

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

PARENT, on behalf of)	Date Issued: June 23, 2025
STUDENT, ¹)	
)	Hearing Officer: Peter B. Vaden
Petitioner,)	
v.)	Case No: 2025-0065
)	
DISTRICT OF COLUMBIA)	Online Videoconference Hearing
PUBLIC SCHOOLS,)	
)	Hearing Dates: June 13 and 16, 2025
Respondent.)	

HEARING OFFICER DETERMINATION
(Corrected June 24, 2025)

INTRODUCTION AND PROCEDURAL HISTORY

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by the Petitioner parent (MOTHER) 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 Petitioner seeks compensatory education and other relief for her child from Respondent District of Columbia Public Schools (DCPS) on the grounds that DCPS allegedly denied Student a free appropriate public education (FAPE) by not conducting an appropriate initial special education evaluation of the child, by failing to offer appropriate Individualized Education Programs (IEPs) for the 2023-2024 and 2024-2025 school years and by failing to fully implement Student’s initial IEP.

¹ Personal identification information is provided in Appendix A.

Petitioner's Due Process Complaint, filed on April 4, 2025, named DCPS as Respondent. The undersigned hearing officer was appointed on April 7, 2025. The parties met for a Resolution Session Meeting on April 11, 2025 and did not resolve the issues in dispute. On April 18, 2025, I convened a telephone prehearing conference with counsel to discuss the issues to be determined, the hearing date and other matters. The final decision in this case was originally due by June 18, 2025. By order issued June 17, 2025, I granted DCPS' motion to extend the due date to July 3, 2025.

With the parent's consent, the due process hearing was held online on June 13 and 16, 2025 and recorded by the hearing officer, using the Microsoft Teams videoconference platform. Mother appeared online for the hearing and was represented by PETITIONER'S COUNSEL. Respondent DCPS was represented by LEA REPRESENTATIVE and by DCPS' COUNSEL and DCPS' CO-COUNSEL. Petitioner's Counsel and DCPS' Counsel made opening and closing statements.

Mother testified and called as additional witnesses SPEECH-LANGUAGE PATHOLOGIST, GRANDMOTHER, EDUCATIONAL ADVOCATE and LEGAL ASSISTANT. DCPS called as witnesses LEA Representative, SCHOOL SPEECH-LANGUAGE PATHOLOGIST, CLASSROOM TEACHER and EVALUATION COORDINATOR. Petitioner's Exhibits P-1 through P-11, P-14 through P-16, P-18 through P-27, P-29 through P-36, and P-39 through P-45 were admitted into evidence. I sustained DCPS' objection to Exhibit P-12. Petitioner withdrew Exhibits P-13, P-17, P-28, P-37 and P-38. DCPS' Exhibits R-1 through R-42 were admitted into evidence,

including Exhibits R-6, R-20, R-24 and R-41 admitted over Petitioner's objections.

There was no request to file written closings.

JURISDICTION

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

ISSUES AND RELIEF SOUGHT

The issues raised by Petitioner against DCPS are as follows:

- a) Whether DCPS denied the Student a FAPE by failing to comprehensively evaluate him/her, with the initial evaluation through Early Stages, which should have considered Developmental Delay and Autism, and after the parent retained counsel, who sent out a written request outlining the parent's concerns and requesting supplemental evaluations on December 12, 2024, for Autism Spectrum Disorder (ASD), Occupational Therapy (OT) and Physical Therapy (PT) needs, Assistive Technology (AT), Consider Academic Data, Conduct Hearing and Vision Tests and Conduct Comprehensive Evaluation for Developmental Delay Eligibility;
- b) Whether DCPS denied the Student a FAPE by failing to develop an appropriate IEP, beginning April 11, 2024 and extending to the present, to address the following: Needs for speech services, communication supports, or necessary AT interventions; Cognitive Development and Academic Readiness, Gross and Fine Motor Skills, Social-Emotional and Behavioral Needs;
- c) Whether DCPS denied the student a FAPE by failing to consider his/her possible eligibility as a child with Developmental Delay – not just with a speech and language impairment -- beginning with the initial Early Stages evaluation;
- d) Whether DCPS denied the Student a FAPE by failing to timely and fully implement Student's IEP during the 2024-2025 school year and through the present by providing no services through November 2024 and not documenting that services were provided subsequent to November 2024;
- e) Whether DCPS denied the Student a FAPE by failing to provide full access to educational records from his/her current school, requested on or about September 30, 2024.

