d), Hearing Officer Vaden ordered that DCPS fund an Independent Educational Evaluation ("IEE") consisting of a comprehensive psychological evaluation of the Student by a professional qualified to assess children with severe cerebral palsy. Hearing Officer Vaden also ordered DCPS to fund 108 hours of compensatory tutoring because of DCPS's failure to implement the Student's Maryland IEP or timely develop a comparable services plan when the Student first transferred to a DCPS school. P-1.

5. In or about March, 2025, the Student was hospitalized for about a week. Before the Student could go back to school, Petitioner was told that the Student's dedicated aide would be replaced because the Student had been absent or late many times. Testimony of Petitioner. On March 25, 2025, Petitioner emailed the school and inquired into the status of the Student's dedicated aide through personal email. Petitioner

expressed that the Student would not return to school without a dedicated aide. P-19. On April 3, 2025, Petitioner expressed more concern about the status of the Student's dedicated aide through counsel. P-20. On April 10, 2025, Petitioner again sent a personal email to DCPS school staff asking about the status of the Student's dedicated aide. He said that, when he went to the school, the dedicated aide was not there and there was confusion about the status of the dedicated aide. Petitioner wrote that he had heard that the dedicated aide was absent because of contractions, and that the dedicated aide was going on maternity leave on May 29, 2025. P-24.

6. At this time, Petitioner had been expressly told that the dedicated aide was assigned to the Student by the school nurse. Petitioner was not sure that the school nurse was correct and wanted to know if this assignment was "official." Petitioner therefore kept the Student home from school until he felt that the assignment of the dedicated aide was "official." Testimony of Petitioner.

7. During this approximate time period, Petitioner sought to implement Hearing Officer Vaden's HOD. On April 10, 2025, in response to multiple queries from Petitioner's counsel, DCPS said that it could not give the parents a timeline as to when Hearing Officer Vaden's order would be implemented. P-23.

8. On April 22, 2025, Petitioner sent a personal email to DCPS school staff following up on an earlier email. In this email, Petitioner asked DCPS why his earlier email did not get a response. He also said that he still had not been told about the status of the dedicated aide. P-25. On April 23, 2025, DCPS school staff wrote back and said that a dedicated aide had been assigned, and that the dedicated aide had been present every day that a dedicated aide was assigned to the Student except for one day. P-26. On

May 13, 2025, Petitioner sent an email through counsel to DCPS school staff indicating that the Student was sent home because no dedicated aide was present. P-26.

9. On May 20, 2025, DCPS school staff again wrote Petitioner and told him that a dedicated aide would be available if the Student were to return to school. On May 21, 2025, Petitioner authored an email to DCPS staff thanking them for the response and explaining that he was still not sure if there was a dedicated aide assigned to the Student. P-29. On May 23, 2025, Petitioner again wrote to DCPS school staff to question whether a dedicated aide had been in place for the Student. On May 23, 2025, DCPS school staff affirmed that a dedicated aide was available to the Student. P-30.

10. On or about May 27, 2025, the Student attended school, but Petitioner was called to pick the Student up. P-31. On May 28, 2025, Petitioner wrote again to DCPS school staff to question whether a dedicated aide was in place for the Student. On May 28, 2025, DCPS school staff again assured Petitioner that dedicated an aide was in place. P-33.

11. On June 11, 2025, Petitioner participated in an IEP meeting for the Student. The corresponding IEP stated the Student's absences have made it difficult to chart his/her progress, but that the Student could recognize numbers from one to twenty with sixty percent accuracy, and was generally functioning at kindergarten level. The IEP indicated that the Student had been placed in an "ELS" classroom and had gained receptive language skills. It also said that the Student was capable of responding to short concise questions with eighty percent accuracy, and that the Student would often not communicate effectively unless asked a specific question. The IEP recommended that the Student receive specialized instruction outside general education for twenty-five

hours weekly, with related services of speech-language pathology (outside general education, forty-five minutes weekly), occupational therapy (outside general education, thirty minutes weekly), and physical therapy (outside general education, thirty minutes weekly). The IEP required the use of a dedicated aide. P-2.

