

JURISDICTION:

The due process hearing was conducted, and this decision was written, pursuant to the Individuals with Disabilities Act (“IDEA”), P.L. 101-476, as amended by P.L. 105-17 and the Individuals with Disabilities Education Improvement Act of 2004, the District of Columbia Code, Title 38 Subtitle VII, and the District of Columbia Municipal Regulations, Title 5 Chapter E30.

BACKGROUND AND PROCEDURAL HISTORY:

The student who is the subject of this due process hearing (“Student”) resides with Student’s grandmother/guardian (“Petitioner”) in the District of Columbia and the District of Columbia Public Schools (“DCPS”) is Student’s local educational agency (“LEA”). Student is currently age ___² and attends a DCPS school (“School A”). Student is eligible for special education and related services pursuant to IDEA with a disability classification of Autism Spectrum Disorder (“ASD”).

Petitioner filed her current due process complaint against DCPS on October 1, 2020, alleging that DCPS denied Student a free appropriate public education (“FAPE”) by (1) failing to conduct a comprehensive reevaluation of Student during Student’s triennial evaluation in 2018,³ (2) failing to develop appropriate individualized educational programs for Student for school year (“SY”) 2018-2019, SY 2019-2020 and SY 2020-2021,⁴ and (3) failing to provide Petitioner access to Student’s educational records.⁵

Relief Sought:

Petitioner seeks the following as relief: a finding that Student has been denied a FAPE; that DCPS fund independent evaluations (“IEE”) convene a meeting following to review of the

² Student’s age and grade are listed in Appendix B.

³ Petitioner alleges that at in conducting Student’s triennial evaluation, DCPS should have, but did not conduct the following evaluations: comprehensive psychological, adaptive, occupational therapy (“OT”) speech-language, functional behavior assessment (“FBA”) assistive technology (“AT”). Petitioner alleges the evaluations should have been conducted in spring 2018 and at the latest in October 2018. Petitioner alleges that DCPS last comprehensively evaluated Student in April 2015.

⁴ Petitioner alleges that Student’s IEPs for SY 2018-2019, SY 2019-2020 and SY 2020-2021 are inappropriate for the following reasons: (a) lack of data by relying on stale evaluations, (b) inappropriate speech/language (“SL”) goals, repeated S/L baselines and similar present levels of performance (“PLOPs”), (c) failed to include goals for emotional, social and behavioral development, and written expression, (d) inappropriate adaptive living skills goals that do not address adaptive living skills, (e) inappropriate math goals that do not address functional math, math fluency, and math operations, and (f) inappropriate reading goals that do not address functional reading.

⁵ Finally, Petitioner alleges that DCPS has failed to provide Petitioner with access to Student’s educational records that were requested in correspondence in March, April, May, August and September 2020.

evaluations and update Student's IEP, provide Petitioner the educational records that outstanding, and provide Student compensatory education after the IEEs are conducted.⁶

LEA Response to the Complaint:

The LEA filed a response to the complaint on October 13, 2020. The LEA denies that there has been any failure to provide Student with a FAPE. In its response DCPS asserts, inter alia, the following:

Student's current individualized education plan ("IEP") was amended on May 13, 2020 and has a disability classification of ASD. The IEP prescribes 26 hours per week of specialized instruction outside general education, 120 minutes per month of occupational therapy outside general education, 120 minutes per month of speech-language pathology outside general education, classroom and statewide assessment accommodations, transportation, and extended school year ("ESY"). The Student's current IEP as well as IEP's dated October 30, 2019, June 17, 2019, and November 14, 2018 were reasonably calculated to enable Student the child to make progress appropriate in light of the child's circumstances. *Endrew F. ex rel. Joseph F. v. Douglas County School Dt.* RE-1, 2017 WL 1066260 (U.S. Mar. 22, 2017).

DCPS asserts in 2015 the Student received a comprehensive psychological evaluation, an occupational therapy re-evaluation, a speech-language re-evaluation, a social history, and a hearing screening. On January 24, 2018 and pursuant to the IDEA, DCPS preformed an analysis of existing data ("AED") and determined Student's classroom-based assessments provided sufficient data to determine the Student's present levels of performance and that Student's disability classification would remain ASD.

DCPS asserts on June 29, 2020, a location of services letter was issued identifying the CES classroom at School A where Student's IEP would be implemented for SY 2020-2021. This remains Student's location of service. Lastly, Petitioner has been provided with copies of Student's educational records on numerous occasions throughout the 2019-2020 school year.

Resolution Meeting and Pre-Hearing Conference and Order:

The parties participated in a resolution meeting and did not resolve the complaint. The parties did not mutually agree to shorten the 30-day resolution period. The 45-day period began on November 1, 2020, and ended, and the Hearing Officer's Determination ("HOD") was originally due] on December 15, 2020.

The parties were not available on the original hearing dates offered and selected, but were available on the dates they selected hearing dates in January 2021. Petitioner's counsel filed a motion to continue and extension of the HOD due date that was granted. Petitioner's counsel requested a second continuance that was granted setting the hearing dates for March 8, and 9, 2021, and extending the HOD due date to March 30, 2021.

⁶ During the hearing, Petitioner requested to reserve all compensatory education under an IEP team reviews all evaluations, including the AT evaluation, DCPS did not object. Petitioner also withdrew the relief requested for Student's placement in a CES classroom, as that placement issue was withdrawn at the outset of the hearing.

The undersigned hearing officer (“Hearing Officer”) conducted a pre-hearing conference on November 18, 2020, and issued a pre-hearing order (“PHO”) on November 30, 2020, outlining, inter alia, the issues to be adjudicated.

ISSUES ADJUDICATED:⁷

1. Whether DCPS denied Student a FAPE by failing to conduct a comprehensive evaluation of Student during Student’s triennial evaluation in 2018 by not conducting the following evaluations: (a) comprehensive psychological, (b) adaptive, (c) OT, (d) speech-language, (e) functional behavior assessment (“FBA”), and (f) assistive technology (“AT”).
2. Whether DCPS denied Student a FAPE by failing to provide Student appropriate IEPs for SY 2018-2019, SY 2019-2020 and SY 2020-2021 because the IEPs: (a) lacked data by relying on stale evaluations, (b) had inappropriate speech/language goals, repeated baselines and similar present levels of performance (“PLOP”) (c) failed to include goals for emotional, social and behavioral development, and written expression, (d) had inappropriate adaptive living skills goals that do not address adaptive living skills, (e) had inappropriate math goals that do not address functional math, math fluency, and math operations, and (f) had inappropriate reading goals that do not address functional reading.
3. Whether DCPS denied Student a FAPE by failing to provide Petitioner with access to Student’s educational records that were requested in correspondence in March, April, May, August and September 2020.