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

DCPS shall conduct and/or fund the following evaluations for the student: Comprehensive Psychological Evaluation; Occupational Therapy Evaluation. Physical Therapy Evaluation; Hearing/Vision tests, Autism Screener and Assistive Technology Evaluation;

DCPS shall timely review the results of the above-mentioned evaluations and revise the student's IEP as appropriate;

DCPS shall revise the student's IEP to provide appropriate specialized instruction, assistive technology, and related services;

The student shall be entitled to compensatory education for denials of FAPE that have occurred and the parent shall retain the right to request additional compensatory education upon completion of evaluations referenced above;

DCPS shall immediately provide access to the parent to all education records maintained for the student including but not limited to service trackers and/or logs; academic records; enrollment paperwork and forms signed by the parent.

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 child, resides with Mother in the District of Columbia.

Testimony of Mother.

2. Student is eligible for special education as a student having a Speech or Language Impairment (SLI). Exhibit P-7.

3. In spring 2023 the Strong Start DC Early Intervention Program (Strong Start) conducted an initial special education evaluation of Student, under Part C of the IDEA, for early intervention services for infants and toddlers with disabilities,. Student had been referred to early intervention in March 2023 following a well-child visit at

which the child's pediatrician recommended early intervention for language development. On April 4, 2023, Mother provided authorization to Strong Start to conduct The Battelle Developmental Inventory, 2nd Edition, Normative Update (BDI-2) and the Assessment, Evaluation, and Programming System for Infants and Children (AEPS). Exhibit P-5. On or about May 9, 2023, Student was determined eligible by Strong Start for Part C services. Strong Start wrote at the time that the child was found to have "a high probability of resulting in developmental delay." Early Intervention services recommended were Developmental therapy, 4 times per month, 60 minutes per visit. Student's family received developmental therapy 4 times a month beginning in May 2023 until December 2023, to focus on the child's ability to communicate using signs, gestures and words with his/her family during daily activity. Exhibits P-6, P-7.

4. Strong Start conducted AEPS assessments of Student on April 5, 2023, December 1, 2023 and February 6, 2024. AEPS objectives and goals were developed for Fine Motor, Gross Motor, Adaptive, Cognitive, Social Communication and Social. As of February 6, 2024, Student had only partially reached the AEPS goals. Exhibit P-6.

5. In January 2024, Student was referred for a Strong Start annual evaluation and to re-open his/her early intervention case after it was closed due to lack of contact from the family. Strong Start administered to Student the BDI-2. On or about February 15, 2024, Student was found eligible by Strong Start for Part C Speech language therapy, 4 times monthly, 60 minutes each visit. Exhibits P-7, P-14.

6. In March 2024, Student was referred to the DCPS Early Stages assessment center by Strong Start to determine the child's eligibility for IDEA Part B special education services. On March 12, 2024, Early Stages provided a Prior Written Notice (PWN) to Mother that due to Student's eligibility for early intervention services, his/her present developmental behaviors, age and the concerns expressed by Mother, Student would be evaluated as part of the local transition process from early intervention services (Part C) to special education services for DC Public Schools (Part B). Early Stages conducted an observation of Student and interviews with Mother, Grandmother and the Strong Start speech-language provider. Early Stages did not conduct its own formal assessments of Student but relied on the February 2024 BDI-2 results obtained by Strong Start. Exhibit P-9, Testimony of Evaluations Coordinator.

