

District of Columbia
Office of the State Superintendent of Education
Office of Dispute Resolution
1050 First Street, N.E., Third Floor, Washington, DC 20002
(202) 698-3819 www.osse.dc.gov

Parent, on behalf of Student,¹)	
Petitioner,)	
)	Hearing Dates: 4/22/20; 4/23/20
)	Hearing Officer: Michael S. Lazan
)	Case No. 2020-0017
District of Columbia Public Schools,)	
Respondent.)	

HEARING OFFICER DETERMINATION

I. Introduction

This is a case involving an X-year-old student who is currently eligible for services as a student with a Speech and Language Impairment (the “Student”). A due process complaint (“Complaint”) was received by District of Columbia Public Schools (“DCPS” or “Respondent”) pursuant to the Individuals with Disabilities Education Act (“IDEA”) on January 28, 2020. The Complaint was filed by the Student’s parent (“Petitioner”). This Hearing Officer was appointed to the case on January 29, 2020. On February 6, 2020, Respondent filed a response. The resolution period expired on February 27, 2020. A resolution meeting was held after the resolution period, on March 2, 2020. The meeting did not resolve the case.

II. Subject Matter Jurisdiction

This due process hearing was held, and a decision in this matter is being rendered, pursuant to the IDEA, 20 U.S.C. 1400 et seq., its implementing regulations, 34 C.F.R.

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

Sect. 300 et seq., Title 38 of the D.C. Code, Subtitle VII, Chapter 25, and the District of Columbia Municipal Regulations, Title 5-E, Chapter 30.

III. Procedural History

A prehearing conference was held on March 3, 2020. Attorney A, Esq., counsel for Petitioner, appeared. Attorney B, Esq., counsel for Respondent, appeared. A prehearing conference order was issued on March 6, 2020, summarizing the rules to be applied in the hearing and identifying the issues in the case. The Hearing Officer Determination (“HOD”) due date was April 12, 2020.

The hearings were originally scheduled for March 24, 2020, and March 25, 2020. These dates were adjourned on consent due to the impact of national health concerns. The hearings were rescheduled to April 14, 2020, and April 15, 2020. It was understood that the parties would jointly move to extend the timelines prior to the decision due date, to allow the hearings to take place on April 14, 2020, and April 15, 2020.

On March 16, 2020, the Office of Dispute Resolution sent a notice indicating that impartial hearings would be conducted remotely until further notice as a result of national health concerns. Respondent moved for a continuance on March 23, 2020, asking to adjourn the April 14, 2020, and April 15, 2020, hearing dates and explaining that teachers would be unavailable as witnesses until mid-May, 2020. Respondent also expressed that it needed extra time to be able to manage the transition to remote hearings. Petitioner submitted opposition on March 25, 2020, contending that video conferencing was available for hearings, and that the motion papers did not prove that Respondent could not appear on the April dates. Oral argument was conducted by this Hearing Officer on

April 3, 2020, during which the parties agreed to adjourn the case for one week and one day to allow for additional preparation, given that the hearings were to take place through video conferencing. The hearings were then scheduled for April 22, 2020, and April 23, 2020. On April 6, 2020, Respondent moved for a continuance to extend the time for the filing of the HOD to May 4, 2020. This Hearing Officer granted Respondent's motion on April 8, 2020.

The first hearing date was April 22, 2020. The matter proceeded through a video conferencing system operated through a Microsoft Teams platform. Both sides consented to the use of the Microsoft Teams platform for the hearing. Petitioner was again represented by Attorney A, Esq. Respondent was again represented by Attorney B, Esq. This was a closed proceeding. During the proceeding, Petitioner moved into evidence exhibits P-1 to P-63. There were no objections. Exhibits P-1 to P-63 were admitted. Respondent moved into evidence exhibits R-1 to R-33. There were no objections. Exhibits R-1 to R-30 were admitted. On April 22, 2020, Petitioner presented as witnesses, in the following order: Witness A, a special education advocate (expert: special education programming); Witness B, a speech and language pathologist (expert: school speech and language pathology); and Witness C, an educational advocate (expert: school psychology and special education programming). On April 23, 2020, Respondent presented as witnesses, in the following order: Witness D, a speech and language pathologist (expert: school-based speech and language pathology); Witness E, a special education coordinator and special education teacher; and Witness F, an occupational

therapist (expert: school-based occupational therapy). After testimony, oral closing arguments were presented on the record.

IV. Issues

As identified in the revised Prehearing Order and in the Complaint, the issues to be determined in this case are as follows:

1. Did the Local Educational Agency (“LEA”) fail to comprehensively evaluate the Student in all areas of suspected disability in or about March, 2018, through to the start of the 2019-2020 school year? If so, did the LEA violate 28 U.S.C. Sect. 1414(b)(3), 34 C.F.R. Sect. 300.304(c), and related provisions? If so, did Respondent deny the Student a Free Appropriate Public Education (“FAPE”)?

Petitioner contended that the Student required assessments to determine the Student’s occupational therapy needs and issues relating to Attention Deficit Hyperactivity Disorder (“ADHD”).

2. Did the LEA fail to finalize the Student’s November, 2019, Individualized Education Program (“IEP”) until January 30, 2020? If so, did the LEA act in contravention of 34 C.F.R. Sect. 300.320, Leggett v. Dist. of Columbia, 793 F.3d 59, 67 (D.C. Cir. 2015), D.C. Code Sect. 38-2571.03(4)(A) and related authority? If so, did the LEA deny the Student a FAPE?

3. Did the LEA fail to provide the Student with an appropriate IEP on or about April, 2019? If so, did the LEA act in contravention of 34 C.F.R. 300.320, Andrew F. v. Douglas County School District, 137 U.S. 988 (2017), and Hendrick Hudson Bd. of Educ. v. Rowley, 458 U.S. 176 (1982)? If so, did the LEA deny the Student a FAPE?

Petitioner contended that the IEP did not contain sufficient speech and language pathology services.

4. Did the LEA fail to implement the Student’s IEPs for the 2017-2018 and 2018-2019 school years? If so, did the LEA’s act or omission violate principles of law established in cases like Van Duyn v. Baker Sch. Dist. 5J, 502 F.3d 811, 822 (9th Cir. 2007)? If so, did the LEA deny the Student a FAPE?