DUE PROCESS HEARING:

Due to the COVID-19 emergency, the hearing was conducted via video-teleconference on March 8, 2021, and March 9, 2021.

RELEVANT EVIDENCE CONSIDERED:

This Hearing Officer considered the following as evidence and are the sources of the findings of fact: (1) the testimony of the witnesses, and (2) the documents submitted in the parties’ disclosures (Petitioner’s Exhibits 1 through 80 and Respondent’s disclosed documents that are listed as Respondent’s pages 1 through 253) that were admitted into the record and are listed in Appendix A. Witnesses’ identifying information is in Appendix B.⁸

⁷ At the outset of the due process hearing, Petitioner’s counsel withdrew one of the issues that have been certified in the PHO without objections from Respondent: “Whether DCPS denied Student a FAPE by failing to provide Student an appropriate program, placement and location of services for SY 2020-2021 because the IEP team placed Student in a CES, but Student’s current school (School A) does not have a CES program and only offers a BES program.” Thus, that issue was not adjudicated.

⁸ The Hearing Officer found the witnesses credible unless otherwise noted in the Conclusions of Law. Any material inconsistencies in the testimony of witnesses that the Hearing Officer found are addressed in the Conclusions of Law. Petitioner presented five witnesses, all of whom testified as expert witnesses, except for Petitioner. The witnesses were (1) Petitioner: Student’s grandmother, (2) an Educational Advocate employed by the law firm

SUMMARY OF DECISION:

Petitioner had the burden of persuasion on issues #1 and #3. The burden of persuasion on issue #2 fell to Respondent once Petitioner established a prima facie case on that issue. Based on the evidence adduced, the Hearing Officer concludes that Petitioner sustained the burden of persuasion by a preponderance of the evidence on issue #1, but not issue #3. Respondent did not sustain the burden of persuasion by a preponderance of the evidence on the issue #2. Having found a denial of a FAPE, the Hearing Officer directed DCPS to review independent evaluations to be provided to DCPS by Petitioner, convene an IEP meeting to review and revise Student's IEP considering the results and recommendations of the evaluations and to discuss compensatory.

FINDINGS OF FACT:⁹

1. Student resides with Student's grandparent/guardian, Petitioner, in the District of Columbia and DCPS is Student's LEA. Student attends School A, a DCPS school. Student is eligible for special education and related services with a disability classification of ASD. (Petitioner's testimony, Respondent's Exhibit pg. 38)
2. DCPS completed the following evaluations of Student in March and April 2015: comprehensive psychological reevaluation,¹⁰ occupational therapy ("OT") speech-language. Student's cognitive functioning was determined to be Significantly Below

representing Petitioner, (3) a second Educational Advocate employed by the law firm representing Petitioner, (4) an Occupational Therapist, and (5) a Speech-Language Pathologist. DCPS presented no witnesses.

⁹ The evidence (documentary and/or testimony) that is the source of the Findings of Fact ("FOF") is noted within parenthesis following the finding. Documents cited are noted by the exhibit number. If there is a second number following the exhibit number, it denotes the page of the exhibit (or the page number of the entire disclosure document) from which the fact was extracted. When citing an exhibit that has been submitted by more than one party separately, the Hearing Officer may only cite one party's exhibit.

¹⁰ The DCPS psychologist conducted the following as a part of Student's comprehensive psychological evaluation:

- Behavior Assessment System for Children, Second Edition Structured Developmental
- History (BASC-2 SDH) completed on 3/22/15
- Classroom Observation
- Student Interview (not completed due to speech difficulties)
- Reynolds Intelligence Assessment Scale (RIAS) completed on 3/31/15
- Primary Test of Nonverbal Intelligence (PTONI) completed on 3/25/15
- Behavior Assessment System for Children, Second Edition Parent Rating Scale- Preschool (BASC-2 PRS-P) completed by [REDACTED] on 3/22/15
- Behavior Assessment System for Children, Second Edition Teacher Rating Scale- Preschool (BASC-2 TRS-P) completed by [REDACTED] on 4/8/15
- Social Responsiveness Scale- Second Edition (SRS-2) completed by [REDACTED]
- Ballard, special education teacher, on 2/24/15
- Social Responsiveness Scale- Second Edition (SRS-2) completed by [REDACTED] on 3/22/15
- Gilliam Autism Rating Scale-Second Edition (GARS-2) completed by [REDACTED] on 3/22/15
- Gilliam Autism Rating Scale-Second Edition (GARS-2) completed by [REDACTED] on 2/24/15
- Adaptive Behavior Assessment System Second Edition (ABAS-II)
- Parent Form (5-21) completed by [REDACTED] on 3/22/15
- Kaufman Survey of Early Academic and Language Skills (K-SEALS) completed on 3/25/15

Average. The evaluations recommended Student received direct OT and S/L services based on the evaluations. (Petitioner's Exhibits 37, 38, 39)

