

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

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

OSSE  
Office of Dispute Resolution  
June 06, 2025

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<i>Student</i> , <sup>1</sup>	)	Case No.: 2025-0040
through <i>Parent</i> ,	)	
<i>Petitioner</i> ,	)	Date Issued: 6/6/25
	)	
v.	)	Hearing Officer: Keith L. Seat, Esq.
	)	
District of Columbia Public Schools	)	Hearing Dates (using Microsoft Teams):
("DCPS"),	)	5/28/25 & 5/29/25
Respondent.	)	
	)	

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**HEARING OFFICER DETERMINATION**

**Background**

Petitioner, Student's Parent, pursued a due process complaint alleging that Student had been denied a free appropriate public education ("FAPE") in violation of the Individuals with Disabilities Education Improvement Act ("IDEA") due to DCPS's failure to provide all evaluations needed, provide appropriate IEPs and placement, and provide translated education records. DCPS asserted there was no denial of FAPE on any issue.

**Subject Matter Jurisdiction**

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

**Procedural History**

Following the filing of the due process complaint on 2/27/25, the case was assigned to the undersigned on 2/28/25. Respondent filed a response on 3/10/25; its 4/2/25 motion to dismiss was denied by the undersigned on 4/11/25. A resolution meeting took place on 3/13/25, but the parties did not settle the case or shorten the 30-day resolution period, which

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

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ended on 3/29/25. A final decision in this matter must be reached no later than 45 days following the end of the resolution period, as extended by an agreed upon 30-day continuance, which requires a Hearing Officer Determination (“HOD”) by 6/12/25.

A prehearing conference was held on 5/5/25 and a Prehearing Order was issued on 5/6/25, addressing among many other things the use of a videoconference platform to conduct the due process hearing. The due process hearing took place on 5/28/25 and 5/29/25 and was open to the public. Petitioner was represented by *Petitioner’s counsel*. DCPS was represented by *Respondent’s counsel*. Petitioner was present throughout the hearing.

### Documents and Witnesses

Petitioner’s Disclosure, submitted on 5/20/25, contained documents P1 through P84, all of which were admitted into evidence without objection, except for P1-P4, P7, P33-P35, P41-P44, P49-P52, P61-P62, P66, and P77, which were withdrawn by Petitioner (all objections by Respondent were withdrawn). Respondent’s Disclosure, also submitted on 5/20/25, contained documents R1 through R28, all of which were admitted into evidence without objection.<sup>2</sup>

Petitioner’s counsel presented 3 witnesses in Petitioner’s case-in-chief (*see* Appendix A):

1. *Father*
2. *Parent*
3. *Educational Advocate* (qualified over objection as an expert in Special Education as related to IEP Programming)

Respondent’s counsel presented 4 witnesses in Respondent’s case (*see* Appendix A):

1. *Special Education Coordinator* (qualified without objection as an expert in Special Education and IEP Programming & Placement)
2. *Special Education Teacher* (qualified without objection as an expert in Special Education, IEP Development and IEP Implementation)
3. *Speech-Language Pathologist* (qualified without objection as an expert in School-Based Speech-Language Pathology)
4. *School Psychologist* (qualified without objection as an expert in School Psychology)

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<sup>2</sup> Citations herein to the parties’ documents are identical except that Petitioner’s documents begin with a “P,” while Respondent’s documents begin with an “R,” followed by the exhibit number and then a “p” (for page) and the Bates page number or numbers (which are numbered consecutively through to the end of the exhibits), with any leading zeros omitted.

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Petitioner's counsel did not offer any rebuttal evidence.

### **Issues and Relief Requested**

The issues to be determined in this Hearing Officer Determination are:

**Issue 1:** Whether DCPS denied Student a FAPE by failing to timely and comprehensively conduct (a) an assistive technology ("AT") evaluation, and/or (b) a speech-language ("SL") evaluation, during 2023/24<sup>3</sup> to present. *(Petitioner has the burden of persuasion on this issue.)*

**Issue 2:** Whether DCPS denied Student a FAPE by failing to provide an appropriate IEP and/or placement from March 2023 to present, due to (a) Student not being evaluated in all areas of concern, (b) inappropriate academic goals/present levels of performance ("PLOPs"), (c) an inappropriate transition plan, and/or (d) failure to place Student in the Least Restrictive Environment ("LRE"). *(Respondent has the burden of persuasion on this issue, if Petitioner establishes a prima facie case.)*