Petitioner contended that the LEA did not provide the Student with the speech and language services recommended by the applicable IEP.

5. Did the LEA fail to provide Petitioner with educational records? If so, did the LEA violate 34 C.F.R. Sect. 300.501 and related provisions? If so, did the LEA deny the Student a FAPE?

As relief, Petitioner seeks compensatory education, outstanding educational records, and an IEP that recommends additional hours of specialized instruction, additional related services, new present levels of performance, and new goals. Petitioner also seeks to preserve all claims that have not been asserted, provided that such claims accrued less than two years prior to the filing of the Complaint.

Respondent contended that the Student was comprehensively evaluated both in 2019, with psychological, speech and language, and occupational therapy assessments, and in March, 2018. Respondent also contended that the Student's November, 2019, IEP was finalized within the appropriate time frame, that the Student has been making progress with the current speech and language pathology mandate, that the Student has received substantially all of the speech and language pathology services to which s/he is entitled, that the Student has received make-up speech and language pathology services to compensate for any services s/he may have missed, and that the Student did not even attend the subject school in the 2017-2018 school year. Respondent also contended that substantially all the requested educational records have been provided to Petitioner.

V. Findings of Fact

1. The Student is an X-year-old whose speech is characterized by substitutions, omissions, additions, or distortions that interfere with his/her intelligibility

in conversational speech. P-12-1. The Student was deemed to be at a “below basic” reading level in report cards issued during the 2019-2020 school year. P-35-1. The Student can name all the letters in the alphabet through song and is able to write his/her first name but is unable to write his/her last name. The Student is stronger in math and can count to fifteen. Testimony of Witness A.

2. During the 2017-2018 school year, Petitioner was especially concerned about the Student’s speech development. P-6-1-2, 5²; Testimony of Petitioner. On January 31, 2018, the Student was referred to Respondent by his/her day care provider to determine if s/he was eligible for special education services. P-5-1. The day care provider filled out an Ages and Stage Questionnaire (“ASQ”), reflecting concerns about the Student, on February 9, 2019. The Student’s “communication score” and “fine motor score” were marked “refer.” On April 2, 2018, the Student was given a hearing screening, which indicated that the Student had “cloudy eardrums.” P-10-1.

3. A “Gold assessment” of the Student was completed in or about spring, 2018. In this assessment, the Student met expectations for social and emotional domains, including following limits and expectations, but did not meet expectations for phonics and letter sound correspondence. Testimony of Witness C; P-17-2. When rated on expressive and receptive language skills on the Gold assessment, the Student was graded at least “M” (meeting expectations) in every subtest. The assessment indicated that the

²References to Petitioner’s exhibits are designated by the letter “P” followed by the number of the exhibit and the page number of the exhibit, if applicable. Similarly, References to Respondent’s exhibits are designated by the letter “R” followed by the number of the exhibit, though the page numbers for these exhibits are identified through the “Bates stamp” that is printed on each page.

Student was “beginning to be understood by most people.” P-17-3. At the time of the assessment, the Student was not yet writing using “conventions” but was beginning to work on age-appropriate, interesting tasks. P-17-4, 7.

4. The Student was observed by an occupational therapist from Respondent on March 23, 2018. The Student displayed muscular development that was appropriate for his/her age and used his/her hands to complete two-handed tasks such as lacing and cutting. The Student held a marker with his/her left hand, using his/her thumb, index, and middle fingers. The Student also displayed alertness and response to environmental stimuli in the testing center without resorting to excessive movement, touching/banging, noise making, or mouthing. The occupational therapist concluded that the Student “exhibits muscular development that is adequate for participating in classroom and school activities” and “exhibits age-appropriate fine motor development.” Occupational therapy services were not recommended at the time. P-11-6-7.

5. The Student was evaluated by a teacher from Respondent, who prepared an Educational Evaluation report on April 18, 2018. The teacher administered the Developmental Assessment of Young Children-2nd Edition (“DAYC-2”). On the Adaptive Behavior Domain in the DAYC-2, the Student scored in the above average range of functioning and development, above those of approximately 82% of peers. The Student also scored “95” on the Cognitive Behavior Domain, indicating an average range of functioning. P-7-2-3. The Student presented as a “happy and excited child who is eager to learn and please” but was impulsive, had difficulty maintaining focused attention throughout an activity or presented task, and required prompting to attend to and

complete responsibilities. Among other things, the evaluator recommended that the Student receive repeated, single-step directions and be presented with manipulatives. The evaluator indicated that it was important to limit the Student's distractibility by maintaining a clear workspace and removing any items from view that could cause him/her to lose focus. P-7-5; Testimony of Witness C.

6. On March 23, 2018, the Student was evaluated by a speech and language pathologist, who prepared a report for the Student, as revised, on April 19, 2018. P-9-7. The report indicated that the Student did not pass a hearing screening in either ear, resulting in a referral for further hearing testing. However, the Student appeared to hear spoken language at a normal conversational level. P-8-2. The Clinical Assessment of Articulation and Phonology-2 ("CAAP-2") was administered to determine the Student's production of sounds in words and sentences ("articulation"). P-8-3. The Student's intelligibility in "known and unknown contexts" was judged at approximately 50%. P-8-5. The report indicated that the Student's speech included substitutions and omissions, some of which were developmentally appropriate, but many of which were not. Testimony of Witness B. The Preschool Language Scale Fifth Edition ("PLS-5") was administered, and the Student presented with receptive and expressive language delays. The Student had difficulty engaging in symbolic play, following directions containing prepositions, making inferences, comprehending analogies and negatives in sentences, and using different word combinations to form phrases and sentences. P-8-5; P-9-5. The Peabody Picture Vocabulary Test Fourth Edition ("PPVT-4") was also administered. The Student was shown a variety of pictures of nouns, verbs, and adjectives at and above

his/her chronological age level. When the word was called out, the Student pointed to 65% of the nouns, 63% of the verbs, and 0% (0 out of 3) of the adjectives. P-8-6; P-9-6. The PPVT-4 indicated that the Student's receptive and expressive vocabulary skills were average compared to other children his/her age. P-8-6; P-9-6. The Student's overall pragmatic language skills were judged to be "functional," though speech "should be monitored as language and social demands increase." P-8-6; P-9-6. The evaluator opined that the Student could benefit from support to increase receptive and expressive language and phonology skills. P-8-6-7; P-9-6-7.