3. At Student's previous DCPS school ("School B"), DCPS held an eligibility determination meeting and developed an IEP for Student on January 24, 2018. DCPS held an annual IEP review meeting and updated Student's IEP on November 14, 2018. Student's IEP was either amended or updated at an annual review meeting on the following dates: June 17, 2019, October 30, 2019, January 18, 2020, and May 13, 2020. (Petitioner's Exhibits 4, 5, 6, 7, 8, 10, 11, 31)
4. As a part of the January 24, 2018, eligibility determination, DCPS prepared an reviewed analysis of existing data ("AED"). The AED included results from teacher-made assessments and noted that Student's reading abilities were at least one grade level below Student's grade at the time; however, the AED noted that Student could not comprehend what Student read or what was read to Student. The AED included other qualitative data on the other areas of concern that were addressed in Student's IEP. There was little if any current quantitative data reported. There was data reported from Student's 2015 evaluations. (Petitioner's Exhibits 34, 47)
5. Student's November 14, 2018, IEP was amended on June 17, 2019, to add extended school year services ("ESY"). (Respondent's Exhibit pg.157)
6. DCPS held an IEP annual review meeting and updated Student's IEP on October 30, 2019. (Petitioner's Exhibit 8)
7. Student's IEP was revised in a meeting on January 18, 2020. (Respondent's Exhibit pg.96)
8. DCPS amended Student's IEP on May 13, 2020, to add ESY. (Respondent's Exhibit pg.140)
9. Petitioner filed a due process complaint against DCPS on May 29, 2020, alleging that DCPS failed to afford Petitioner access to all of Student's education records. The Hearing Officer assigned to adjudicate that complaint on August 2, 2020, ordered DCPS "to provide Petitioner's counsel copies of Student's education records, as listed by Petitioner's Counsel in the May 27, 2020, email to DCPS' Counsel, to the extent such documents are maintained in the SEDS system. At its election, DCPS may provide the documents in electronic format or provide hard copies." (Petitioner's Exhibit 59)
10. On August 2, 2020, DCPS provided Petitioner's counsel Student's the following education records.
 - Annual IEPs and Amendments (Dated: 4/3/17, 1/24/18, 11/14/18, 10/30/19)
 - IEP Progress Reports for the 2019-2020 school year - (1st 2nd 3rd 4th • and 5th (ESY) terms

- IEP Progress Reports for the 2017-2018, 2018-2019, and 2019-2020 school years (1st 2nd 3rd 4th and 5th (ESY) terms)
- Analysis of Existing Data ("AED") 2017-2018, 2018-2019, and 2019-202 school years-AED dated 1/24/18 only
- Speech and Language service trackers for **2017-2018** - Dated :7/28/18, 6/27/18, 6/15/18, 5/5/18, 4/5/18, 4/2/18, 3/10/18, 3/2/18, 1/4/18, 1/3/18, 12/5/17, 11/12/17, 11/6/17, 10/5/17, 9/5/17
- **2018-2019**- Dated: 7/26/19, 6/26/19, 6/5/19, 5/4/19, 4/2/19, 3/5/19, 2/5/19, 1/5/19, 12/5/18, 11/5/18, 10/1/18, 9/3/18
- **2019-2020** - Dated: 7/30/20, 6/6/20, 5/5/20, 4/3/20, 3/5/20, 2/5/20, 1/6/20, 12/4/19, 9/30/19, 9/4/19
- Occupational Therapy service trackers for **2017-2018** - Dated :7/27/18, 6/15/18, 6/1/18, 5/2/18, 4/2/18, 2/28/18, 2/1/18, 1/3/18, 12/4/17, 10/31/17, 10/1/17, 9/5/17
2018-2019- Dated: 7/25/19, 6/14/19, 6/4/19, 5/6/19, 5/2/19, 4/3/19, 3/5/19, 2/4/19, 1/3/19, 12/4/18, 10/31/18, 10/1/18, 9/4/18
2019-2020 - Dated: 7/3/20, 6/1/20, 4/6/20, 3/4/20, 2/5/20, 1/2/20, 12/4/19, 11/4/19, 9/30/19, 9/3/19
- Meeting notes for discussions about [REDACTED] IBP/ AED/ Evaluations - IEP Meeting Notes:11/14/18, Eligibility/IEP Meeting Notes: 1/24/18
- LOIs for 2017-2018, 2018-2019, and 2019-2020 school years (Dated: 9/22/19,11/14/18, 1/3/18)
- PWN for 2017-2018, 2018-2019, and 2019-2020 school years (Dated: 10/30/19, 11/14/18, 2/14/18,2/23/18,11/3/17)
- Location of Services Letter - Dated: 6/29/20 (Respondent's Exhibit pg. 211)

11. Petitioner filed her current due process complaint against DCPS on October 1, 2020, alleging the DCPS denied Student a FAPE. On October 2, 2020, DCPS convened an annual review meeting at School A and updated Student's IEP. Petitioner attended the meeting along with her attorney. (Petitioner's Exhibit 1, Respondent's Exhibit pgs. 33, 38)

12. The notes from the October 2, 2020, IEP meeting reflect the following:

[Petitioner's attorney] reported concerns about [Student's] most recent comprehensive psychological, speech, and occupational therapy evaluation reports that were completed in 2015. She believes that the information is outdated and cannot be used to determine appropriate programming for [REDACTED] moving forward. They asked for DCPS to conduct comprehensive evaluation reports for psychology, speech therapy, occupational therapy, assistive technology, and a functional behavior assessment. [School A LEA Designee ("LEAD")] explained that the process for any evaluations that require in-person components has been impacted by COVID-19 school closures, so the timeline will have to be extended until [Student] physically returns to school. [Petitioner's attorney] made a request for DCPS to approve and fund independent evaluations from an outside clinic that is able to complete comprehensive evaluations in person. [LEAD] will forward that request to the appropriate DCPS personnel for a response. Meanwhile, the IEP team is prepared to conduct an informal psychological evaluation via data review and Telehealth video conferencing, so that there is no lapse in services due to an expired eligibility

determination. [Petitioner] gave verbal consent to continue the evaluation process and conduct informal evaluation via Telehealth video conferencing.
(Respondent's Exhibit pgs. 33, 34)