**Issue 3:** Whether DCPS denied Student a FAPE by failing to provide education records in Parent's native language.<sup>4</sup> *(Petitioner has the burden of persuasion on this issue.)*

### **Relief Requested by Petitioner:**

1. A finding that Student has been denied a FAPE.
2. DCPS shall (a) conduct or fund and review an AT evaluation; and (b) fund an SL independent educational evaluation ("IEE").
3. DCPS shall reconvene the MDT/IEP team to review, revise and amend the IEP (a) as appropriate based on the evaluations above, and modify Student's LRE; and (b) to place Student on a diploma track.
4. DCPS shall fund a private credit recovery program.
5. DCPS shall immediately provide all requested education records in Parent's native language.<sup>5</sup>

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<sup>3</sup> All dates in the format "2023/24" refer to school years.

<sup>4</sup> At the beginning of the Due Process Hearing, Petitioner's counsel narrowed Issue 3 without prejudice by removing "fully and timely provide Parent access to Student's education records and/or" to narrow the issue to receiving documents in Parent's native language.

<sup>5</sup> At the beginning of the Due Process Hearing, Petitioner's counsel narrowed the relief requested in paragraph 5 without prejudice by removing "both English and" and removing "the statute of limitations shall be tolled until Parent has received full access to the records."

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6. DCPS shall fund compensatory education for any denials of FAPE herein.<sup>6</sup>
7. Any other just and reasonable relief.

### **Findings of Fact**

After considering all the evidence, as well as the arguments of counsel, the Findings of Fact<sup>7</sup> are as follows:

1. Background. Student is a resident of the District of Columbia; Petitioner is Student's Parent.<sup>8</sup> Student is *Age*, *Gender*, and was in *Grade* during 2024/25 at *Public School*.<sup>9</sup> Student's disability classification is Autism; Student is dedicated, resilient and motivated.<sup>10</sup>

2. IEPs. Student's 12/10/21 IEP provided 21.5 hours/week of specialized instruction outside general education and no related services.<sup>11</sup> Student's 11/15/22 IEP also provided 21.5 hours/week of specialized instruction outside general education and no related services.<sup>12</sup> Student's 11/14/23 IEP also provided 21.5 hours/week of specialized instruction outside general education and no related services.<sup>13</sup> Student's 11/8/24 draft IEP also provided 21.5 hours/week of specialized instruction outside general education and no related

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<sup>6</sup> So far as Petitioner's request for compensatory education depends on the findings of evaluations that may be carried out in the future, that portion of the compensatory education claim is reserved pending the completion of Student's evaluations and a determination of eligibility for additional special education and related services.

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

<sup>7</sup> Footnotes in these Findings of Fact refer to the sworn testimony of the witness indicated or to an exhibit admitted into evidence. To the extent that the Hearing Officer has declined to base a finding of fact on a witness's testimony that goes to the heart of the issue(s) under consideration, or has chosen to base a finding of fact on the testimony of one witness when another witness gave contradictory testimony on the same issue, the Hearing Officer has taken such action based on the Hearing Officer's determinations of the credibility and/or lack of credibility of the witness(es) involved.

<sup>8</sup> Parent.

<sup>9</sup> Parent; P13.

<sup>10</sup> Special Education Teacher; P11p137; P12p156.

<sup>11</sup> P11p146.

<sup>12</sup> P12p166.

<sup>13</sup> P13p183.

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services.<sup>14</sup> Academic goals and PLOs in Student's IEPs were identical or nearly identical over a period of time; DCPS claimed minor errors in a few goals, which would have differentiated them slightly.<sup>15</sup> The 11/8/24 draft IEP also repeated much; the finalized 2024 IEP was not included in the record.<sup>16</sup> Student showed no "behavior" issues.<sup>17</sup>

3. Evaluations. An IEE comprehensive psychological evaluation dated 11/7/24 noted that Student continues to need specialized instruction and displays behaviors and communication skills "very consistent" with children on the autism spectrum; Student was diagnosed with Autism Spectrum Disorder ("ASD") with language impairment and intellectual impairment.<sup>18</sup> The WAIS-IV revealed that Student's nonverbal reasoning abilities are much better developed than verbal reasoning, which are in the borderline range (VCI=76), while nonverbal abilities are in the average range (PRI=90).<sup>19</sup> Student's Full Scale IQ ("FSIQ") was low enough that an adaptive assessment should have been conducted to determine if Student needed to be considered ID.<sup>20</sup>

