

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

OSSE  
Office of Dispute Resolution  
November 02, 2025

---

PARENTS, on behalf of STUDENT, <sup>1</sup>	)	Date Issued: November 2, 2025
	)	
Petitioners,	)	Hearing Officer: Peter B. Vaden
	)	
v.	)	Case No: 2025-0134
	)	
DISTRICT OF COLUMBIA	)	Online Videoconference Hearing
PUBLIC SCHOOLS,	)	
	)	Hearing Dates:
Respondent.	)	October 8, 24 and 30, 2025
	)	

---

**HEARING OFFICER DETERMINATION**

**INTRODUCTION AND PROCEDURAL HISTORY**

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by Petitioner parents under the Individuals with Disabilities Education Act, as amended (the IDEA), 20 U.S.C. § 1400, *et seq.*, and Title 5-A, Chapter 5-A30 of the District of Columbia Municipal Regulations (DCMR). In this administrative due process proceeding, the parents seek compensatory education and other relief from Respondent District of Columbia Public Schools (DCPS) on the grounds that DCPS allegedly denied Student a free appropriate public education (FAPE) by failing to timely evaluate the child and offer an appropriate Individualized Education Program (IEP) and educational placement for summer 2025 and for the 2025-2026 school year.

Petitioners' Due Process Complaint, filed on July 30, 2025, named DCPS as Respondent. The undersigned hearing officer was appointed on July 31, 2025. The

---

<sup>1</sup> Personal identification information is provided in Appendix A.

parties met for a Resolution Session Meeting on August 20, 2025 and did not resolve the issues in dispute. On August 22, 2025, I convened a prehearing telephone conference with counsel to identify the issues, set the hearing date and address other prehearing matters.

On August 6, 2025, the parents, by counsel, filed a motion for stay-put protection for Student, under 20 U.S.C. § 1415(j), which I denied by order issued August 22, 2025. On August 29, 2025, I granted DCPS' motion to extend the final decision due date in this case to October 24, 2025. On October 9, 2025, I granted DCPS' second motion to extend the final decision due date to November 14, 2025.

On September 9, 2025, DCPS filed a motion for partial summary adjudication, which I denied by order issued September 12, 2025. DCPS filed a motion for reconsideration on September 25, 2025 and, by order issued October 5, 2025, I again denied DCPS' motion for partial summary adjudication.

With the parents' consent, the due process hearing was held online and recorded by the hearing officer, using the Microsoft Teams videoconference platform. The hearing, which was open to the public, was convened before the undersigned impartial hearing officer on October 8, 24 and 30, 2025. October 30, 2025 was added as an additional day because one of DCPS' witnesses was unable to appear on October 24, 2025 for health reasons. FATHER and MOTHER appeared online for the hearing and the parents were represented by PETITIONERS' COUNSEL. Respondent DCPS was

represented by DCPS' COUNSEL, LEA REPRESENTATIVE and by CIEP COORDINATOR. Petitioners' Counsel and DCPS' Counsel made opening statements. Petitioners called as witnesses EDUCATIONAL ADVOCATE, PRIVATE SCHOOL DIRECTOR and Mother. DCPS called as witnesses CIEP SOCIAL WORKER, SPEECH-LANGUAGE PATHOLOGIST, ASSISTANT PRINCIPAL, CIEP Coordinator and CIEP MANAGER. Petitioners' Exhibits P-1 through P-22, P-23 (Pages 444-45 only), P-24 (Pages 451-54 only), P-25 through P-29, P-31 through P-44, P-46 through P-54, P-56 through P-59, P-61 through P-66 and P-68 through P-70 were admitted into evidence, including Exhibits P-19, P-23 (in part), P-24 (in part), P-29, P-49, P-51, P-58, P-61, P-62, P-65, P-66, P-69 and P-70 admitted over DCPS' objections. I sustained DCPS' objections to Exhibits P-23 (in part), P-24 (in part) P-55 and P-60. The Petitioners' withdrew Exhibits P-30, P-45, and P-67. DCPS' Exhibits R-1 through R-3, R-4 (Pages 84 through 89 and 231 through 233 only), R-6 through R-31, R-33 through R-59, R-61 through R-77, R-79 through R-86 and R-89 through R-104 were admitted into evidence, including Exhibits R-4 (Pages 84 through 89 and 231 through 233), R-34 through R-44 and R-89 admitted over Petitioners' objections. I sustained Petitioner's objections to Exhibits R-4 (except Pages 84 through 89 and 231 through 233) and R-55. Following completion of the presentation of evidence on October 30, 2025, Petitioners' Counsel and DCPS' Counsel made oral closing arguments. There was no request to file written closings.

### **JURISDICTION**

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

### **ISSUES AND RELIEF SOUGHT**

The issues for determination in this case, as set out in the September 18, 2025 Prehearing Order are:

a. Whether DCPS denied Student a FAPE by failing to timely reevaluate, timely conduct triennial reevaluations for the student, or timely develop an IEP, and/or timely offer him/her a FAPE for, and/or during, the 2024-2025 School Year and/or 2025 Extended School Year (ESY) period and whether these delays impeded parent participation in the process;

b. Whether DCPS denied Student a FAPE by failing to provide the student with an appropriate IEP/Placement and/or Location of Service (LOS) for the 2025 Extended School Year (ESY) and/or the 2025-2026 School Year because the July 14, 2025 IEP failed to adequately address the student's medical needs or the fact that he/she needs a placement with a full-time nurse available; failed to include adaptive goals or an adaptive goal section despite the findings of the DCPS psychological evaluation; failed to provide sufficient transportation support, including modifications in both pick up and drop off, as well as access to staff that can address any medical needs that arise; failed to provide the student with his/her least restrictive environment (LRE) in that the placement is more restrictive than necessary given the student's age, cognitive and academic testing and his/her prior performance in a private program.