7. As a result of the assessments, the Student was determined to be eligible for services on May 15, 2018, and an IEP meeting was held for the Student the same day. P-15. Attending the IEP meeting were a special education teacher, an educational evaluator, an LEA representative, a family care coordinator, and a speech and language pathologist. The IEP team recommended that the Student receive 120 minutes per month of speech and language pathology outside general education. The IEP also required "Other Classroom Aids and Services," including a multi-sensory approach to help the Student's teacher introduce new skills and information. P-14-5. The IEP further recommended pairing new vocabulary words and concepts with visual representations, visual cues, the use of verbal models, and the creation of a list of preferred/desired items or activities to promote more positive communication skills. The IEP also contained goals to address the use of longer phrases and sentences, understanding "wh" questions, following directions, sounding out the last consonant of words, and reducing velar fronting (e.g., "doat" for goat, "tandy" for candy). P-14-1; Testimony of Witness B.

8. The May 15, 2018, IEP also described the Student's then-present levels of performance in speech and language skills. The IEP stated, among other things, that the Student spoke at an appropriate rate and rhythm, comprehended verbs while playing, understood basic pronouns, followed most directions, and used and comprehended age-appropriate vocabulary. The IEP indicated that the Student presented with receptive and expressive language delays, as characterized by difficulty engaging in symbolic play, following directions containing prepositions, making inferences, and using different word combinations to form phrases and sentences. The IEP further stated that the Student used "atypical and typical phonological processes," leading to speech intelligibility in known and unknown contexts at approximately the 50th percentile. P-14-3

9. For the 2018-2019 school year, the Student attended School A, a public school. Petitioner sought to place the Student there because she felt it was a good school. During the 2018-2019 school year, the Student's teacher suggested to Petitioner that the Student should be given additional academic testing. Testimony of Petitioner.

10. In or about October, 2018, the Student received pressure equalization tubes to address his/her hearing issues, which are no longer an issue for him/her. Testimony of Witness D; Testimony of Petitioner.

11. During the 2018-2019 school year, Witness D provided The Student with speech and language pathology sessions, including the use of small manipulatives, visual support, "auditory bombardment," and modeling techniques. Witness D also used a doll "like a puppet," asking the Student to label different parts of the doll, and paper-and-pencil tasks and books to elicit target sounds from the Student. Testimony of Witness D.

12. The Student made slow progress in speech and language during the 2018-2019 school year. The Student began to use more three-word phrases by November 1, 2018, and could produce three-word phrases on request with 60% accuracy by January 18, 2019. P-37-1; P-38-1. Slow progress was reported on the goals relating to responses to “wh” questions and following directions containing prepositions. P-37-1-2; P-38-1-2; P-39-1-2. The goal relating to “velar fronting” was not introduced in the first or second term, and was not specifically addressed in the progress report of June 14, 2019, except for a note that the Student was able to reduce errors at least 50% of the time. P-39-2. By the fourth term of the 2018-2019 school year, the Student was using phrases and simple sentences to communicate with at least 65% accuracy, and was attempting to correct his/her speech when s/he was not understood. R-20-132; Testimony of Witness D.

13. The Student’s school attendance was inconsistent during the 2018-2019 school year because of family tragedy. The Student had thirty-seven absences during the school year, twenty-nine of which were unexcused, and was late to school thirty days. Testimony of Witness F; R-25-1-2.

14. An IEP meeting was held for the Student on April 26, 2019. At the meeting, Petitioner asked for additional assessments, but Respondent’s staff noted that the Student had been tested less than a year earlier. Respondent’s staff also felt that the Student was functioning in the average range in some areas, and that additional data was needed before further testing. Testimony of Witness E. The April 26, 2019, IEP did not change the Student’s speech and language goals or the speech and language pathology service mandate from the May 15, 2018, IEP. The Student was to continue receiving

speech and language pathology for 120 minutes per month, outside general education.

The IEP included the same language pertaining to “Other Classroom Aids and Services” as the May 15, 2018, IEP. P-18-6. The IEP noted that there had been “some” progress in speech and language since the May 15, 2018, IEP. Testimony of Witness B. The IEP indicated that the Student continued to have difficulty understanding and answering some “wh” questions, that the Student’s speech intelligibility was characterized by final consonant deletion, omissions, distortions, and substitutions, and that the Student continued to have receptive and expressive language delays. The IEP further indicated that the Student would benefit from modeling, lowering oneself to his/her level when speaking to him/her, reading to him/her, and using short phrases. P-18-3-4.

15. On May 31, 2019, Petitioner submitted a formal written request to Respondent for copies of educational records relating to the Student. Petitioner requested all attendance records, IEP progress reports, standardized test scores, class schedules, IEPs, evaluations and assessments, multidisciplinary meeting notes, progress reports, report cards, portfolios, charts observations, reports, letters, memos, notes, emails, data compilations, disciplinary records, and related service logs and service trackers. P-20-13.

16. For the 2018-2019 school year, Witness D provided the Student with speech and language pathology for the following number of minutes per month: August, thirty; September, sixty; October, 150; November, 165; December, 120; January, 150; February, seventy; March, 105; April, seventy-five; May, 120; and June, seventy-five. P-42 through P-52. On September 9, 2019, Witness D devised a service plan to address ninety minutes of speech and language pathology services that were missed in the 2018-

2019 school year. The plan provided the Student with an additional fifteen minutes of speech and language pathology per session, until the missed services were fully made up. R-16-116.

17. On July 9, 2019, Petitioner submitted a formal written request for a reevaluation of the Student, including a comprehensive psychological evaluation, an occupational therapy evaluation, and a speech and language evaluation. P-20-14-16.

18. An “Analysis of Existing Data” meeting was held for the Student on September 18, 2019. P-23-1-6. At the meeting, an occupational therapist, Witness F, indicated that the Student had issues with letter recognition, that s/he often needed directions repeated, and that when the Student tried to write his/her name, it was hard to decipher. Witness F expressed that the Student needed an occupational therapy assessment to get more information. P-23-5.