4. The WIAT-4 found Student's overall achievement score in the Extremely Low range.<sup>21</sup> An IEP amendment on 4/9/24 stated that Student is significantly below grade level, performing on a second grade academic level; Student's ability to retain learned information is "very limited."<sup>22</sup> Student scored very low on WJ achievement tests.<sup>23</sup> Student is the highest functioning student in the class.<sup>24</sup>

5. DCPS's 3/26/24 PWN stated that it would conduct the 4 evaluations requested by Parent: comprehensive psychological, SL, occupational therapy ("OT") and AT in order to determine eligibility; an IEE was issued when school psychologist unexpectedly departed.<sup>25</sup> The AT evaluation was not completed by DCPS and no reason was given.<sup>26</sup> Special Education Coordinator did not receive the 1/22/25 letter; if she had, she would have

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<sup>14</sup> P16p241 (according to counsel, this IEP was finalized but Petitioner's counsel was unaware and Respondent's counsel chose not to include it in the record); Educational Advocate (finalized IEP not provided Parent).

<sup>15</sup> Educational Advocate; Special Education Teacher; P21p267; P11; P12; P13; P15 (amendment).

<sup>16</sup> P16; P21p267; Administrative Notice.

<sup>17</sup> P17p259.

<sup>18</sup> P8p103,105.

<sup>19</sup> P8p103,114-17.

<sup>20</sup> P70p496.

<sup>21</sup> P8p119.

<sup>22</sup> P8p112.

<sup>23</sup> School Psychologist; R24.

<sup>24</sup> Special Education Teacher; P10p131; R24p151.

<sup>25</sup> P57p421; P59p427; P67.

<sup>26</sup> Educational Advocate; P65p452; P70p496; P67.

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convened a meeting.<sup>27</sup> An AT evaluation was agreed to by DCPS at the recent 5/20/25 meeting, after which consent was obtained.<sup>28</sup>

6. A comprehensive SL evaluation was conducted by Speech-Language Pathologist at the request of Parent and counsel to see if there was an oral communication issue impacting educational performance; the SL report dated 5/8/24 noted receptive and expressive vocabulary delays, but not significantly below low average scores.<sup>29</sup> Speech-Language Pathologist had no concerns about Student's SL abilities; Student didn't need SL support to access academics.<sup>30</sup> No additional SL testing was needed.<sup>31</sup> Special Education Teacher was not aware of any unsatisfied requests for evaluations.<sup>32</sup>

7. Placement. Student has been in a self-contained Communication & Education Support ("CES") classroom at DCPS for years.<sup>33</sup> In a 12/21/21 IEP meeting, Student's IEP team agreed to "step down" Student from the CES program to the Specific Learning Support ("SLS") program for 2022/23 to put Student on the diploma track; Student would be required to make up classes missed in the 2 previous years; Student was "nervous," but supports were to be provided so Student could succeed; Student could continue in school until age 22.<sup>34</sup> Parent never requested diploma track for Student in the 12/21/21 meeting, just discussed the possibility.<sup>35</sup> The very end of the 11/14/23 IEP (and the 4/1/24 IEP amendment) stated that Student's "Diploma Type" was "IEP Certificate of Completion" and that the "Diploma Justification" was that Student was in the CES Program and upon completion would be eligible for a "Certificate of Completion."<sup>36</sup>

8. The desirability of a diploma for Student was first raised in 2023.<sup>37</sup> In the 11/12/24 IEP meeting, Parent asked about certificate track versus diploma track and Special Education Teacher said that Student would receive a certificate in June 2025 and would be finished with school then.<sup>38</sup> In the 11/14/23 IEP meeting (which was "of course" interpreted), the IEP team discussed Student's academic progress and possible future transition plans; Parent's desire was for Student to finish academic programming on time

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<sup>27</sup> Special Education Coordinator.

<sup>28</sup> *Id.*

<sup>29</sup> P5p72,82.

<sup>30</sup> Speech-Language Pathologist; P13p177 (P15p196) ("Yes" in Communications box was probably an error).

<sup>31</sup> Speech-Language Pathologist.

<sup>32</sup> Special Education Teacher.

<sup>33</sup> CES is a self-contained classroom which is a certificate track program for children with autism; SLS is a self-contained classroom which is a diploma track program with extensive supports; P75; Educational Advocate.

<sup>34</sup> P18p261.

<sup>35</sup> Special Education Teacher.

<sup>36</sup> P13p190; P15p218.

<sup>37</sup> Father.