13. DCPS developed an IEP for Student dated October 2, 2020, that prescribed 25.5 hours per week of specialized instruction, 120 minutes per month of occupational therapy ("OT") and 120 minutes per month of speech-language pathology, all outside general education. The IEP included goals in math, reading, daily living skills, communication/speech and language, motor and physical development. (Respondent's Exhibit pg. 38)
14. DCPS conducted an occupational therapy ("OT") reevaluation on November 2, 2020, a speech and language reevaluation on November 9, 2020, a psychological triennial reevaluation report on December 16, 2020. (Respondent's Exhibit pgs. 51, 62, 76)
15. On January 12, 2021, DCPS convened an eligibility meeting at which the evaluations conducted in November and December 2020 were reviewed. Petitioner, her attorney and educational advocate participated in the meeting. Student remained eligible for special education with the ASD classification. (Respondent's Exhibit pgs. 88, 89, 90)
16. On January 12, 2021, DCPS provided Petitioner authorization to obtain the following independent educational evaluations at public expense: Comprehensive Psychological to include adaptive testing if warranted, Occupational Therapy, Speech and language and Assistive Technology ("AT") (Respondent's Exhibit pg. 25)
17. Petitioner has had the independent AT evaluation completed, but that evaluation has not yet been reviewed by a DCPS IEP team. (Petitioner's Exhibit)
18. Academically, Student can read a book, but will not comprehend what was read. Without the prompting, Student will not read on Student's own. Student has beginning math skills and is just starting to add and subtract one-digit numbers. Student can tell time on an analog clock but not on a digital clock. Student's writing is illegible. Student will write a single word to represent an entire sentence and tell you the sentence that one word is supposed to represent. Student is able to understand the words when spelled out aloud by others, yet, won't be able to spell the same words when writing. Student has difficulty with academic retention. During distance learning Student will focus on the computer but will want to talk to classmates instead of focusing on what the teacher is presenting. Student will attend to some of the distance learning software and programs. With some, Student requires significant prompting in order to engage. (Grandmother's testimony)
19. Student has a one-track mind and will do only one thing at the time. Student will often ignore a person talking to Student or pretend not to hear him or her. Student can become combative at times. It is difficult to get Student to focus on anything; even a chore at home requires Student to be given repeated prompting. Often the only way to get Student to focus is to capture Student's attention using game pieces to associate with topics and requests. Student can play a computer game nonstop unless and until Student is hungry. Student will often listen to the conversations of others and will interject or take over the conversation. Student will repeatedly ask questions

such as: What did you mean? Why do you say that? Are you talking about me?”, Was I there?” (Grandmother’s testimony)

20. Student pragmatic communication was not reciprocal, which is typical behavior for a child with ASD. Student perseverates and can get stuck on an idea or thought rather than what Student is being asked. (Witness 1’s testimony)
21. Student has not made significant academic progress and timely and a timely comprehensive psychological evaluation should have been conducted in 2018 and the time of Student’s triennial to ascertain Student’s current functioning. Although DCPS conducted an AED at the time of the scheduled triennial, the AED did not adequately assess Student’s cognitive, academic, and social-emotional/behavioral functioning in order to effectively program for Student educationally. (Witness 1’s testimony)
22. Assessing intelligence in a person with ASD is difficult because the ASD is a communication disorder that may make it hard to get the child to do the work and answer the questions and often takes several testing sessions. Although the AED cited some standardized assessments and teacher-created assessments, these were not comprehensive enough. Student’s last comprehensive evaluations were conducted in 2015 and Student then had significant delays. Student’s lack of significant progress to date is likely the result of not having current evaluations. (Witness 1’s testimony)
23. Student has made some progress on IEP goals working on impulse control and executive functioning to generalize skills. But more progress is needed in the areas of appropriate touching of others and sustaining attention. Student have received an FBA, also at the time of the triennial to determine what behaviors needed to be targeted, particularly with regard to Student’s social interactions. In order to gauge and understand the degree of Student’s deficits and effectively program for them, the pending independent evaluations should be conducted and reviewed by an IEP team. (Witness 1’s testimony)
24. Current comprehensive evaluations with standardized measures by age and gender should be used to know what IEP goals are appropriate. Timely comprehensive in the related s services areas would have allowed for modification and effective updates of Student’s IEP goals, so Student is not static and that service provider are providing adequate and effective treatment. Student’s IEPs were lacking current evaluation data to inform services so they are effective in address skill deficits. (Witness 2’s testimony)
25. Student’s November 12, 2020, speech-language evaluation the first comprehensive speech-language evaluation since 2015. Student should have had a comprehensive speech-language evaluation by October 2018. The most recent evaluation results indicate that across a five-year span Student still presents with pragmatic language deficits. If Student’s language skills are not as developed as they should be, this will impact Student educationally. Some of Student’s speech-language IEP goals were repeated form IEP to IEP, which indicates a lack of progress The November 2020 speech language evaluation DCPS conducted used informal measures and provides some information regarding Student’s current language skills. However, formal

diagnostic results are needed to compare Student with peers and develop effective programming and IEP goals. (Witness 3's testimony)

26. DCPS did not conduct a comprehensive triennial evaluation of Student's academics in 2018. Student's IEPs after that date don't have current academic evaluative data to develop Student's skills. Without comprehensive and current data it is difficult to develop adequate PLOPs and baselines to develop an appropriate program for Student. DCPS' recent evaluations in fall 2020 were not comprehensive enough to develop appropriate programming. (Witness 4's testimony)
27. Math is added to Student's IEP in October 2019. The Math section of Student's IEPs since then have not been not appropriate. Math deficits were mentioned in the PLOP, but not addressed in the goals. The PLOP lists five areas, yet Student has one goal for rounding that repeated for the next two IEPs. (Witness 4's testimony)
28. The Reading section of the IEPs have reading data points in the PLOP. Student has had the same reading goal repeated for the past four IEPs and has not mastered the goal. Student can decode but is not comprehending what Student's is reading. Student needs a written expression goal to work on mechanics, sentence structure, and then expression. (Witness 4's testimony)
29. DCPS did not conduct a comprehensive triennial evaluation of Student's social/emotional behavioral development in 2018. The IEPs lack social-emotional data. Despite Student's IEPs describing Student's behavior issues, DCPS has did not conduct an FBA and apparently never responded to Student's behaviors with the next step of intervention and monitoring with a BIP. . This intervention should have been conducted by October 2018 at minimum. Student has not been given the strategies and tools and to set goals for behavior areas such as giving and showing empathy. The IEPs Adaptive Living section mentions dressing and toileting, but no goals to address these areas. (Witness 4's testimony)
30. Petitioner's educational advocate asked School A for additional educational records and provided School A an itemized list of requested records at an October 23, 2020, meeting. School A informed the advocate that she had been provided all the records that were available. However, there remain records that have been requested that have not been provided that likely do exist. The absence of all Student's education records impact the advocate's ability to advise and make recommendations to Petitioner about Student's education. Thus, Petitioner does not have a full picture of Student's profile and of strengths and challenges in all areas. The School A representative did not say that the additional record requested do not exist, only that she does not have access. Petitioner's counsel in an email dated March 1, 2021, provided a list of the documents believed to exist that have not been received.¹¹ (Witness 4's testimony, Petitioner's Exhibit Pgs. 511, 512, 686)