7. At Early Stages, Student's expressive language development was observed and a discrepancy with the BDI-2 expressive language results obtained by Strong Start was reported. When Strong Start administered the BDI-2 in February 2024, it was reported that Student had an expressive vocabulary of approximately 100 different words, however, during the Early Stages observation, no words were produced by the child. Student was vocal throughout the Early Stages observation, but his/her vocalizations were described as unintelligible jargon. Jargon speech produced by Student consisted of a variety of consonant sounds and contained inflection in his/her voice, demonstrative of conversational speech. Student's articulation, voice, and fluency were not able to be assessed at that time. Early Stages reported that Student did not

possess a functional form of communication needed to express his/her wants and needs, or to demonstrate knowledge of information. Exhibit P-9.

8. An Early Stages examiner conducted a hearing screening assessment of Student on March 25, 2024. Student passed the screening for both ears. A vision screener was also conducted, which appeared to indicate a “potential condition” for Student’s vision. It was not established at the due process hearing whether Early Stages verified that Student did not have any vision concerns. Exhibits R-9 and R-10.

9. On May 23, 2024, DCPS issued an eligibility determination report that Student had been determined eligible for special education as a child with an SLI. Exhibit P-7.

10. On May 23, 2024, Early Stages convened an initial IEP meeting for Student. The only goal area in the initial IEP was Communication/Speech and Language. The IEP provided for Student to receive Speech/Language services only, for 4 hours per month, outside general education. The IEP provided that Student was not eligible for Extended School Year (ESY) services and that Assistive Technology (AT) devices or services were not needed. Exhibit P-16.

11. In a May 23, 2024 PWN to the parent, Mother was given notice that Student was recently found eligible for special education and the IEP team had developed an initial IEP for Student. The PWN gave notice, *inter alia*, that prior to the start of the IEP meeting, the parent had provided verbal consent for the initial provision of services to Student, but the consent form has not yet been completed/signed. Mother

was notified “that the Consent for Initial Provision form needs to be completed/signed and returned in order for the IEP to be finalized.” Mother confirmed that she would try and complete/sign and return these forms as soon as possible. Exhibit P-16.

12. On May 23, 2024, Evaluations Coordinator sent Mother the DCPS consent for provision of IEP services to sign and return. Evaluations Coordinator sent Mother reminders about the consent form by emails on May 29, 2024, June 5, 2024 and on July 18, 2024. Mother did not respond. On August 28, 2024, Evaluations Coordinator reached out to Mother to have her sign consent. Mother responded that she needed a new copy and a new consent form was sent to her. The signed consent form was not received by DCPS. Testimony of Evaluations Coordinator, Exhibit R-28.

13. Mother enrolled Student at CITY SCHOOL 1 for the 2024-2025 school year. Testimony of Grandmother.

14. On October 16, 2024, LEA Representative received an email from DCPS’ manager of accounting listing students whose parents had not signed consents for their children to receive IEP services. Student was on that list. Prior to receipt of the notice, LEA Representative did not know that Student had been offered an IEP. On October 30, 2024, LEA Representative obtained the unsigned parental consent form for Student from Early Stages. On November 14, 2024, after multiple contacts with Mother and Grandmother, LEA Representative received the consent form, signed by Mother. Testimony of LEA Representative, Exhibit R-28. School Speech-Language Pathologist started providing IEP speech services to Student on December 13, 2024. Testimony of

School Speech-Language Pathologist.

15. On September 30, 2024, LAW FIRM wrote the principal of City School 1 to request a copy of Student's education records for the past two years. No response from City School 1 was received and Law Firm sent follow up requests on October 16, 2024, October 29, 2024 and November 7, 2024. On November 18, 2024, LEA Representative responded to Petitioner's Counsel that they did not have the documents requested by Law Firm. LEA Representative also informed Petitioner's Counsel that the parent had signed consent for initial provision of Special Education and Related Services on November 14 2024. On February 13, 2025, LEA Representative sent Petitioner's Counsel copies of Student's current IEP, Term 2 Progress Report, Attendance Report and Gold Report. By email of February 20, 2024, Petitioner's Counsel requested Student's service trackers or log for speech and language. On March 4, 2025, LEA Representative sent copies of Student's Beginning of Year and Middle of Year checkpoint data. Exhibit P-33.