<sup>38</sup> Educational Advocate; Special Education Teacher.

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and to become employable with a diploma.<sup>39</sup> Petitioner's counsel attended the meeting; Special Education Teacher couldn't recall whether certificate track was discussed.<sup>40</sup> Educational Advocate wrote a dissent letter dated 1/22/25.<sup>41</sup>

9. Parents and Student raised no concerns about Student being on certificate track, and no concerns about Student's IEP for 2023/24; Parents only wanted to know what Student could do after high school.<sup>42</sup> If concerns about Student's track had been raised, DCPS would have had a meeting to discuss diploma track and the requirements to obtain a diploma.<sup>43</sup> By the 11/12/24 IEP meeting, Student had completed the program to receive a certificate in June 2025; options at that point included transition supports and a GED program.<sup>44</sup> On 5/20/25, Student was shifted from CES to the self-contained SLS classroom and onto the diploma track beginning with the new school year, which is expected to require 4 more years of school; courses taken in the CES program would not transfer to the new path.<sup>45</sup> Additional work required by the diploma track could be "overwhelming."<sup>46</sup>

10. LRE. Student needed the certificate track and benefited from being in CES for the years Student was there.<sup>47</sup> Changing to diploma track now is appropriate, if that's what Student wants to do.<sup>48</sup> DCPS considered fulltime outside general education to be Student's LRE, regardless of whether Student was on the certificate track or diploma track.<sup>49</sup> Student shifting from CES to the SLS self-contained program would move Student closer to general education, but the 21.5 hours/week of support would remain the same.<sup>50</sup> Student's LRE did not discuss the need for the CES program (or need for anything else).<sup>51</sup> Student's placement in CES in 2023/24 and 2024/25 was not appropriate after the team decisions in the 12/10/21 meeting because of the 2021 meeting.<sup>52</sup> Student's IEPs contained a basic LRE explanation that Student required 21.5 hours/week of specialized instruction outside general education due to Student's disability, which was unchanged throughout the IEPs; the IEPs erroneously referred to Student receiving only a limited amount of SL (when there was actually none) so there were no harmful effects.<sup>53</sup>

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<sup>39</sup> Parent; P19p264; P24p275.

<sup>40</sup> Special Education Teacher; P19p263.

<sup>41</sup> Educational Advocate; P70p496-97.

<sup>42</sup> Special Education Teacher.

<sup>43</sup> *Id.*

<sup>44</sup> P21p268.

<sup>45</sup> Educational Advocate; Parent; Special Education Teacher.

<sup>46</sup> Special Education Teacher.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Educational Advocate; P13p185; P15p210 (duplicate).

<sup>52</sup> Educational Advocate; P18p261.

<sup>53</sup> P11p147; P12p167; P13p185.

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11. Transition Plans. In the 12/10/21 IEP transition plan, Student is reported as wanting to become a scientist, planning to enroll in a vocational training program, and working in a drug store, employed as a scientist, and a career related to medicine.<sup>54</sup> Student's 11/25/22 IEP was the same.<sup>55</sup> Student's 11/14/23 was also the same.<sup>56</sup> Student discussed different transition goals and interests over time; updates were not included in the IEPs.<sup>57</sup> In the 11/26/24 meeting with Educational Advocate, Student expressed a range of different interests other than what was reported in the transition section of the IEPs.<sup>58</sup> Parent wanted Student to narrow in on what Student should focus on.<sup>59</sup>

12. Language Issues. Parents made no request for IEPs in their native language; some documents were translated for them.<sup>60</sup> DCPS should have known to translate documents since Parent always required interpretation at IEP and other meetings.<sup>61</sup> Special Education Teacher routinely sent messages to Parents in English, which they did not understand.<sup>62</sup> Going forward, DCPS has committed to routinely translate Student's education records into Parents' native language.<sup>63</sup>

### Conclusions of Law

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

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

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

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<sup>54</sup> P11p150-52.

<sup>55</sup> P12p170-72.

<sup>56</sup> P13p189-90.

<sup>57</sup> Special Education Teacher; R5p17; P12; P13.

<sup>58</sup> Educational Advocate; P22.

<sup>59</sup> P22p271.

<sup>60</sup> Special Education Teacher; P18p261.

<sup>61</sup> Educational Advocate.

<sup>62</sup> Parent.

<sup>63</sup> Special Education Teacher.

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quoting *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 181, 102 S. Ct. 3034, 73 L. Ed. 2d 690 (1982).