19. Witness F conducted an occupational therapy assessment of the Student on October 22, 2019, and October 31, 2019. The Student demonstrated the ability to copy a vertical line, horizontal line, circle, diagonal lines, and “X,” as well as the ability to write his/her name from memory with 80% accuracy. However, the Student did not write the letters of his/her first name with consistent sizing, and the Student’s writing contained letter reversals and poor letter formation. P-27-10-11. Witness F asked the Student’s teacher to report on his/her occupational therapy skills. The teacher reported to Witness F that she had concerns about the Student’s difficulty with handwriting assignments, that the Student fidgeted and tapped excessively throughout the day, and that the Student always had his/her fingers or other objects in his/her mouth. P-27-2. Witness F tested

the Student on the Bruininks-Oseretsky Test of Motor Proficiency, Second Edition (“BOT-2”), the Wide Range Assessment of Visual Motor Abilities (“WRVMA”), and the School Companion-Sensory Profile 2. On the BOT-2, the Student scored in the average range in fine manual control, but in the below average range in manual coordination. On the WRAMVA, which assesses visual motor skills, the Student scored at the 58th percentile. Based on the School Companion-Sensory Profile 2, Witness F concluded that the Student seeks sensory input much more than other students. P-27-8-9. Witness F recommended that the Student should receive extended time to complete written assignments and take classwork home if unable to complete it in class, and that the teacher should provide directions for the Student in multiple ways. P-27-11-12. Witness F also recommended occupational therapy for the Student and interventions in the classroom, including breaks, independent work, seating away from classmates, and noise cancellation headphones. Testimony of Witness F.

20. The Student was assessed for speech and language issues on October 30, 2019, by Witness D. The speech and language assessment indicated that the Student had a 60% intelligibility rate. Testimony of Witness D; P-25-6. Witness D asked the Student’s teacher to complete the Communication Abilities Rating Scale (“CARS”) for the Student. The teacher indicated that the Student spoke willingly in class, with little or no frustration, but only sometimes followed spoken or written directions and did not always retain information during class discussions. P-25-3. On the Clinical Assessment of Articulation and Phonology-2 (“CAAP-2”), the Student’s speech patterns were characterized by omissions and substitutions. P-25-6. On the Receptive One Word

Picture Vocabulary Test 4th edition (“ROWPVT-4”), the Student scored at the 14th percentile. On the Expressive One Word Picture Vocabulary Test 4th edition (“EOWPVT-4”), the Student scored at the 9th percentile. P-25-8. On the Clinical Evaluation of Language Fundamentals, 5th edition (“CELF-5”), the Student scored at the 12th percentile in core language, the 16th percentile in receptive language, and the 10th percentile in expressive language. P-25-9. Witness D concluded that, overall, the Student’s skills ranged from mildly below range to severely below average, and that the Student’s communication skills had a negative impact on his/her academic performance. P-25-12-13.

21. A psychological assessment of the Student was conducted by a psychologist from Respondent on November 2, 2019. P-26. The assessment expressed concerns about, among other things, the Student’s issues with attention, executive functioning, and carrying out tasks. The psychologist indicated that the Student had ADHD and would qualify for services as a student with Other Health Impairment. The psychologist asked Petitioner and the Student’s teacher to complete a Behavior Assessment Scale for Children-3 (“BASC-3”), but neither returned the necessary paperwork. P-26-10; Testimony of Witness C. The teacher did complete an interview checklist regarding the Student’s functioning in the classroom, reporting that the Student’s oral expression and listening comprehension skills were limited. P-26-6. The psychologist also completed a classroom observation and conducted the Woodcock Johnson-IV Test of Early Cognitive and Academic Development (“WJ IV ECAD”) and the Brown Executive Function/Attention Scales (“Brown EF/A Scales”) test. On the WJ-

IV ECAD, the Student's cognitive skills were deemed to be mildly delayed. On the Brown EF/A Scales test (which assesses executive functioning, focus, effort, managing emotion, accessing memory, self-regulation), the Student was deemed "atypical." The psychologist suggested that the Student's most significant academic issues involved executive functioning, including focus and sustained attention. P-26-10-15.

22. An eligibility meeting was conducted for the Student on November 13, 2019. At this meeting, a team reviewed the Student's recent assessments and determined that the Student was again eligible for services. P-28.

23. An IEP meeting was held for the Student on November 20, 2019, during which the IEP team added services for the Student in mathematics, reading, written expression, social, emotional and behavioral development, and motor skills/physical development. The draft IEP completed on that date required the Student to receive six hours per week of specialized instruction inside general education, including two hours in reading, two hours in written expression, and two hours in mathematics. The draft IEP also added 120 minutes per month of occupational therapy, and sixty minutes per month of behavioral support services. P-30-17. The draft IEP indicated, in several places, that the Student's disabilities (intellectual disability/deafness, intellectual disability/autism, intellectual disability/OHI) affect "general cognitive and physical functioning, resulting in difficulty with understanding, learning, using or generalizing new information, communicating effectively, problem solving, and performing fine/gross motor tasks." P-30-4, 6, 8. The draft IEP stated that the Student could benefit from support to increase receptive and expressive language and phonology skills, thereby enabling him/her to

clearly express his/her wants and needs, ask and answer questions, and discuss academic concepts. P-30-10. However, the draft IEP did not provide for any additional speech and language pathology services.

24. Petitioner did not receive a final IEP in November or December, 2019, despite asking Respondent repeatedly to send it. P-32-2-3. The principal of School A sent an email to Petitioner on January 30, 2020, attaching the IEP and apologizing for the delay. The principal stated that “our LEA Rep had a few unexpected personal events occur that impeded this process. However, this is no excuse for the revised IEP not coming to you during the requested time.” The IEP was largely the same as the draft IEP, except that sixty additional minutes of speech and language pathology were added. P-32-1-2; P-33; Testimony of Witness A.

25. The Student’s report cards for the 2019-2020 school year indicated that the Student needed to improve his/her work habits, required frequent prompts, rarely used his/her time wisely, and did not think before acting. The report cards reflected that the Student was at the “below basic” level in reading and the “basic” level in speaking and listening. In both writing and mathematics, the Student received one “basic” grade and one “0” grade. A questionnaire attached to the report card indicated that the Student had issues with following directions and completing classwork on time. P-35-1-3.

26. On March 2, 2020, Petitioner sent an email to Respondent indicating that she had not received some of the educational records she had requested in May, 2019. She said that the documents still outstanding at that point included a 2018-2019 progress

report, service trackers, report cards, and an occupational therapy screener report.