16. On December 9, 2024, Law Firm sent by email a reevaluation request letter for Student to City School 1. Law Firm requested the following evaluations for Student: Full comprehensive evaluation, OT evaluation, PT evaluation, Hearing/vision tests, Autism screener and Assistive Technology evaluation. Exhibit P-32. Petitioner's Counsel sent a follow-up to the evaluation request on February 20, 2025. On March 4, 2025, LEA Representative responded to Petitioner's Counsel that she had attempted unsuccessfully to schedule a meeting with the parent multiple times that school year. LEA Representative requested counsel to have Mother call her as soon as possible to

discuss further evaluations. Exhibit P-33.

17. City School 1 convened an IEP annual review meeting for Student on April 11, 2025. Mother, Grandmother, Petitioner's Counsel and Educational Advocate 2 attended the IEP meeting. As with the prior May 23, 2024 IEP, the April 11, 2025 IEP provided goals on in the area of Communication/Speech and Language only. The IEP provided for Student to receive Speech/Language services for 2½ hours per month, outside general education. The IEP provided that Student was not eligible for Extended School Year (ESY) services and that Assistive Technology (AT) devices or services were not needed. Exhibit R-24. The parent and her representatives disagreed with the proposed IEP and maintained that Student needed to be comprehensively reevaluated to inform the IEP decision. The parent shared her concern that Student might have a developmental delay. LEA Representative responded that if the parent sought a reevaluation or a change in Student's disability classification, that should be discussed in an Analysis of Existing Data (AED) meeting, but not at the IEP annual review meeting. Testimony of Educational Advocate 2.

18. In the 2024-2025 school year, Student had 28 unexcused absences from school. Student also had 38 unexcused tardies. Exhibit R-39. When Student started at City School 1 for the 2024-2025 school year, he/she had a significant adjustment period. Classroom Teacher and the classroom aide worked hard to let Student know she was safe and loved. The classroom aide helped Student with self-regulation. By the end of the school year, Student has become engaging and attentive and had shown enormous

growth. Testimony of Classroom Teacher. School Speech-Language Pathologist believes Student is continuing to make progress. Testimony of Speech-Language Pathologist.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact and argument of counsel, as well as this hearing officer's flegal 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 must be met by a preponderance of the evidence. *See* D.C. Code § 38-2571.03(6).

ANALYSIS

A. Did DCPS deny the Student a FAPE by failing to comprehensively evaluate him/her with the initial evaluation through Early Stages, which should have considered Developmental Delay and Autism and, after the parent retained counsel who sent out a written request on December 12, 2024, outlining the parent's concerns and requesting supplemental evaluations for Autism Spectrum Disorder (ASD), Occupational Therapy (OT) and Physical Therapy (PT) needs,

Assistive Technology (AT), consider academic data, conduct hearing and vision tests and conduct comprehensive evaluation for Developmental Delay eligibility;

B. Did DCPS deny the Student a FAPE by failing to develop an appropriate IEP, beginning April 11, 2024 and extending to the present, to address the following: needs for speech services, communication supports, or necessary AT interventions; cognitive development and academic readiness; gross and fine motor skills; social-emotional and behavioral needs;

C. Did DCPS deny the student a FAPE by failing to consider his/her possible eligibility as a child with Developmental Delay – not just with a Speech or Language Impairment – beginning with the initial Early Stages evaluation?

Petitioner’s first three claims all concern the adequacy of Early Stages’ spring 2024 initial special education eligibility evaluation of Student and the resulting initial April 11, 2024 IEP. For the reason explained below, I find that the parent met her burden of persuasion that Early Stages’ initial eligibility evaluation was not adequate. Therefore, DCPS could not meet its burden of persuasion that the resulting April 11, 2024 IEP was appropriate for Student.