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

The IEP must be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F.*, 137 S. Ct. at 1001. The Act's FAPE requirement is satisfied "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." *Smith v. Dist. of Columbia*, 846 F. Supp. 2d 197, 202 (D.D.C. 2012), citing *Rowley*, 458 U.S. at 203. The IDEA imposes no additional requirement that the services so provided be sufficient to maximize each child's potential. *Rowley*, 458 U.S. at 198. In its decision, the Supreme Court made very clear that the standard is well above *de minimis*, however, stating that "[w]hen all is said and done, a student offered an educational program providing 'merely more than *de minimis*' progress from year to year can hardly be said to have been offered an education at all." *Endrew F.*, 137 S. Ct. at 1001.

Importantly, the local education agency ("LEA") must ensure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. § 300.114; *Endrew F.*, 137 S. Ct. at 1000 (children with disabilities should receive education in the regular classroom to the extent possible); *Montuori v. Dist. of Columbia*, No. 17-cv-2455 (CKK), 2018 WL 4623572, at \*3 (D.D.C. 2018).

A Hearing Officer's determination of whether a child received a FAPE must be based on substantive grounds. In matters alleging a procedural violation, a Hearing Officer may find that a child did not receive a FAPE only if the procedural inadequacies (i) impeded the child's right to a FAPE; (ii) significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) caused a deprivation of educational benefit. 34 C.F.R. § 300.513(a). In other words, an IDEA claim is viable only if those procedural violations affected the child's *substantive* rights. *Brown v. Dist. of Columbia*, 179 F. Supp. 3d 15, 25-26 (D.D.C. 2016), quoting *N.S. ex rel. Stein v. Dist. of Columbia*, 709 F. Supp. 2d 57, 67 (D.D.C. 2010).

Petitioner carries the burden of production and persuasion, except on issues of the appropriateness of an IEP or placement on which Respondent has the burden of persuasion, if Petitioner establishes a *prima facie* case. D.C. Code Ann. § 38-2571.03(6); *Z. B. v. Dist.*

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of *Columbia*, 888 F.3d 515, 523 (D.C. Cir. 2018) (party seeking relief bears the burden of proof); *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62, 126 S. Ct. 528, 537, 163 L. Ed. 2d 387 (2005).

**Issue 1:** *Whether DCPS denied Student a FAPE by failing to timely and comprehensively conduct (a) an AT evaluation, and/or (b) an SL evaluation, during 2023/24 to present. (Petitioner has the burden of persuasion on this issue.)*

Petitioner failed to meet her burden on this initial issue. The importance of assessing students in all areas of suspected disability was emphasized in *Z.B.*, 888 F.3d at 518, *quoting* 20 U.S.C. § 1414(b)(3)(B). The D.C. Circuit Court explained in *Z.B.*, at 524, that failing to conduct adequate assessments is a procedural violation that could have substantive effects by preventing the IEP team from obtaining necessary information about the student. *See also Long v. Dist. of Columbia*, 780 F. Supp. 2d 49, 60-61 (D.D.C. 2011) (“in the absence of necessary and appropriate evaluations the district cannot develop a program that is tailored to the student’s unique needs and reasonably calculated to enable [the student] to receive educational benefits” (citation omitted)); 34 C.F.R. § 300.304(c)(4).

Here, DCPS agreed on 3/26/24 to conduct all evaluations requested by Parent, although it issued an IEE for the comprehensive psychological evaluation when the school psychologist unexpectedly departed. The AT evaluation was inexplicably not completed by DCPS, but again agreed to by DCPS at the recent 5/20/25 meeting, to which Parent has consented. A comprehensive SL evaluation was conducted by DCPS which determined that there was no oral communication issue impacting Student’s educational performance; Speech-Language Pathologist had no concerns about Student’s SL abilities and Student doesn’t need SL support to access academics.

**Issue 2:** *Whether DCPS denied Student a FAPE by failing to provide an appropriate IEP and/or placement from March 2023 to present, due to (a) Student not being evaluated in all areas of concern, (b) inappropriate academic goals/PLOPs, (c) an inappropriate transition plan, and/or (d) failure to place Student in the LRE. (Respondent has the burden of persuasion on this issue, if Petitioner establishes a prima facie case.)*

Petitioner did establish a *prima facie* case concerning Student’s IEP and placement from March 2023 onwards (covering portions of 2022/23, 2023/24 and 2024/25) through testimony and documents, shifting the burden to DCPS, which failed to meet its burden of persuasion, except as to evaluations. Importantly, Student’s IEP team met on 5/20/25 and shifted Student from the certificate track to the diploma track effective as of the beginning of 2025/26, with the expectation that Student would need an additional 4 years of education to be able to graduate with a DC diploma, if all goes well. Specifically, Student’s placement on 5/20/25 was changed from a CES self-contained classroom (which is a certificate track program for children with autism) to an SLS self-contained classroom (which is a diploma track program with extensive supports). Student apparently was not part of this meeting, despite being considered an adult by DCPS, and some due process hearing witnesses were concerned about whether Student understood the consequences of the decisions that were being made for Student’s education.