12. School A uses aides who are not DCPS employees. Instead, the aides are employees of an agency that DCPS contracts with. At School A, if the Student has not yet reported to school by 10:00 a.m., the Student's dedicated aide may then leave the building to either substitute for another aide, or go home (unless Petitioner or the Student have called and stated that they would be late). School A has had a plan in place for situations when the Student's assigned dedicated aide was absent. In such a scenario, the school was to assign another staff member to be the Student's dedicated aide for the day. Testimony of Witness C.

13. During the 2024-2025 school year, the Student was tardy eighteen days and absent for 101 days. Forty-seven of those absences were unexcused, which made it difficult to provide the Student with the services on his/her IEP. DCPS school staff felt that Petitioner did not provide them with clear information on when the Student was going to be attending school. Testimony of Witness C; R-13.

14. Invoices from the agency that provided the Student's dedicated aide indicated that the Student's dedicated aide was regularly delivering services at School A from November 1, 2024 to March 12, 2025, with a typical start time of 8:00 a.m., and a typical end time of 3:30 p.m. R-4.

## **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). Issue #1 and Issue #2 do not directly relate to the appropriateness of the Student’s program or placement. As a result, for these issues, the burden of persuasion is on Petitioner. Schaffer v. Weast, 546 U.S. 49 (2005).

**1. Did DCPS fail to implement the Student’s IEP(s) during the 2024-2025 school year to present? If so, did DCPS deny the Student a FAPE?**

After a student’s IEP is developed, the school district must ensure that special education and related services are made available to the child in accordance with the IEP. 34 CFR 300.323(c)(2). A parent challenging inadequate implementation of a student’s IEP must demonstrate that the school district failed to implement substantial or significant provisions of the IEP, or that “deviations from the IEP’s stated requirements” were material. Catalan ex rel. E.C. v. District of Columbia, 478 F. Supp. 2d 73, 75 (D.D.C. 2007). The 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); Savoy v. District of Columbia, 844 F. Supp. 2d 23 (D.D.C. 2012) (holding no failure to implement where district’s school setting provided ten minutes less of specialized instruction per day than was required by the IEP). This approach affords school districts some flexibility in implementing IEPs, but also holds those agencies accountable for material failures.

Houston Independent Sch. Dist. v. Bobby R., 200 F.3d 341, 349 (5th Cir. 2000); Van Duyn v. Baker Sch. Dist. 5J, 502 F.3d 811, 822 (9th Cir. 2007) (“a material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and [those] required by the child’s IEP.”).

Petitioner’s contention is that the Student did not receive his/her dedicated aide for the 2024-2025 school year. He based this claim on his own testimony, and on his email correspondences to the school district, which express skepticism about whether an aide had been assigned to the Student. But during his testimony, Petitioner did not clearly explain why he concluded that the Student was not provided with or assigned an aide, except to point to a few instances where there was an absence or confusion at the school site. Likewise, Petitioner’s emails do not clearly say that the Student was denied an aide for all or part of the 2024-2025 school year. Mostly, they express Petitioner’s understandable frustration with the process and Petitioner’s difficulties in communicating with the school district.

More persuasive was the testimony of Witness C, the principal of School A, who stated, clearly and unequivocally, on the record, that a dedicated aide was assigned to the Student when s/he was at school during the 2024-2025 school year. He also testified that, if a dedicated aide was absent, an arrangement was made for a substitute. Petitioner contended that Witness C was not credible because he could not answer a specific question about the Student’s disability, but the principal of a school cannot be expected to be able to answer detailed questions about every single student at the principal’s school.

In support of its position, DCPS submitted documentation from the agency that provided the school with the dedicated aide, which establishes that the Student’s

dedicated aide was regularly delivering services at School A from November 1, 2024 to March 12, 2025, with a typical start time of 8:00 a.m., and a typical end time of 3:30 p.m. The record is not clear on why there is no such documentaation for the period of time prior to November 1, 2024. However, Petitioner did not focus on this omission during closing argument or during his testimony. I find that Petitioner has not presented enough credible evidence to sustain the burden on this claim, especially in light of the testimony of Witness C. This claim must be dismissed.

**2. Did DCPS fail to comply with an HOD that was issued in February, 2025? If so, did DCPS deny the Student a FAPE?**

Respondent contended that I do not have jurisdiction on this issue because hearing officers do not have the power to enforce other hearing officer determinations. This was the main point that Respondent raised in its partial motion to dismiss dated June 18, 2025.