A “local education” or “State” agency—in this case, District of Columbia Public Schools (“DCPS”)—performs an “initial evaluation” to determine if a child has a qualifying disability. [12 U.S.C. § 1414(a)(1)]. In conducting the evaluation, DCPS must use “a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information,” and the child must be evaluated “in all areas of suspected disability.” *Id.* § 1414(b). . . .”This initial evaluation, and any subsequent re-evaluation, forms the basis for identifying the child’s needs and the requirements of the child’s IEP to meet those needs and support her educational development.” *Herrion v. District of Columbia*, No. 18-cv-02827, 2019 WL 5086554, at *1 (D.D.C. Oct. 10, 2019).

H.R. v. District of Columbia, No. 21-CV-01856-TJK-RMM, 2024 WL 1344444, at *2 (D.D.C. Mar. 29, 2024).

For its initial eligibility evaluation of Student in May 2024, DCPS’ Early Stages

Diagnostic Center (Early Stages) conducted a “transition evaluation” for a child moving from IDEA Part C, the Infant and Toddlers with Disabilities Program, to Part B special education services for school-aged children. That meant, in Student’s case, that Early Stages relied on Strong Start’s February 2024 Battelle Developmental Inventory (BDI-2) assessment of Student, rather using “a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information” and ensuring that the child was evaluated “in all areas of suspected disability.” *See* 12 U.S.C. § 1414(b). As Petitioner’s expert, Educational Advocate 2, pointed out in her testimony, the Strong Start BDI-2 assessment was flawed. When Strong Start administered the BDI-2 in February 2024, it was reported that Student had an expressive vocabulary of approximately 100 different words, however, the child produced no words during the Early Stages observation and Early Stages reported that Student did not possess a functional form of communication needed to express his/her wants and needs, or to demonstrate knowledge of information. Early Stages should have concluded that the BDI-2, as administered to Student by Strong Start, was not “technically sound.” *See* 34 C.F.R. § 300.304(b)(3).

Moreover, Early Stages did not evaluate Student in all areas of suspected disability. The Assessment, Evaluation, and Programming System for Infants and Children (AEPS) assessments of Student, administered by Strong Start on April 5, 2023, December 1, 2023 and February 6, 2024, revealed that the child had needs in the areas of Fine Motor, Gross Motor, Adaptive, Cognitive, Social Communication and Social.

Also, on or about May 9, 2023, Strong Start found Student to have “a high probability of resulting in developmental delay.” It appears that for its initial Part B eligibility evaluation in May 2024, Early Stages failed to fully assess Student in these areas of concern to identify his/her IEP needs.

The IDEA requires that if additional data are needed to determine whether the student is a child with a disability, and the educational needs of the student, the agency must gather those data. 34 C.F.R. § 300.305(a)(3). I conclude that the parent met her burden of persuasion that the Early Stages May 2024 evaluation of Student was not sufficiently comprehensive to identify all of the child’s educational needs and that DCPS failed to adequately gather functional, developmental and academic information about the Student’s needs to determine the content of his/her initial IEP in all areas of suspected disability.

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

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

34 C.F.R. § 300.513(a)(2).

In this case, I find that Early Stages' failure to comprehensively evaluate Student in spring 2024 impeded the child's right to a FAPE and significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the child. This was a denial of FAPE.

To be clear, I make no finding as to whether Student should have been considered eligible as a child with Developmental Delay or another IDEA disability in addition to SLI. Regardless of the disability classification for special education eligibility relied upon by the LEA, the LEA must ensure that IEP special education and related services are tailored to the unique needs of each child. *See Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 994, 197 L. Ed. 2d 335 (2017). *See, e.g. Letter to Anonymous*, 48 IDELR 16 (OSEP 2006) (Child's identified needs, not the child's disability category, determine the services that must be provided to her).