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The applicable legal standard for analyzing the appropriateness of the IEPs at issue in this case was articulated by Chief Justice Roberts for a unanimous Supreme Court as whether they were “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” *Endrew F.*, 137 S. Ct. at 1001. As the U.S. Court of Appeals for the District of Columbia emphasized in *Z.B.*, 888 F.3d at 517, *Endrew F.* “raised the bar on what counts as an adequate education under the IDEA,” requiring more than “merely some” educational benefit. *See also Damarcus S. v. Dist. of Columbia*, 190 F. Supp. 3d 35, 51 (D.D.C. 2016) (IEP must be “reasonably calculated to produce meaningful educational benefit”). The measure and adequacy of the IEPs are determined as of the time they were offered to Student, rather than with the benefit of hindsight. *See Z.B.*, 888 F.3d at 524; *A.T. v. Dist. of Columbia*, CV 16-1086 (CKK), 2021 WL 1978792, at \*12 (D.D.C. 2021); *S.S. ex rel. Shank v. Howard Rd. Acad.*, 585 F. Supp. 2d 56, 66 (D.D.C. 2008). The appropriateness of Student’s IEPs is analyzed by focusing on the specific concerns raised by Petitioner, which are considered in turn.<sup>64</sup> *See* 34 C.F.R. § 300.320(a); *Honig*, 484 U.S. at 311.

(a) Evaluation in All Areas of Concern. As noted in the previous issue, evaluations are vital. Indeed, evaluations of children by experts are central to the determination of what special education and related services are needed for most eligible children. *See Hill v. Dist. of Columbia*, 2016 WL 4506972, at \*18 (D.D.C. 2016) (“evaluation’s primary role is to contribute to the development of a sound IEP,” *quoting Long v. Dist. of Columbia*, 780 F. Supp. 2d 49, 60 (D.D.C. 2011)). However, as noted above, the undersigned finds no failure to evaluate here and DCPS has met its burden of persuasion.

(b) Academic Goals/PLOPs. Petitioner next challenged the academic goals and PLOPs in the IEPs, noting the verbatim repetition in many of the goals and PLOPs between the IEPs in issue. IEPs are required to contain measurable annual goals pursuant to 34 C.F.R. § 300.320(a)(2). Here, with Student performing many years below grade level, close review of the goals in Student’s IEPs leads the undersigned to conclude that DCPS failed to demonstrate that these goals – including repetitions – were appropriate in Student’s IEPs. *Middleton v. Dist. of Columbia*, 312 F. Supp. 3d 113, 139-40 (D.D.C. 2018) (“having respect for the expertise of school officials does not require a court to endorse conclusions about the adequacy of a student’s goals that are not supported by the record”). While it is sometimes appropriate to repeat goals if the student is close to mastery, as DCPS argued, that did not appear to be the case here. Further, the IDEA requires statements of PLOPs in IEPs pursuant to 34 C.F.R. § 300.320(a)(1). Here, Student’s PLOPs were not updated in the IEPs as they should have been, which prevented the IEP team from taking actions to ensure that necessary actions are taken to permit Student to progress.

(c) Transition Plans. Student did receive basic transitional/vocational assessments needed for the IEPs and the basic plans that were included in the IEPs. The challenge here is to the adequacy of the transition plans, where the test is “whether the IEP, taken in its

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<sup>64</sup> A Hearing Officer must also determine whether “the State complied with the procedures” set forth in the IDEA. *A.M. v. Dist. of Columbia*, 933 F. Supp. 2d 193, 204 (D.D.C. 2013), *quoting Rowley*, 458 U.S. at 206-07. Procedural concerns are discussed herein.