I denied the motion, but pointed out that there is authority supporting the school district's view of the law. B.D. v. District of Columbia, 75 F. Supp. 3d 225 (D.D.C. 2014); Wyner v. Manhattan Beach Unified Sch. Dist., 223 F.3d 1026, 1028-29 (9th Cir. 2000); Robinson v. Pinderhughes, 810 F.2d 1270, 1274 (4th Cir. 1987). A closer review of B.D. and related authority indicates that there is support for the claim that the HOD can be enforced through another due process complaint, especially if the failure to comply leads to adverse consequences for the Student.

In B.D., parents sought to enforce an HOD that allegedly was not implemented. Like here, DCPS sought dismissal, contending that the parents failed to point to any statutory basis for a cause of action for enforcement of an HOD. The parents insisted that several bases for the enforcement action existed. The District of Columbia Circuit Court

of Appeals found that the parents forfeited a decision on two of the bases for the cause of action because they had not raised the arguments below. The court therefore did not address those bases, which involved: 1) using 42 USC 1983 for an enforcement cause of action; and 2) *finding that an enforcement cause of action may be implied from IDEA as a whole*. The court emphasized that “we are aware of no decision specifically foreclosing an IDEA enforcement suit premised on an implied cause of action.” Id. At 802. The court then wrote: “(w)e leave for another day the viability of the alternative bases for such a cause of action.” Id. The court also stated that the “purpose arguments” that the parents and amici advanced, and that the First and Third Circuits accepted, have some “real force.” Id. At 801. It is also notable that, in her concurring opinion in B.D., Judge Patricia Millett noted that the United States Department of Education, which has responsibility for the federal administration and enforcement of the IDEA, has suggested that a hearing officer *does* have the authority to enforce another hearing officer’s decision. Id., at 803-804.

Moreover, as Petitioner pointed out in his brief, District of Columbia special education hearing officers have consistently ruled that parents may bring due process claims pursuant to the IDEA on allegations that their child has been denied a FAPE because of DCPS’s failure to comply with an HOD. See, e.g., District of Columbia Public Schools, 121 LRP 20259, at 9 (May 3, 2021)(IHO Banks); District of Columbia Public Schools, 120 LRP 3713, at 4-5 (November 8, 2019)(IHO Vaden); District of Columbia Public Schools, 117 LRP 21192, at 17 (April 3, 2017)(IHO Seat). I therefore find that Petitioner has properly alleged a cause of action on this issue.

There is no dispute that Hearing Officer Vaden's order has not been implemented. Petitioner's contention here is that the failure to conduct the psychological evaluation and the failure to provide the tutoring denied the Student a FAPE. Petitioner did not clearly explain his theory on how a failure to provide compensatory tutoring can be deemed to deny a student a FAPE, and my research indicates no support for Petitioner's position on this point.

However, on the issue of DCPS's failure to conduct a psychological evaluation of the Student, Petitioner, through Witness A, did explain that the failure to conduct this evaluation denied the Student the right to be evaluated. The evaluation and information gathering procedures of the IDEA are designed to position the IEP team to create an IEP tailored to a student's special educational needs. Failure to follow those procedures may yield an IEP that is not appropriately tailored to the student, denying the student an appropriate education. Z. B. v. District of Columbia, 888 F.3d 515, 522–23 (D.C. Cir. 2018). A school district must “[u]se a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent.” 34 CFR 300.304(b). A student must be “assessed in all areas related to the suspected disability.” 34 CFR 300.304(c)(4).

As Hearing Officer Vaden pointed out, “(a)n IDEA claim is viable only if those procedural violations affected the student's substantive rights.” Lesesne ex rel. B.F. v. District of Columbia, 447 F.3d 828, 834 (D.C. Cir. 2006); Kruvant v. District of Columbia, 99 Fed. App'x. 232, 233 (D.C. Cir. 2004). In particular, procedural violations may only be the basis for a denial of FAPE if the procedural inadequacies impede the child's right to a FAPE, significantly impede the parent's opportunity to participate in the

decision making process regarding the provision of a FAPE to the parent's child, or cause a deprivation of educational benefit. 34 CFR 300.513(a)(2).