Testimony of Witness A; P-34-2.

VI. Conclusions of Law

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

The burden of persuasion for District of Columbia special education cases was changed by the local legislature through the District of Columbia Special Education Student Rights Act of 2014. With the passage of this law, in special education due process hearings initiated by a parent, the burden of persuasion falls on the public agency, if the dispute concerns "the appropriateness of the child's individual educational program or placement, or of the program or placement proposed by the public agency" (provided that the party requesting the due process hearing shall establish a prima facie case). The burden of persuasion must be met by a preponderance of the evidence. D.C. Code 38-2571.03(6)(A)(i).

Issues #1, #2, #4, and #5 do not directly involve the appropriateness of the Student's educational program or placement. As a result, the burden of persuasion must be on Petitioner for these issues. Schaffer v. Weast, 546 U.S. 49 (2005). Issue #3 does directly involve the appropriateness of the Student's educational program or placement. The burden of persuasion must be on Respondent for this claim, provided that Petitioner has presented a prima facie case.

1. Did the LEA fail to comprehensively evaluate the Student in all areas of suspected disability in or about March, 2018, through to the start of the 2019-

2020 school year? If so, did the LEA violate 28 U.S.C. Sect. 1414(b)(3), 34 C.F.R. Sect. 300.304(c), and related provisions? If so, did Respondent deny the Student a FAPE?

Petitioner contended that the Student required assessments to assess his/her occupational therapy needs and ADHD during the latter part of the 2017-2018 school year and the 2018-2019 school year.

An LEA such as Respondent is required to use a “variety of assessment tools and strategies” to gather relevant “functional, developmental, and academic information” that may assist in determining whether the child is a child with a disability and determining the content of the child’s IEP. The LEA should not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child, and use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. 28 U.S.C. Sect. 1414(b)(2); 34 C.F.R. Sect. 300.304(b).

1. The initial evaluation: Spring, 2018.

Petitioner contended that Respondent did not thoroughly assess the Student’s occupational therapy needs during the Student’s initial evaluation. However, Petitioner did not call a witness with expertise or experience as an occupational therapist in support of this claim. Petitioner instead relied on Witness C, an expert in school psychology and special education programming, who opined that the Student should have received more than an occupational therapy “screen” during this evaluation, because the ASQ compiled at the time triggered occupational therapy concerns.

Respondent called Witness F, an occupational therapist with expertise in school-based occupational therapy, in response. Witness F, who recently completed a doctorate in occupational therapy, stated that nothing in the ASQ indicated that the Student needed a full occupational therapy assessment at the time. A review of the notes from the “screen” shows that Respondent’s occupational therapist thoroughly observed the Student on March 23, 2018. The occupational therapist saw that the Student appropriately used his/her hands to complete two-handed tasks, such as lacing and cutting, and displayed alertness without resorting to excessive movement, touching/banging, noise making or mouthing. The Student was also observed to have average fine motor development and there were no concerns about self-care or sensory issues. Occupational therapy services were not recommended at the time. This Hearing Officer found Witness F to be credible and must credit her testimony over the testimony of Witness C on this issue.

Witness C, together with Witness A, also testified in support of Petitioner’s claim that the initial evaluation did not appropriately address the Student’s ADHD issues. Witness C pointed to the Education Evaluation Report written for the Student in April, 2018, contending that no behavior assessment was completed in the report, despite it stating that the Student had behavioral issues. The report did state that the Student had “difficulty maintaining focused attention throughout an activity or presented task” and was impulsive and required “prompting to attend and to complete desired responsibilities.” P-7-6.

Courts in the District of Columbia have found that behavioral assessments can be necessary for students whose behaviors prevent them from accessing the general

curriculum. Long v. District of Columbia, 780 F. Supp. 2d 49, 60 (D.D.C. 2011) (student's teacher indicated that behavior problems seriously affected academic performance; school specialist, in her initial evaluation of student, recommended Behavior Intervention Plan and Functional Behavior Assessment). But the Educational Evaluation Report suggested that the Student's ADHD issues could be addressed by redirections, verbal and/or gestural cues, single-step directions, checks for understanding, and the like, and these interventions were in fact recommended in the "Other Classroom Aids and Services" section of the Student's IEP. There is nothing in the Educational Evaluation Report that suggests that additional testing was necessary to address the Student's issues relating to ADHD. Moreover, neither Witness C nor Witness A described a measure that could have been used to determine the impact of the Student's ADHD on his/her instruction. It is noted that the Student's Gold evaluation stated that the Student met or exceeded expectations for social, physical and cognitive domains and managed classroom rules with reminders. P-17-1. Petitioner has not met her burden of persuasion to show that Respondent's initial evaluation was insufficient because it did not include testing specific to occupational therapy or ADHD.

2. Reevaluation: Spring, 2019.

A public agency must ensure that a reevaluation of each child with a disability is conducted if the agency determines that the child's education warrants a reevaluation, or if the child's parent or teacher requests a reevaluation. 34 C.F.R. Sect. 300.303(a). A reevaluation conducted under 34 C.F.R. Sect. 300.303(a) may occur not more than once per year, unless the parent and the public agency agree otherwise, and must occur at least

once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary. 20 U.S.C. Sect. 1414 (a)(2). During such a reevaluation, the failure to go beyond merely reviewing existing data can constitute a denial of FAPE if more information is needed to develop an appropriate IEP. James v. District of Columbia, 194 F. Supp. 3d 131, 142 (D.D.C. 2016) (the “Summary of Existing Data” that the District of Columbia prepared in response to a guardian’s request for an updated psychological assessment of a teenager with an intellectual disability did not fulfill the district’s obligation to reevaluate the student). It is important for school districts to be alert to indications that a student needs to be reevaluated (even when a triennial evaluation is not due and the parent has not requested a reevaluation) to ensure the student’s IEP continues to be reasonably calculated to enable the child to make progress that is appropriate in light of the child’s circumstances. Questions and Answers on Endrew F. v. Douglas County Sch. Dist. Re-1, 71 IDELR 68 (U.S. Dep’t of Educ. 2017). Still, for there to be a FAPE denial on this issue, a parent should show that the failure to reevaluate resulted in substantive harm to the student. Suggs v. District of Columbia, 679 F. Supp. 2d 43 (D.D.C. 2010).