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entirety, is reasonably calculated to enable the particular child to garner educational benefits.” *Lessard v. Wilton Lyndeborough Coop. School Dist.*, 518 F.3d 18, 30 (1<sup>st</sup> Cir. 2008) (citations omitted). Moreover, an IEP is not required to offer Student the “best” transition plan – but only services reasonably calculated to provide the student with meaningful benefit. *See K.S. v. Dist. of Columbia*, 962 F. Supp. 2d 216, 220-222 (D.D.C. 2013). Here, some work was done on a basic transition plan early on, which relied on input from Student about a career in medicine and wanting to work in a drug store, yet the various elements of the transition plan were not updated despite Student’s thoughts and goals evolving over time.

(d) LRE. Petitioner’s final challenge to Student’s IEPs is whether DCPS adequately discussed Student’s LRE and included the requisite detail about Student’s LRE in the IEPs. Parents are entitled to “a description of specialized instruction and services that the child will receive.” *Endrew F.*, 137 S. Ct. at 1000. The court in *Middleton*, 312 F. Supp. 3d at 121 (D.D.C. 2018), citing *Brown* (below) explained that “[c]ourts in this jurisdiction have concluded that an IEP Team is required to discuss a student’s specific ‘Least Restrictive Environment’ (‘LRE’) and that the IEP is required to include at least a brief description of the child’s LRE.” The decision in *Brown v. Dist. of Columbia*, 179 F. Supp. 3d 15, 27 n.2 (D.D.C. 2016), found a student’s IEP legally deficient when it merely stated the hours per week of specialized instruction and behavioral support, but omitted a sufficient description of student’s LRE and placement. *See also Jones v. Dist. of Columbia*, No. 17-1437, 2019 WL 532671, at \*1 n.1 (D.D.C. 2019); 34 C.F.R. § 300.320(a)(5),(7). This becomes even more challenging if Parents are not receiving the IEP and other key documents in their native language. Here, the LRE page of the challenged IEPs included little more than the hours per week of specialized instruction (there were no related services), as in *Brown*, rather than a more thorough description of the services Student required for a FAPE and explanation about the self-contained program the team determined best.

FAPE. In carefully considering the concerns raised above individually and collectively, the undersigned is cognizant of the fact that the analysis is not about achieving perfection. Instead, IEPs simply need to be reasonably calculated to enable Student to make appropriate progress in the circumstances. *See Endrew F.*, 137 S. Ct. at 1001; *Z.B.*, 888 F.3d at 519 (IDEA “stops short of requiring public schools to provide the best possible education”). *See also Leggett v. Dist. of Columbia*, 793 F.3d 59, 70 (D.C. Cir. 2015); *S.M. v. Dist. of Columbia*, CV 19-2096 (RC), 2020 WL 7230266, at \*5 (D.D.C. 2020). However, on balance, this Hearing Officer concludes that DCPS failed its burden of persuasion by a preponderance of the evidence on Issue 2, apart from subpart (a), which accounts for the bulk of the remedy discussed below.

Placement. The IDEA requires “school districts to offer placement in a school and in programming that can fulfill the requirements set forth in the student’s IEP.” *Middleton*, 312 F. Supp. 3d at 143, citing *O.O. ex rel. Pabo v. Dist. of Columbia*, 573 F. Supp. 2d 41, 53 (D.D.C. 2008). *See also Johnson v. Dist. of Columbia*, 962 F. Supp. 2d 263, 267 (D.D.C. 2013) (DCPS “must place the student in a setting that is capable of fulfilling the student’s IEP”). The undersigned concludes that Petitioner prevails as Student has been in a certificate track placement for years, despite DCPS agreeing just days ago that Student should instead be in a diploma track placement and should be in that new placement for

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years going forward. Accordingly, this Hearing Officer concludes that the failure to include a more detailed description of Student's LRE/placement in the challenged IEPs had a significant negative impact on Parent's participation in decision-making and on Student's education and right to a FAPE, and thus was a substantive violation and a denial of FAPE. *See* 34 C.F.R. § 300.513(a).