¹¹ The list of documents requested on March 1, 2021, includes the following:

- Final IEP from 1/12/21 meeting
- The data gathered and any document completed by the speech and language therapist and occupational therapist before, after and during the meeting they had with Parent on or about 11/6/20, including the questionnaire she filled out pertaining to Student
- The meeting notes from 1/12/21
- The meeting notes from 10/23/20
- 1st and 2nd term report card for the 2020-2021 school year
- 1st and 2nd term IEP progress report for the 2020-2021 school year

CONCLUSIONS OF LAW:

Pursuant to IDEA §1415 (f)(3)(E)(i), a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education (“FAPE”).

Pursuant to IDEA §1415 (f)(3)(E)(ii), in matters alleging a procedural violation, a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies impeded the child’s right to FAPE, significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of FAPE, or caused the child a deprivation of educational benefits. An IDEA claim is viable only if [DCPS’] procedural violations affected the student’s substantive rights.” *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006)

34 C.F.R. § 300.17 provides:

A free appropriate public education or FAPE means special education and related services that--

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA, including the requirements of this part;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved;
- and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Sec. 300.320 through 300.324

Pursuant to 5E DCMR 3030.14, the burden of proof is the responsibility of the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528, (2005). Petitioner held the burden of

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- 1st term progress report for the 2020-2021 school year
 - Disability Worksheet from 1/12/21
 - Final Eligibility Determination Report 1/12/21
 - Full Report for the BOY /MOY standardized testing including iReady, MAPP, ANET, PARRC, and Reading Inventory
 - for the 2020-2021 school year
 - Formative assessments and summative assessments for the 2020-2021 school year
 - Speech and language trackers for June 2020, August 2020, September 2020, October 2020, November 2020, December 2020, and January 2021
 - Occupational therapy trackers for June 2020, August 2020, September 2020, October 2020, and November 2020, December 2020, and January 2021
 - Report card for the 1st, 2nd, and 4th term for the 2019-2020 school year (Already have 3rd term report card)
 - Report card for the 1st, 2nd, 3rd, 4th, term for the 2017-2018 and 2018-2019 school year
 - BOY/ MOY full reports for testing for the 2020-2021 school year
 - BOY/ MOY/ EOY full reports for testing for the 2019-2020 school year
 - BOY/ MOY/ EOY full reports for testing for the 2017-2018 and 2018-2019 school years
 - Attendance records for the 2020-2021 school year
 - Attendance records for March 2020-May 2020
 - Attendance records for the 2017-2018 and 2018-2019 school years
 - Any incident reports
 - Work samples
 - Cumulative file
 - Medical documentation or psychological documentation related to any diagnoses including Autism and ADHD or ADHD
 - Assessments and screeners referenced in C.B.’s 10/30/2019 IEP
 - Number Sense Diagnostic Assessment given on 09/18/2019
 - Single-skill timed Arithmetic Fluency Assessment), referenced in C.B.’s 10/30/2019 IEP under
 - mathematics
 - Curriculum-based Number Sense Assessment given on 09/20/2019

persuasion on issue #1 and #. The burden of persuasion fell to Respondent once Petitioner established a prima facie case on issue #2.

Petitioner established a prima facie case before the burden of persuasion fell to Respondent.¹² The normal standard is the preponderance of the evidence. See, e.g., *N.G. V. District of Columbia* 556 f. Sup. 2d (D.D.C. 2008) see also 20 U.S.C. §1451 (i)(2)(C)(iii).

Issue 1: Whether DCPS denied Student a FAPE by failing to conduct a comprehensive evaluation of Student during Student's triennial evaluation in 2018 by not conducting the following evaluations: (a) comprehensive psychological, (b) adaptive, (c) OT, (d) speech-language, (e) functional behavior assessment ("FBA"), and (f) assistive technology ("AT").

Conclusion: Petitioner sustained burden of persuasion by a preponderance of the evidence on this issue.

34 C.F.R. § 300.303(a) makes it clear that "A local education agency ("LEA") *shall ensure* that a reevaluation of each child with a disability is conducted...if the child's parents or teacher requests a reevaluation." and that the reevaluation must be conducted at least once every three years.

Students are also entitled to a reevaluation of their disability upon a parental request, provided that no reevaluation occurs "more frequently than once a year," though a requested reevaluation must occur "at least once every 3 years." 34 C.F.R. § 300.303(a)(2); see *Cartwright v. Dist. of Columbia*, 267 F. Supp. 2d 83, 87 (D.D.C. 2003) ("DCPS' failure to comply with [the parent's] request clearly violates the language of [34 C.F.R. § 300.303].").

Pursuant to 34 C.F.R. § 300.304 (c), a school district must ensure that a student has been appropriately evaluated in all areas of suspected disability. D.C. law requires that "a full and individual evaluation is conducted for each child being considered for special education and related services." D.C. Mun. Regs. Title. 5E, § 3005.1 (2006). "Qualified evaluators [are to] administer tests and other assessment procedures as may be needed to produce the data required" for the MDT to make its determinations. D.C. Mun. Regs. Title. 5E § 3005.5 (2006).

¹² Pursuant to DC Code § 38-2571.03 (6):

(A) In special education due process hearings occurring pursuant to IDEA (20 U.S.C. § 1415(f) and 20 U.S.C. § 1439(a)(1)), the party who filed for the due process hearing shall bear the burden of production and the burden of persuasion; except, that: (i) Where there is a dispute about the appropriateness of the child's individual educational program or placement, or of the program or placement proposed by the public agency, the public agency shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement; provided, that the party requesting the due process hearing shall retain the burden of production and shall establish a prima facie case before the burden of persuasion falls on the public agency. The burden of persuasion shall be met by a preponderance of the evidence. (ii) Where a party seeks tuition reimbursement for unilateral placement, the party seeking reimbursement shall bear the burden of production and the burden of persuasion on the appropriateness of the unilateral placement; provided, that the hearing officer shall have the authority to bifurcate a hearing regarding a unilateral placement; provided further, that if the hearing officer determines that the program offered by the public agency is appropriate, it is not necessary to inquire into the appropriateness of the unilateral placement.