There is little testimony or evidence in the record to support the view that the Student needed to be reevaluated prior to the April 26, 2019, IEP meeting. Petitioner argued that the Student’s occupational therapy and ADHD issues manifested themselves during the 2018-2019 school year, but Petitioner did not call witnesses who could provide eyewitness testimony about the Student’s occupational therapy and ADHD-related issues during that school year. Moreover, the documentation in the record pertaining to the

Student's academic performance during the 2018-2019 school year does not suggest that the Student had significant occupational therapy or ADHD-related needs at that time. Though there are a few references to the Student's inattentiveness during speech and language pathology in the service trackers (for instance, the session on October 12, 2018), many of the service trackers indicated that the Student was cooperative during the sessions. There is nothing in the service trackers to indicate that the Student was manifesting ADHD-related issues during the school year. Likewise, there is nothing in the IEP progress reports for the 2018-2019 school year to indicate that the Student was being impacted by occupational therapy or ADHD-related issues.

Petitioner did not meet her burden of persuasion to show that Respondent failed to appropriately evaluate the Student between March 2018 and the end of the 2018-2019 school year. Petitioner's claims in Issue #1 must be dismissed.

2. Did the LEA fail to finalize the November, 2019, IEP until January 30, 2020? If so, did the LEA act in contravention of 34 C.F.R. Sect. 300.320, Leggett v. District of Columbia, 793 F.3d 59, 67 (D.C. Cir. 2015), D.C. Code Sect. 38-2571.03(4)(A) and related authority? If so, did the LEA deny the Student a FAPE?

According to 38 D.C. Code 2571.03(4)(A), which was enacted as part of the Special Education Student Rights Act of 2014, school districts in the District of Columbia have an obligation to provide parents with a copy of a new or amended IEP "(n)o later than 5 business days after a meeting at which a new or amended IEP has been agreed upon." The section continues to state that if an IEP has not yet been completed by the 5th business day after the meeting (or additional time is required to comply with the "Language Access Act"), the public agency "shall provide the parent with the latest available draft IEP and a final copy upon its completion; provided, that the final copy of

the IEP shall be provided to the parents no later than 15 business days after the meeting at which the IEP was agreed upon.”

The IEP meeting at issue was held on November 20, 2019, just after the Student’s eligibility meeting on November 13, 2019. Yet Petitioner did not receive the final IEP until January 30, 2020, more than two months later. Petitioner argued that DCPS violated 38 D.C. Code Sect. 2731.03(4)(a) by failing to provide the IEP within five business days of the November 20, 2019, meeting. Respondent argued that, pursuant to the legislation passed by the District of Columbia Council in 2014, it has sixty days to finalize the IEP after the conclusion of the reevaluation. But there is no such rule in the Special Education Student Rights Act of 2014 or in the related Enhanced Special Education Services Act of 2014.³ Respondent violated the D.C. Code when it failed to provide Petitioner with the Student’s finalized IEP until January 30, 2020.

Respondent’s violation of District of Columbia law should be viewed as procedural since it relates to time limits established for finalizing an IEP. However, a hearing officer may find that a child did not receive a FAPE if the procedural inadequacies impeded the child’s right to a FAPE, 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 caused a deprivation of educational benefit. 34 C.F.R. Sect. 300.513(a)(2). Respondent’s failure to finalize an IEP for the Student for approximately two months after the IEP meeting cost the Student six hours per week of

³The IEP team must develop an IEP for a child with a disability within thirty days of a determination that a child needs special education and related services. 34 C.F.R. Sect. 300.323(c); 5-E DCMR Sect. 3007.1.

specialized instruction, 120 minutes per month of occupational therapy, sixty minutes per month of speech and language pathology, and sixty minutes per month of behavioral support services. This deprivation of approximately two months is akin to the failure of a school district to provide a student with required extended school year (“ESY”) services, which has been found to be a “material deprivation” amounting to FAPE denial. Wilson v. District of Columbia, 770 F. Supp. 2d 270, 275–76 (D.D.C. 2011); S.S. ex rel. Shank v. Howard Rd. Acad., 585 F. Supp. 2d 56, 67 (D.D.C. 2008); cf. Leggett, 793 F.3d at 67-70 (District of Columbia Circuit Court of Appeals ruled that DCPS denied a student a FAPE because an IEP was not ready for the student at the start of the school year).

It is also noted that the Student’s school principal acknowledged the seriousness of this issue in an email to Petitioner on January 30, 2020, apologizing for the delay. The principal stated that “our LEA Rep had a few unexpected personal events occur that impeded this process. However, this is no excuse for the revised IEP not coming to you during the requested time.”

Respondent denied the Student a FAPE when it failed to promptly provide Petitioner with an IEP after the IEP meeting on November 20, 2019.

3. Did the LEA fail to provide the Student with an appropriate IEP on or about April, 2019? If so, did the LEA act in contravention of 34 C.F.R. 300.320, Andrew F. v. Douglas County School District, 137 U.S. 988 (2017), and Hendrick Hudson Bd. of Educ. v. Rowley, 458 U.S. 176 (1982)? If so, did the LEA deny the Student a FAPE?

Petitioner contended that the Student’s IEP did not contain sufficient speech and language pathology services. In Hendrick Hudson Bd. of Educ. v. Rowley, 458 U.S. 176 (1982), the United States Supreme Court explained that a hearing officer’s assessment of

an IEP involves two inquiries: First, has the State complied with the procedures set forth in the IDEA? And second, is the IEP developed through the IDEA's procedures substantively appropriate? Petitioner did not allege that DCPS failed to comply with IDEA's procedural requirements when the Student's IEP was developed. Therefore, this inquiry moves to the second prong of the Rowley inquiry, where the Court found that an IEP must be reasonably calculated to enable the child to receive benefit. Id. at 204.

In Rowley, the Court emphasized that a reviewing court may not "substitute [its] own notions of sound educational policy for those of the school authorities." Id. at 206. Still, courts stress that an IEP should be both comprehensive and specific to target the Student's "unique needs." McKenzie v. Smith, 771 F.2d 1527, 1533 (D.C. Cir. 1985); 34 C.F.R. Sect. 300.324(a)(1)(iv) (the IEP must address the academic, developmental, and functional needs of the child). As stated in S.S. ex rel. Shank v. Howard Road Academy, 585 F. Supp. 2d 56, 66-67 (D.D.C. 2008), the adequacy of an IEP should be determined as of the time it was offered to the student.