DCPS holds the burden or persuasion as to the appropriateness of the May 23, 2024 IEP. An IEP team must have sufficient data to determine the educational needs of the child; the present levels of academic achievement and related developmental needs and what special education and related services are needed to enable the child to participate, as appropriate, in the general education curriculum. *See* 34 C.F.R. § 300.305(a). I conclude that lacking an appropriate, comprehensive, initial eligibility evaluation of Student, the May 23, 2024 Early Stages IEP team did not have the information it needed to ensure that its initial IEP for Student was reasonably calculated to enable the child to make appropriate progress. I will order DCPS to conduct an appropriate, comprehensive, reevaluation of Student. Until the new assessments are

completed and reviewed by Student's IEP team, it is premature for this hearing officer to consider the specific inadequacies of the initial IEP alleged by the parent, *i.e.*, adequacy of speech services, need for communication supports, AT interventions, and needs for cognitive development, academic readiness, gross and fine motor skills and social-emotional-behavioral support.

D. Did DCPS deny the Student a FAPE by failing to timely and fully implement Student's IEP during the 2024-2025 school year and through the present by providing no services through November 2024 and not documenting that services were provided subsequent to November 2024?

The May 23, 2024 Early Stages IEP identified Student's IDEA disability as Speech or Language Impairment (SLI) and provided for Student to receive 4 hours per month of speech-language therapy related services. However, DCPS did not start providing speech-language services to Student until December 13, 2024 because, until November 14, 2024, Mother did not provide written consent for IEP services.

The federal IDEA regulations provide that a local education agency (LEA) must obtain informed consent from the parent of a child with a disability before the initial provision of special education and related services to the child. The LEA must make reasonable efforts to obtain the parent's informed consent. *See* 34 C.F.R. § 300.300(b). The parent must agree, *in writing*, before the initial provision of services. *See id.*, § 300.9(b). In this case, subsequent to developing the May 23, 2024 IEP, through the summer of 2024, Early Stages made multiple efforts to obtain Mother's signed consent to provide IEP services to her child, but Mother was unresponsive. These included emails to Mother sent on May 29, 2024, June 5, 2024 and July 18, 2024. On August 28,

2024, Evaluations Coordinator reached out to her Mother to have her sign consent. Mother responded that she needed a new copy of the consent form and a new copy was sent to her. Still Mother did not provide written consent to provide services to Student until November 14, 2024 after LEA Representative reached out to her. Once Mother's signed consent was obtained, the May 23, 2024 IEP was finalized and School Speech Language Pathologist began providing services to Student on December 13, 2024.

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).

In this case, due to the parent's delay in providing written consent, Student's initial IEP, drafted on May 23, 2024, was not finalized until mid-November 2024 and then the child missed the majority of his/her Speech-Language Pathology sessions because he/she was absent from school. (Student was absent for 30 days, including 28 unexcused absences, in the 2024-2025 school year.) On these facts, I find that the parent has not met her burden of persuasion that DCPS denied the child a FAPE by not implementing substantial or significant provisions of Student's initial IEP.

E. Did DCPS deny Student a FAPE by failing to provide full access to educational records from City School 1, requested by Law Firm on or about September 30, 2024?

On September 30, 2024, Law Firm wrote the principal of City School 1 to request a copy of Student's education records for the past two years. No response from City School 1 was received and Law Firm sent follow up requests on October 16, 2024, October 29, 2024 and November 7, 2024. On November 18, 2024, LEA Representative responded to Petitioner's Counsel that they did not have the documents requested by Law Firm. On February 13, 2025, LEA Representative sent Petitioner's Counsel copies of Student' current IEP, Term 2 Progress Report, Attendance Report and Gold Report. By email of February 20, 2024, Petitioner's Counsel requested Student's service trackers or log for speech and language. On March 4, 2025, LEA Representative provided counsel copies of Student's Beginning-of-Year and Middle-of-Year checkpoint data. Petitioner's expert, Educational Advocate 2, testified that she would have liked to have been able to review Student's service trackers, progress reports, and updated Speech-Language report and the original BDI-2 evaluation report completed by Strong Start in February 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). The difficulty with Petitioner's education records claim is that it is not clear which of the requested documents were in the control of City School 1,

to whom the records request was made. For example, the Speech-Language service trackers, Exhibit R-29, appear to have been generated on April 10, 2025, after Petitioner's complaint was filed. The BDI-2 evaluation was conducted by Strong Start – not a DCPS agency – and it is not clear that Early Stages or City School 1 ever had more than the “Summary of Evaluation and Results” (admitted as P-9). On this evidence, I find that Petitioner did not establish that DCPS denied Student a FAPE by failing to provide full access to his/her educational records requested from City School 1.