(B) This paragraph shall apply to special education due process hearings resulting from complaints filed after July 1, 2016.

Generally, when a child has been evaluated for special education eligibility, and the appropriateness of the agency's evaluation is at issue, the hearing officer must consider whether the agency adequately gathered functional, developmental and academic information about the child's needs to determine the content of the IEP in all areas of suspected disability and that the evaluation was sufficiently comprehensive to identify all of the child's needs. 20 U.S.C. §§ 1412(a)(6)(B), 1414(b)(1-3); 34 C.F.R. §300.304(b)(1-3), (c)(4, 6).

Pursuant to § 300.305 (a) As part of an initial evaluation (if appropriate) and as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must— (1) Review existing evaluation data on the child, including— (i) Evaluations and information provided by the parents of the child; (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and (iii) Observations by teachers and related services providers; and (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine— (i)(A) Whether the child is a child with a disability, as defined in § 300.8, and the educational needs of the child; or (B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child; (ii) The present levels of academic achievement and related developmental needs of the child; (iii)(A) Whether the child needs special education and related services; or (B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

The evaluators shall utilize "a variety of assessment tools and strategies [to] gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum ... that may assist in determining whether the child is a child with a disability." D.C. Mun. Regs. Title 5E § 3005.9(b).

All areas "related to the suspected disability" should be assessed, including academic performance, health, vision, hearing, social and emotional status, general intelligence (including cognitive ability and adaptive behavior), communicative status, and motor abilities. D.C. Mun. Regs. Title. 5E § 3005.9(g). The evaluations must be "sufficiently comprehensive to identify all of the child's special education and services needs." D.C. Mun. Regs. Title 5E § 3005.9(h) (2007).

Requests for evaluations/reevaluations are to be conducted in a timely manner. *Herbin v. Dist. of Columbia*, 362 F. Supp 2d. 254, 259, 261 (D.C.C. 2005).

34 C.F.R. §300. 324 (a) (2) provides: The IEP Team must— (i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

Functional Behavior Assessment or "FBA" refers to a systematic set of strategies used to determine the underlying function or purpose of a behavior so that an effective behavior management plan can be developed. See *Banks v. St. James Par. Sch. Bd.*, No. 2:65-CV-16173, 2017 WL 2554472 (E.D.La. Jan. 30, 2017). See, also, Department of Education, Assistance to States for the Education of Children with Disabilities, 71 Fed. Reg. 46540, 46643 (August 14, 2006). (If a child's behavior or physical status is of concern, evaluations addressing these areas must be conducted.) An LEA's failure to complete an FBA and develop a Behavior Intervention Plan, when warranted, will constitute a denial of a FAPE. See, e.g., *Long v. District of Columbia*, 780 F.Supp.2d 49, 61 (D.D.C.2011).

While an FBA is the "primary way" for an LEA to "consider the use of positive behavioral interventions and supports," it is not the only way. *Simms v. Dist. of Columbia*, No. 17-CV-970 (JDB/GMH), 2018 WL 4761625, at *14 (D.D.C. July 26, 2018), report and recommendation adopted, No. CV 17970 (JDB)(GMH), 2018 WL 5044245 (D.D.C. Sept. 28, 2018)

IDEA does not mandate that an FBA be conducted and/or a BIP be developed except in the provisions related to disciplinary actions pursuant to 34 C.F.R. 300.530 et. seq. Those provisions do not apply to this case.

Petitioner alleges that DCPS denied Student a FAPE by failing to conduct a comprehensive evaluation of Student during Student's triennial evaluation in 2018 by not conducting the following evaluations: (a) comprehensive psychological, (b) adaptive, (c) OT, (d) speech-language, (e) functional behavior assessment ("FBA"), and (f) assistive technology ("AT").

Petitioner presented credible and unrefuted testimony from expert witnesses, that the AED that DCPS compiled for Student in 2018 when Student's triennial evaluations were due to be conducted were was not comprehensive and did not sufficiently assess Student's skills and deficits. In 2015, while Student was attending School B, DCPS conducted the following comprehensive evaluations: comprehensive psychological reevaluation, OT, and speech-language.

Although IDEA does not mandate that during a student's triennial evaluation, the same evaluations that were conducted three years prior need to be repeated or that comprehensive and formal standardized assessments need to be conducted, in this instance, based upon the available data on Student's cognitive, adaptive, academic and communication functioning, and the testimony of Petitioner's expert witnesses, it is clear that DCPS should have conducted formal assessments of these areas during Student's triennial evaluation in 2018.

Although there is no mandate in IDEA that applies to Student that necessitated an FBA to address Student's behavior difficulties, Student's grandmother's credible testimony, as well as that of Petitioner's expert witnesses who interacted with and assessed Student, describe significant behaviors that impact Student educationally and socially. At least one of these expert witnesses testified that an FBA would have been an effective tool to assess Student's behavioral challenges and to offer effective interventions that could have and should have been done at least by October 2018. There was no evidence Respondent presented to counter this testimony.

Although there was no indication that any of Student's teachers or providers or Student's grandmother ever requested an AT evaluation for Student, there was testimony that based on Student's speech language and OT deficits, Student would benefit from such an assessment and one could have and perhaps should have been conducted long before DCPS authorized an independent evaluation in 2021.

The Hearing Officer concludes based on the evidence adduced that DCPS denied Student a FAPE by failing to conduct a comprehensive evaluation of Student during Student's triennial evaluation in 2018 by not conducting the following evaluations: (a) comprehensive psychological, (b) adaptive, (c) OT, (d) speech-language, (e) FBA, and (f) AT.

Issue 2: Whether DCPS denied Student a FAPE by failing to provide Student appropriate IEPs for SY 2018-2019, SY 2019-2020 and SY 2020-2021 because the IEPs: (a) lacked data by relying on stale evaluations, (b) had inappropriate speech/language goals, repeated baselines and similar PLOPs, (c) failed to include goals for emotional, social and behavioral development, and written expression, (d) had inappropriate adaptive living skills goals that do not address adaptive living skills, (e) had inappropriate math goals that do not address functional math, math fluency, and math operations, and (f) had inappropriate reading goals that do not address functional reading.