In 2017, the Supreme Court addressed a split amongst the circuit courts regarding what the IDEA means when it requires school districts to provide an "appropriate" level of education to children with disabilities. Andrew F. ex rel. Joseph F. v. Douglas County School Dist. RE-I, 137 S. Ct. 988 (2017). Following Rowley, the Court held that an IEP must be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." Id. at 1001. But the Court made clear that the standard is "markedly more demanding than the 'merely more than *de minimis*' test" applied by many courts. Id. at 1000. The Court stated that "every child should have the chance to

meet challenging objectives,” and that a student’s “educational program must be appropriately ambitious in light of his circumstances.” Id. at 1000.

Petitioner contended that the mandate for 120 minutes of speech and language pathology per month in the Student’s April 26, 2019, IEP was insufficient. Witness B, Petitioner’s expert in school speech and language pathology, testified that the Student required 240 minutes per month of speech and language pathology. Witness B explained that the Student has difficulty understanding and expressing language and has significant speech articulation issues, which Witness B considered “severe.”

The mandate of 120 minutes per month is identical to the mandate in the Student’s May 15, 2018, IEP, which resulted in slow progress for the Student even though the Student’s attendance was poor during the year. Witness D, an expert in school-based speech and language pathology, opined that this kind of progress was meaningful. Witness D stated that the Student made gains in using three-word phrases, following directions using prepositions, deleting the final consonant of words, answering “wh” questions, and “velar fronting.” Witness D also testified that the Student’s articulation improved by 10% from April, 2018, to October, 2019.

Witness D has twenty-five years of experience delivering speech and language pathology to students, and she worked with the Student during the 2018-2019 school year. Witness B, on the other hand, never met the Student except for one “Facetime” meeting prior to testimony. Moreover, Witness B did not clearly explain why an additional 120 minutes per month of speech and language pathology was necessary for

the Student. Witness B simply stated that an hour per week of speech and language pathology is what is usually delivered to children like the Student.

Finally, a review of relevant caselaw reveals that that similar claims for minor increases in the IEP mandate for speech and language pathology often do not rise to the level of FAPE denial. Smith v. District of Columbia, No. CV 12-2058 JEB/DAR, 2014 WL 1425737, at *7 (D.D.C. Mar. 14, 2014) (court denied claim that student was denied a FAPE because IEP contained no speech and language pathology; parents were seeking ninety minutes of speech and language pathology per week); Jones v. District of Columbia, No. 115CV01505BAHGMH, 2017 WL 10651264, at *18 (D.D.C. Jan. 31, 2017), report and recommendation adopted, No. CV 15-1505 (BAH-GMH), 2017 WL 10651306 (D.D.C. Feb. 22, 2017) (court upheld IEP with no speech and language pathology although an evaluation indicated that the student may have an expressive language disorder and recommended a tutor to address language deficits).

This Hearing Officer finds that Respondent's decision to provide the Student with 120 minutes of speech and language pathology in the April, 2019, IEP was reasonably calculated. This claim is dismissed.

4. Did the LEA fail to implement the Student's IEPs for the 2017-2018 and 2018-2019 school years? If so, did the LEA's act or omission violate principles of law established in cases like Van Duyn v. Baker Sch. Dist. 5J, 502 F.3d 811, 822 (9th Cir. 2007)? If so, did the LEA deny the Student a FAPE?

Petitioner contended that Witness D did not provide the Student with the speech and language pathology services recommended by the Student's IEPs. "Failure to implement" claims may be brought if an LEA cannot "materially" implement an IEP. The parent "must show more than a *de minimis* failure to implement all elements of that

IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP.” Beckwith v. District of Columbia, 208 F. Supp. 3d 34, 39 (D.D.C. 2016) (citing to Houston Indep. Sch. Dist. v. Bobby R., 200 F.3d 341, 349 (5th Cir. 2000); Savoy v. District of Columbia, 844 F. Supp. 2d 23 (D.D.C. 2012) (holding no failure to implement where district’s school setting provided ten minutes less of specialized instruction per day than was required by the IEP); see also Van Duyn ex rel. Van Duyn v. Baker School Dist. 5J, 502 F.3d 811 (9th Cir. 2007). Courts applying the materiality standard have focused on the proportion of services mandated to those actually provided, and the goal and import (as articulated in the IEP) of the specific service that was withheld. Garmany v. Dist. of Columbia, 935 F. Supp. 2d 177, 181 (D.D.C. 2013).

The burden of persuasion for this claim is on Petitioner, but Petitioner did not clearly address this issue during closing argument. Witness D did testify that she failed to provide the Student with the full 120 minutes of speech and language pathology in some months during the 2018-2019 school year. But Witness D created a plan on September 9, 2019, to make up for the ninety minutes of missed sessions. There was no contention that the Student was owed more than ninety minutes of speech and language pathology as a result of the services delivered during the 2018-2019 school year, or that Witness D failed to provide the Student with the make-up speech and language pathology, or that Witness D’s make-up plan was inappropriate.

This claim must be dismissed.

5. Did the LEA fail to provide Petitioner with educational records? If so, did the LEA violate 34 C.F.R. Sect. 300.501 and related provisions? If so, did the LEA deny the Student a FAPE?

An LEA must grant parents access to the educational records of their children no more than forty-five days after the request. 20 U.S.C. Sect. 1232g(a)(1)(A). The IDEA regulations provide in pertinent part: “(t)he parent of a child with a disability must be afforded, in accordance with the procedures of Sects. 300.613 through 300.621, an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child.” 34 C.F.R. 300.501(a).

On May 31, 2019, Petitioner submitted an extensive formal written request to Respondent for copies of educational records relating to the Student. Petitioner requested all attendance records, IEP progress reports, standardized test scores, class schedules, IEPs, evaluations and assessments, multidisciplinary meeting notes, progress reports, report cards, portfolios, charts, observations, reports, letters, memos, notes, emails, data compilations, disciplinary records, and related service logs and service trackers.

Respondent did not dispute that Petitioner did not receive all the records she requested. Per Petitioner’s email on March 2, 2020, the documents still outstanding at that point included a 2018-2019 progress report, service trackers, report cards, and an occupational therapy screener report.