Relief

In this decision, I have concluded that DCPS denied Student a FAPE by not ensuring that Student received an appropriate, comprehensive, initial special education evaluation in spring 2024. Due to the inadequacy of Early Stages' initial evaluation, I also concluded that DCPS did not meet its burden of persuasion as to the appropriateness of the initial May 23, 2025 IEP for Student. For relief in this case, Mother seeks, *inter alia*, an order for DCPS to conduct or fund for Student a comprehensive psychological evaluation including an autism screener, an occupational therapy evaluation, a physical therapy evaluation, hearing/vision tests and an assistive technology evaluation. I will order these requested assessments. Upon completion of the reevaluation, DCPS shall convene Student's IEP team to review the reevaluation and other data and revise Student's IEP as appropriate.

In addition to seeking a comprehensive reevaluation of Student and revision of Student's IEP, the parent also requests a compensatory education award to compensate

Student for the denials of FAPE in this case. “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). Compensatory education consists of prospective educational services designed to ‘compensate for a past deficient program.’ *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 522 (D.C. Cir. 2005) (internal quotation marks omitted). A final award relies on ‘individualized assessments,’ requires a ‘fact-specific’ inquiry, and 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.* at 524. The Hearing Officer should be guided by the principle that, ‘[t]o fully compensate a student, the award must seek not only to undo the FAPE denial’s affirmative harm, but also to compensate for lost progress that the student would have made.’ *B.D.* at 798. That inquiry requires ‘figuring out both [(1)] what position a student would be in absent a FAPE denial and [(2)] how to get the student to that position.’ *Id.* at 799.” *Butler v. District of Columbia*, Case No. 16-cv-01033 (D.D.C. Aug. 14, 2017).

In this decision, I have found that DCPS denied Student a FAPE by not comprehensively evaluating Student in spring 2024 and by not ensuring that the Early Stages IEP team had the data it needed in order to develop Student’s initial IEP. Until Student’s IEP team, including the parent, is provided and reviews the new assessments of Student and decides what, if any, revisions to Student’s IEP are appropriate, it would

be an exercise in speculation to attempt to figure out either what position child would be in absent the FAPE denial in this case or how to get him/her to that position. For this reason, I will deny the Petitioner's request for compensatory education – without prejudice to her right to seek a compensatory education award, in a new proceeding, after the additional assessments are completed and reviewed by Student's IEP team and any needed changes are made to Student's initial IEP.

ORDER

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

ORDERED:

1. Within 20 business days of this decision, subject to obtaining Petitioner's consent in writing, DCPS shall conduct a comprehensive reevaluation of Student, to include, at minimum, a comprehensive psychological reevaluation including an autism screener, an occupational therapy evaluation, a physical therapy evaluation, vision screener and an assistive technology assessment. DCPS shall ensure that this reevaluation conforms to all relevant standards of the profession for educational and psychological testing of students with disabilities. Upon receipt of this reevaluation and the other evaluations and assessments completed by DCPS, DCPS shall promptly reconvene Student's IEP team to review the additional information and to update Student's IEP as appropriate. The revised IEP shall be completed in time to be implemented from the start of the 2025-2026 school year;
2. Petitioner's request for a compensatory education award for the denials of FAPE determined in this decision is denied without prejudice to allow time for Student's reevaluation to be completed and for the IEP team to review the new assessments and to revise Student's IEP as appropriate;
3. All other relief requested by the Petitioner herein is denied.

Date: June 23, 2025

s/ Peter B. Vaden
Hearing Officer

Hearing Officer Contact Information:

Peter B. Vaden
Peter.Vaden@dc.gov
Telephone: 434-923-4044

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