**Issue 3:** *Whether DCPS denied Student a FAPE by failing to provide education records in Parent's native language. (Petitioner has the burden of persuasion on this issue.)*

A critical aspect of this case is that Parents do not speak English and, despite always needing interpreters at meetings, DCPS did not consistently provide documents in Parents' native language. Petitioner agreed at the due process hearing that all required education records had been provided concerning Student, limiting the issue to translation of documents into her native language. 34 C.F.R. § 300.29. Absent translations, Parent did not understand that Student was not on the diploma track and that Student would not be awarded a DC high school diploma in June 2025. Wasted years could have been avoided had DCPS been clearer with Parents, providing translation of key documents, as well as making sure Parents understood the situation during IEP and other meetings. While there was credible testimony on both sides of the issue, the undersigned concludes that Petitioner met her burden of persuasion on the issue of access to Student's education records in Parent's native language. *See* 20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.501(a), 34 C.F.R. § 300.613(a) (parents must be permitted to inspect and review any education records relating to their child that are collected, maintained, or used by an agency). *See also Jalloh ex rel. R.H. v. Dist. of Columbia*, 535 F. Supp. 2d 13, 21 (D.D.C. 2008) ("parents have the right to examine records and [educational agency] must give parents the opportunity to inspect, review, and copy records"). What might otherwise have been a mere procedural violation involves substantive harm, for Parent was prevented from critical participation and being able to raise timely concerns about the certificate track rather than diploma track, which is greatly impacting Student's life and contributes to the compensatory education awarded below. *See* 34 C.F.R. § 300.513(a). In addition, DCPS helpfully committed at the due process hearing to translate all education records for Parent going forward.

### Remedies

Compensatory education is necessary to make up for the denials of FAPE found above. In determining the amount of compensatory education for denials of FAPE, there is often "difficulty inherent in figuring out both what position a student would be in absent a FAPE denial and how to get the student to that position," *B.D. v. Dist. of Columbia*, 817 F.3d 792, 799 (D.C. Cir. 2016), but that does not permit the effort to be avoided. *See Henry v. Dist. of Columbia*, 750 F. Supp. 2d 94, 98 (D.D.C. 2010) (a disabled student who has been denied special education services is entitled to a tailored compensatory education award and limitations of the record are no excuse). Moreover, a student is not required "to have a perfect case to be entitled to compensatory education." *Cousins v. Dist. of Columbia*, 880 F. Supp. 2d 142, 148 (D.D.C. 2012) (citations omitted). Here, the undersigned endeavors to enable Student to benefit as much as possible from the educational

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opportunities available, while ensuring that outcomes that may be harmful to Student or Parents can be avoided.

As noted above, Student has recently been placed on a diploma track which is expected to require 4 years to achieve a diploma. Parent and counsel have apparently agreed to this path, but it is less clear what Student thinks about the plan and whether Student is willing to go to 4 more years of basic schooling. If so, the undersigned does not wish to interfere with a plan that suits the parties. However, out of concern for how things may unfold for Student going forward, the undersigned seeks to provide compensatory education options that can act as a safety net for Student in case the current plan is not satisfactory at any point.

In this case, Educational Advocate testified that the compensatory education sought in her detailed plan would restore Student to the educational position Student should be in to the best that can be achieved, recognizing that nothing can restore the years during which Student was not earning credits towards graduation. However, Petitioner has not fully prevailed in this due process hearing, so the undersigned hereby adjusts Educational Advocate's proposal accordingly.

The undersigned thus awards 720 hours of tutoring, which is intended to provide 10 hours/week over 2 years in the expectation that such support would be sufficient for Student to be able to earn a GED, if desired. These tutoring hours could also be used to support Student on the diploma track, if needed for ongoing education with DCPS.

In addition, the record is clear that Student has already qualified for a certificate of completion, so if Student gets to a point of being unable to continue on the diploma track, DCPS shall award Student's certificate of completion upon request at that point.

Finally, within 30 calendar days, Student's transition plan is to be updated to reflect Student's current interests and goals in order to provide as much support as possible while Student remains enrolled at DCPS.

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

### **ORDER**

Petitioner has largely prevailed as set forth above. Accordingly, **it is hereby ordered that:**

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1. Within 30 calendar days, DCPS shall update the secondary transition plan within Student's IEP to reflect Student's current interests and goals.
2. If Student decides not to continue pursuing the diploma track at any point during the next 4 school years, Petitioner may give notice to DCPS and Student shall be awarded a certificate of completion within 30 calendar days.
3. As compensatory education for the denial of FAPE found herein, within 10 business days after request by Petitioner, DCPS shall provide a letter(s) of authorization for 720 hours of 1:1 academic tutoring, from an independent provider(s) chosen by Petitioner to support Student on the diploma track or to assist Student in preparing for and taking the GED; all hours are to be used within 24 months and any unused hours shall be forfeited.

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

**IT IS SO ORDERED.**

Dated in Caption

/s/ *Keith Seat*

Keith L. Seat, Esq.  
Hearing Officer

### **NOTICE OF RIGHT TO APPEAL**

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

Copies to:

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