DCPS should, of course, provide Petitioner with her child’s available educational records. However, the failure to provide educational records to a parent is a procedural violation that does not necessarily deny a student a FAPE. In a similar case, Simms v.

D.C., No. 17-CV-970 (JDB/GMH), 2018 WL 4761625 (D.D.C. July 26, 2018), report and recommendation adopted, No. CV 17-970 (JDB)(GMH), 2018 WL 5044245 (D.D.C. Sept. 28, 2018), the court found that the parent did not clearly and specifically link her requests for educational records to the Student’s education and dismissed the parent’s claim that DCPS denied the Student a FAPE because educational records were not produced. The court opined that:

Plaintiff has not explained how, precisely, the other missing evidence—progress reports, additional report cards, counseling tracking forms, and the like—were necessary to her preparation for the due process hearing. Rather, she paints in the broadest of strokes, asserting that the evidence “would have provided the basis for services” and that they “related to the identification, evaluation, and educational placement” of M.S. [Dkt. 22 at 4–5]. While that might establish a procedural violation of the IDEA, it does not provide a “rational basis to believe that procedural inadequacies compromised the pupil’s right to an appropriate education, seriously hampered the parents’ opportunity to participate in the formulation process, or caused a deprivation of education benefits.

2018 WL 4761625, at *7.

Likewise in this case, Petitioner did not clearly and specifically link her requests for educational records to the Student’s education at School A. While the records would have been more complete had DCPS provided Petitioner with some of the documents mentioned in Petitioner’s March 2, 2020, email (particularly the Student’s report cards and IEP progress report for the third term of the 2018-2019 school year), Petitioner did not show that DCPS’s failure to provide these records had any substantive impact on the Student’s education.

This claim must be dismissed.

Relief

As a remedy, Petitioner seeks compensatory education, outstanding educational records, and an IEP that recommends additional hours of specialized instruction, additional related services, new present levels of performance, and new goals. Petitioner also seeks to preserve all claims that have not been asserted, provided that such claims accrued less than two years prior to the filing of the Complaint.

When school districts deny students a FAPE, courts have wide discretion to ensure that students receive a FAPE going forward. As the Supreme Court stated, the statute directs a hearing officer to “grant such relief as [it] determines is appropriate.” School Committee of the Town of Burlington v. Dep’t of Education, Massachusetts, 471 U.S. 359, 371 (1985); B.D. v. District of Columbia, 817 F.3d 792, 797–98 (D.C. Cir. 2016). 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.” Reid v. District of Columbia, 401 F.3d 516, 521-23 (D.C. Cir. 2005). An award of compensatory education aims to put a student in the position s/he would have been in absent the FAPE denial 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.” B.D., 817 F.3d at 797-798 (quoting Reid, 401 F.3d at 524). The District of Columbia Circuit Court of Appeals has “explicitly disavowed” compensatory education in the form of “cookie-cutter” lump-sum awards when the hearing officer does not explain how the remedy is tailored to provide the services the student was denied. Branham v. District of Columbia, 427 F.3d at 7, 11

(D.C. Cir. 2005). Moreover, the court has emphasized that, in determining the “complicated work” of fashioning such a remedy, the hearing officer should play close attention to the assessments of the Student.

A Petitioner need not “have a perfect case” to be entitled to a compensatory education award. Stanton v. District of Columbia, 680 F. Supp. 201 (D.D.C. 2011). Under the IDEA, if a Student is denied a FAPE, a hearing officer may not “simply refuse” to grant one. Henry v. District of Columbia, 750 F. Supp. 2d 94, 98 (D.D.C. 2010). Some students may require only short, intensive compensatory programs targeted at specific problems or deficiencies. Reid, 401 F.3d at 524.

Petitioner’s proposed compensatory education award, written and discussed by Witness A, seeks to remedy denials of FAPE corresponding to *all five claims* alleged, going back to March, 2018. However, the only finding of FAPE denial here relates to the approximately two-month period after issuance of the draft IEP on November 20, 2019. Based on the findings herein, from November 25, 2019, to January 30, 2020, the Student was deprived of six hours per week of specialized instruction, 120 minutes per week of occupational therapy, sixty minutes per month of speech and language pathology, and sixty minutes per month of behavioral support services.

It is therefore necessary to reduce Petitioner’s proposed compensatory education award. However, this Hearing Officer is wary of reducing the award to such an extent that it is meaningless to the Student, especially since the assessments in the record (in particular the Student’s speech and language assessments) suggest that the Student advances at a slow rate and needs a fair amount of instruction to make any progress.

Moreover, DCPS has agreed to provide the services requested by Witness A, albeit at a different rate. Under the circumstances, the Student's compensatory education award shall be as follows: four hours of occupational therapy; four hours of speech and language pathology; and twenty-five hours of academic tutoring, all to be provided at a reasonable and customary rate in the community by an experienced, qualified provider.

Petitioner's other requests for relief are either premised on IEP claims that were dismissed by this Hearing Officer or not alleged (relating to specialized instruction hours, present levels of performance, and goals). These requests for relief must therefore be denied. Petitioner also seeks to preserve all claims that have not been asserted, provided that such claims accrued less than two years prior to the filing of the Complaint. However, Petitioner provided no authority suggesting it is appropriate for hearing officers to alter statute of limitations rules for future cases. Petitioner's request to preserve such claims must therefore also be denied.

VII. Order

As a result of the foregoing, the following is hereby ordered:

1. Respondent shall pay for twenty-five hours of 1:1 academic tutoring, four hours of 1:1 occupational therapy, and four hours of speech and language pathology, all to be provided by experienced, qualified providers a rate that is usual and customary in the community;
2. All services shall be used by December 31, 2021;
3. Petitioner's other requests for relief are denied.

Dated: May 4, 2020

Case # 2020-0017
Hearing Officer Determination
Michael Lazan, Hearing Officer

Michael Lazan
Impartial Hearing Officer

cc: Office of Dispute Resolution
Petitioner's Representative: Attorney A, Esq.
Respondent's Representative: Attorney B, Esq.
OSSE Division of Specialized Education
[REDACTED]/DCPS
[REDACTED]/DCPS

VIII. Notice of Appeal Rights

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

Dated: May 4, 2020

Michael Lazan
Impartial Hearing Officer