Conclusion: Respondent did not sustain burden of persuasion by a preponderance of the evidence on this issue.

In *Board of Education v. Rowley*, the United States Supreme Court set forth a two-part inquiry for determining whether a school district has satisfied the FAPE requirement. First, the state must have "complied with the procedures set forth in the Act." *Rowley*, 458 U.S. at 206. Second, the IEP that is developed must be "reasonably calculated to enable the child to receive educational benefits." *Rowley*, 458 U.S. at 206-07. To be appropriate under 34 C.F.R. § 300.324, the IEP must consider the (i) strengths of the child; (ii) concerns of the parents; (iii) results of the initial or most recent evaluation; and (iv) academic, developmental, and functional needs of the child.

"The IEP is 'the centerpiece of the statute's education delivery system for disabled children.'" *Endrew F. ex rel. Joseph F. v. Douglas County Sch. Dist. RE-I*, 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." *Endrew F.*, 137 S. Ct. at 994, 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(a)(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 is the “centerpiece” of the IDEA’s system for delivering education to disabled children,” *D.S. v. Bayonne Bd. of Educ.*, 54 IDELR 141 (2010) (quoting *Polk v. Cent. Susquehanna Intermediate Unit* 16, 853 F.2d 171, 173 (3d Cir. 1988), and the centerpiece for the implementation of FAPE is the IEP. *S.H. v. State-Operated Sch. Dist. of the City of Newark*, 336 F.3d 260, 264 (3d Cir. 2003).

Pursuant to *Schaefer v. Weast*, 554 F.3d 470 (U.S. App. 2009), the Hearing Officer must “focus on the adequacy of the IEP at the time it was created, and ask if it was reasonably calculated at that time to enable the student to receive educational benefits.”

The second, substantive prong of the *Rowley* inquiry is whether the IEP DCPS developed was reasonably calculated to enable Student to make progress appropriate in light of Student’s individual circumstances.

In *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist.* RE-1, 137 S. Ct. 988 (2017), the U.S. Supreme Court elaborated on the “educational benefits” requirement pronounced in *Rowley*: To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances. . . . Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal. . . . When a child is fully integrated in the regular classroom, as the Act prefers, what that typically means is providing a level of instruction reasonably calculated to permit advancement through the general curriculum. . . . If that is not a reasonable prospect for a child, his IEP need not aim for grade-level advancement. But his educational program must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives. *Endrew F.*, supra, 137 S. Ct. at 999–1000 (citations omitted).

The key inquiry regarding an IEP’s substantive adequacy is whether, taking account of what the school knew or reasonably should have known of a student’s needs at the time, the IEP offered was reasonably calculated to enable the specific student’s progress....“Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal.” *Z.B. v. District of Columbia*, 888 F.3d 515 (D.C. Cir. 2018) citing *Endrew F.*, supra, 137 S. Ct. 988.

Petitioner alleges that Student’s IEPs during the last two years lacked data by relying on stale evaluations, (b) had inappropriate speech/language goals, repeated baselines and similar PLOPs, (c) failed to include goals for emotional, social and behavioral development, and written expression, (d) had inappropriate adaptive living skills goals that do not address adaptive living skills, (e) had inappropriate math goals that do not address functional math, math fluency, and math operations, and (f) had inappropriate reading goals that do not address functional reading.

DCPS did not conduct a comprehensive triennial evaluation of Student in 2018 as already discussed in issue #1 above. Petitioners expert witnesses credibly testified that Student’s IEPs as of and after November 14, 2018, lacked current evaluative data to adequately develop Student’s

functioning in speech-language, social-emotional behavior development, adaptive life skills, and academics and to address longstanding deficits in these areas.

There was unrefuted testimony that the IEPs had the same unmastered reading goal repeated for the past four IEPs, yet Student cannot comprehend what is read. Student needs but did not have written expression goals to work on mechanics, sentence structure, and then expression. There was also unrefuted testimony that without comprehensive and current data it is difficult to develop adequate PLOPs and baselines to develop an appropriate program for Student. The IEPs lacked social-emotional data and the IEPs adaptive living section mentioned dressing and toileting, but there were no goals to address these areas. Math deficits were mentioned in the PLOP, but not addressed in the goals and the math PLOP lists five areas of concern, yet Student had one goal for rounding and that repeated for the next two IEPs.

Although there is evidence that Student's has made some progress under these IEPs, the overwhelming evidence, particularly the unrefuted testimony of expert witnesses, compels the Hearing Officer to conclude that Student's IEPs from November 14, 2018, to present, were not reasonably calculated to enable a Student to make progress appropriate in light of Student's circumstances and denied Student a FAPE.

Issue 3: Whether DCPS denied Student a FAPE by failing to provide Petitioner with access to Student's educational records that were requested in correspondence in March, April, May, August, and September 2020.

Conclusion: Petitioner did not sustain the burden of persuasion by a preponderance of the evidence on this issue.

IDEA regulations afford parents and their legal representatives an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the student and the provision of a FAPE to the student. See 34 CFR § 300.501(a); *Friendship Edison Public Charter School Collegiate Campus v. Murphy* 2006 WL 2711524, 4 (D.D.C.2006). DCPS must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency. See 34 CFR § 300.613(a). Under the IDEA and the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

The District of Columbia Municipal Regulations ("DCMR") provide that DCPS must honor the records request as soon as possible, but in no case in more than 45 calendar days. 5E DCMR § 2600.6. Failure to timely comply with a parent's request to inspect education records is a procedural violation of the IDEA. See, e.g., *N.P. v. E. Orange Bd. of Educ.*, No. CIV. 06-5130 DRD, 2011 WL 463037 at 7 (D.N.J. Feb. 3, 2011) (procedural violations of the IDEA by failing to timely respond to parent's requests for records.)