When a school district delays a needed evaluation for many months, courts will often suggest that a student is deprived an educational benefit, leading to a finding of FAPE denial. G.G. ex rel. Gersten v. District of Columbia, 924 F. Supp. 2d 273, 279 (D.D.C. 2013)(reversing IHO who found that delay was procedural violation); Harris v. District of Columbia, 561 F. Supp. 2d 63, 68 (D.D.C. 2008)(two year delay was FAPE denial); Integrated Design & Elecs. Acad. Pub. Charter Sch. v. McKinley, 570 F. Supp. 2d 28, 36 (D.D.C. 2008)(school district did not evaluate student for over five months). The Student's IEP from June, 2024 urged the school district to conduct a psychological evaluation of the Student. The IEP stated that the team "highly recommends" that a comprehensive psychological evaluation be administered once the Student begins attending school regularly in order to obtain more accurate cognitive present levels of performance. The IEP stated that access to obtaining more up-to-date cognitive information was "not possible" at the time.

But since the Student attended school during the 2024-2025 school year, the reasoning from the June, 2024 IEP is no longer applicable. DCPS has now had more than a year to conduct the Student's psychological evaluation, which, still, has not even been started. DCPS has not clearly explained why the evaluation has not been completed. Moreover, the record, supported by the expert testimony of Witness A, indicated that the evaluation is necessary in order to accurately write the goals and the present levels of performance in the Student's IEP. DCPS's expert witnesses did not deny that the Student needed to be evaluated through a psychological evaluation. Nor did the witnesses say

that the June, 2024 IEP was wrong in its characterization of a psychological evaluation as “highly recommended.” Nor did DCPS witnesses contend that it was impossible or even difficult to evaluate the Student. In the wake of Andrew F. v. Douglas County School District, 137 U.S. 988 (2017), it is especially important for districts to monitor students and be alert to indications that a student needs to be reevaluated, even when a triennial evaluation is not due and the parent has not requested a reevaluation, to ensure that the student’s IEP continues to be reasonably calculated to allow the child to make appropriate progress in light of the child’s circumstances. Questions and Answers on Andrew F. v. Douglas County Sch. Dist. Re-1, 71 IDELR 68 (U.S. Dep’t of Educ. 2017). As a result, I agree with Petitioner that DCPS’s failure to comply with Hearing Officer Vaden’s HOD (as far as a psychological evaluation of the Student was concerned) denied the Student a FAPE.

### **RELIEF**

During closing argument, Petitioner sought: an IEE for a comprehensive psychological evaluation; an order directing the delivery of 108 hours of tutoring to the Student; an additional 291 hours of independent tutoring for the Student; a trained, qualified, and reliable dedicated aide for the Student; and related relief.

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).

Witness A’s compensatory education proposal suggested 291 hours of tutoring to compensate for the failure to evaluate the Student, or three hours per day for seventy-seven days plus additional tutoring for “regression.” The claim for services based on “regression” was not clearly explained on the record. Moreover, the proposed compensatory education award does not consider that DCPS needed time to conduct a psychological evaluation of the Student after the issuance of the February, 2025 HOD. Since DCPS needed time to conduct the psychological evaluation of the Student, I find that the failure to implement the HOD affected the Student beginning April, 2025 at the earliest. I also find that the Student’s unexcused absences mitigated the harm caused by DCPS’s failure to conduct the psychological evaluation. Accordingly, I will award the Student ninety hours of tutoring, to be delivered by a certified provider at a reasonable and customary rate in the community. This Hearing Officer will also order that the Student be evaluated by a qualified independent psychologist, at a reasonable and customary rate in the community, within forty-five days of the date of this HOD.

Finally, I must deny the remaining requests for relief. Since I did not rule that Respondent denied the Student a FAPE by failing to provide a dedicated aide, the corresponding request for relief is inappropriately ordered. Additionally, there is no reason to order the same relief that Hearing Officer Vaden ordered, i.e., the 108 hours of tutoring.

### **VII. Order**

As a result of the foregoing:

1. The Student is hereby awarded ninety hours of compensatory tutoring, to be delivered by a certified provider who has experience working with children with cerebral palsy, to be delivered at a reasonable and customary rate in the community;
2. DCPS shall pay for a comprehensive psychological evaluation of the Student at a reasonable and customary rate in the community;
3. All other requests for relief are hereby denied.

Dated: July 18, 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 18, 2025

Michael Lazan  
Impartial Hearing Officer