Pursuant to IDEA §1415 (f)(3)(E)(ii), in matters alleging a procedural violation, a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies impeded the child's right to FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of FAPE, or caused the child a deprivation of

educational benefits. An IDEA claim is viable only if [DCPS'] procedural violations affected the student's substantive rights." *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006)

The evidence demonstrates that in an August 2, 2020, order, DCPS was directed to and did provide Petitioner's representative an extensive number of documents that were a part of Student's education records. During the current case, Petitioner presented testimony about records that were requested on Petitioner's behalf on October 23, 2020, and March 1, 2021. There was insufficient evidence that demonstrated that requests were made to DCPS for records prior to the date Petitioner filed her due process complaint.

Consequently, the Hearing Officer concludes that adjudication of Petitioner's claim regarding additional record requests is premature. There is insufficient evidence to conclude that Petitioner sustained the burden of persuasion by a preponderance of the evidence that any of Student's education records that do exist that have not already been provided to Petitioner has yet significantly impeded the Petitioner's opportunity to participate in the decision-making process regarding the provision of a FAPE to Student. The Hearing Officer nonetheless, in the order below, directs DCPS to provide Petitioner access to any remaining records that do exist.

Remedy:

A hearing officer may award appropriate equitable relief when there has been an actionable violation of IDEA. *See* 20 U.S.C. § 1415(f)(3)(E)(ii)(II); *Eley v. District of Columbia*, 2012 WL 3656471, 11 (D.D.C. Aug. 24, 2012) (citing *Branham v. District of Columbia*, 427 F.3d at 11–12.) The Hearing Officer has concluded that Student was denied a FAPE by DCPS and has directed that DCPS in the order below remedy that denial.

Under the theory of compensatory education, "courts and hearing officers may award educational services to be provided prospectively to compensate for a past deficient program. The inquiry must be fact-specific and, to accomplish IDEA's purposes, the ultimate 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." *Reid*, 401 F.3d 522 & 524. To aid the court or hearing officer's fact-specific inquiry, "the parties must have some opportunity to present evidence regarding [the student's] specific educational deficits resulting from his loss of FAPE and the specific compensatory measures needed to best correct those deficits." *Id.* at 526.

Petitioners presented no evidence regarding compensatory education but requested that such a request be "reserved." There is no evidence from which the Hearing Officer can award compensatory education. Thus, none is granted in the order below. Petitioner has a right to pursue any compensatory education that Student might be due as a result of the denials of FAPE determined in this HOD in a subsequent due process complaint if necessary.

ORDER:¹³

1. Within ten (10) business days of its receipt of the last of independent evaluation (“IEE”) reports that DCPS authorized Petitioner to obtain through public funding, DCPS shall convene a multidisciplinary team (“MDT”) meeting to review and consider the results and recommendations of the IEE evaluation reports, review and revise Student’s IEP as appropriate, and discuss compensatory.
2. Petitioner has a right to pursue any compensatory education that Student might be due as a result of the denials of FAPE determined in this HOD in a subsequent due process complaint if necessary.
3. DCPS shall, within (10) business days, of the issuance of this order provide Petitioner or her representative the opportunity to review all education records of Student that have not already been provided to Petitioner. In determining what records are to be made available, DCPS shall review the list of requested records in the footnote below to determine if any of these records exist and if they do, provide Petitioner access to them at a location of DCPS’ choosing and provide copies of same if requested.¹⁴

¹³ Respondent’s deadlines for compliance with any of the provisions of this order shall be extended on a day for day basis for any delay in compliance caused by Petitioner.

¹⁴ The list of documents requested includes the following:

- Final IEP from 1/12/21 meeting
- The data gathered and any document completed by the speech and language therapist and occupational therapist before, after, and during the meeting they had with Parent on or about 11/6/20, including the questionnaire she filled out pertaining to Student
- The meeting notes from 1/12/21
- The meeting notes from 10/23/20
- 1st and 2nd term report card for the 2020-2021 school year
- 1st and 2nd term IEP progress report for the 2020-2021 school year
- 1st term progress report for the 2020-2021 school year
- Disability Worksheet from 1/12/21
- Final Eligibility Determination Report 1/12/21
- Full Report for the BOY /MOY standardized testing including iReady, MAPP, ANET, PARRC, and Reading Inventory for the 2020-2021 school year
- Formative assessments and summative assessments for the 2020-2021 school year
- Speech and language trackers for June 2020, August 2020, September 2020, October 2020, November 2020, December 2020, and January 2021
- Occupational therapy tackers for June 2020, August 2020, September 2020, October 2020, and November 2020, December 2020, and January 2021
- Report card for the 1st, 2nd, and 4th term for the 2019-2020 school year (Already have 3rd term report card)
- Report card for the 1st, 2nd, 3rd, 4th, term for the 2017-2018 and 2018-2019 school year
- BOY/ MOY full reports for testing for the 2020-2021 school year
- BOY/ MOY/ EOY full reports for testing for the 2019-2020 school year
- BOY/ MOY/ EOY full reports for testing for the 2017-2018 and 2018-2019 school years
- Attendance records for the 2020-2021 school year
- Attendance records for March 2020-May 2020
- Attendance records for the 2017-2018 and 2018-2019 school years
- Any incident reports
- Work samples
- Cumulative file
- Medical documentation or psychological documentation related to any diagnoses including Autism and ADHD or ADHD
- Assessments and screeners referenced in C.B.’s 10/30/2019 IEP
- Number Sense Diagnostic Assessment given on 09/18/2019
- Single-skill timed Arithmetic Fluency Assessment), referenced in C.B.’s 10/30/2019 IEP under

4. All other relief requested by Petitioner is denied.

APPEAL PROCESS:

The decision issued by the Hearing Officer is final, except that any party aggrieved by the findings and decision of the Hearing Officer shall have ninety (90) days from the date of the decision of the Hearing Officer to file a civil action concerning the issues presented at the due process hearing in a District Court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. §1415(i)(2).

/S/ Coles B. Ruff

Coles B. Ruff, Esq.

Hearing Officer

Date: March 30, 2021

Copies to: Counsel for Petitioners
Counsel for LEA
OSSE-SPED {due.process@dc.gov}
ODR due.process@dc.gov
{hearing.office@dc.gov}
[REDACTED]@dc.gov and [REDACTED]@k12.dc.gov

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- mathematics
 - Curriculum-based Number Sense Assessment given on 09/20/2019