For relief, Petitioners request that the hearing officer order DCPS as follows:

i. Immediately revise the student's IEP to include an adaptive goal section/goals; additional transportation supports; supplement the Special Consideration page to include placement in a school with a full-time nurse and where his/her medical treatment plan can be fully implemented; and provide the student with no more than 15 hours per week of specialized instruction outside of the general education setting;

ii. Timely identify an appropriate location of services (LOS) where the student's

IEP can be implemented and he/she has access to appropriate nursing staff throughout the day;

iii. Allow the student to attend the out of boundary school identified through the DC School Lottery Program (Brent) where he/she was matched and initially offered placement for the 2025-2026 school year;

iv. Timely afford the parents the opportunity to visit any proposed alternate LOS identified by DCPS prior to the student being placed;

v. Provide compensatory education for the alleged denials of FAPE and

vi. Reimburse the parents for any out-of-pocket expenses incurred to secure or provide educational services and/or transportation for the student until a suitable IEP/Placement and/or LOS is made available.

### **FINDINGS OF FACT**

After considering all of the evidence received at the due process hearing in this case on October 8, 24 and 30, 2025, as well as the argument of counsel, my additional findings of fact are as follows:

1. Student, an AGE child, resides with the parents in the District of Columbia. Testimony of Mother.

2. In February 2022, Student was determined eligible for special education as a child with a Developmental Delay. At a Central IEP (CIEP) eligibility team meeting on May 23, 2025, Student was determined eligible under the disability classification Other Health Impairment (OHI). The DCPS eligibility team determined that Student was eligible for all academics (mathematics, reading, written expression) as well as for Behavior Support Services, Speech Language Therapy Services, Physical Therapy (PT)

Services and Occupational Therapy (OT) Services. Exhibit R-72.

3. Student is a medically complex child under the care of local medical centers and a psychologist. In a May 2025 medical letter, Student's Pediatric Transplant Nurse Practitioner wrote that Student has a rare metabolic disorder, Methylmalonic aciduria (MMA), and is immunosuppressed following a liver transplant. Medical documentation indicates that Student is at high risk for developmental delays, particularly in processing speed, communication, and motor development with the potential for additional academic challenges. His/her immunosuppressed status also places him/her at increased risk of infection. As a result of his/her medical condition, Student relies on a gastrostomy tube (G-tube) for nutritional support, follows a vegetarian diet, and takes several daily medications to manage his/her health needs. Exhibit P-11.

4. In February 2022, DCPS developed an IEP for Student with his/her neighborhood school as the placement location. The parents did not enroll Student in the DCPS school because the parents did not believe that the proposed IEP had adequate medical provisions and they could not determine whether the neighborhood school had a full-time nurse available to ensure that Student's medical needs would be met. Testimony of Mother.

5. At a July 24, 2023, DCPS' Early Stages IEP meeting, DCPS developed a proposed IEP for Student. The IEP identified Adaptive/Daily Living Skills,

Communication/Speech and Language and Health/Physical as areas of concern for Student. The proposed IEP provided for Student to receive 1 hour per week of Specialized Instruction in the general education setting, 3 hours per month of Speech-Language Pathology (including 2 hours outside general education) and 240 minutes per month of Physical Therapy. Exhibit R-27. Mother stated that the family would prefer for Student to attend a private school before attending DCPS due to medical concerns. DCPS gave notice to the parents that while attending private school, Student could be offered an Individualized Service Plan (ISP), which would include speech therapy for 2 hours per month with 30 minutes of consultation, but that Student would not be able to receive specialized instruction and physical therapy with an ISP. Exhibit R-31.

6. By email of August 11, 2023, Mother inquired of DCPS Early Stages evaluation coordinator about the annual renewal process of ISP's. In the email, Mother also wrote that the parents had added OT to Student's therapies and stated she was wondering if OT could be added to Student's IEP "in case we ever need to change [Student's] school situations from private to public." DCPS' Child Find Manager replied by email of August 11, 2023 that if the parents decided to enroll Student in a public school, either Early Stages or the receiving school would update his/her IEP to include OT, if eligible and that the process would take place if/when the parents enrolled Student in public school. Exhibit P-31

7. Student currently attends PRIVATE SCHOOL in GRADE. Private School

offers a general education program and is not a special education school. The District of Columbia government considers Private School to be a home-school program because children are on-site at the physical premises only 3 days a week from 9:00 a.m. to 12:45 p.m. and taught at home the rest of the time. Teachers at Private School assign home-school work for the parents to do with their children. Testimony of School Director.

8. Student started at Private School in the 2023-2024 school year. In the last (2024-2025) school year, there was a maximum of 10 children in the classroom, taught by a teacher and a parent who served as an assistant teacher. Last year, Student was absolutely able to keep up with his/her classmates. Testimony of Private School Director.

9. Student is doing well at Private School. In the current 2025-2026 school year, he/she matriculated to a hybrid program with a general education teacher. Student is at the lower end of typically functioning students for his/her grade. Testimony of Private School Director.

10. At a DCPS meeting on June 26, 2024, CIEP Coordinator informed Mother and Private School Director that Student would not be able to continue to receive Equitable Services<sup>2</sup> at Private School due to the private school program's being

---

<sup>2</sup> Decisions about which services and the amounts of services children with disabilities enrolled by their parents in private schools will receive are made during the consultation process and are based on the needs of the children designated to receive services. These children have no individual entitlement to receive some or all of the special education and related services they would receive if enrolled in a public school. See 34 CFR §300.137(a). Office of Special Education and Rehabilitative Services,



for-profit. CIEP Coordinator confirmed that Student could receive Equitable Services at any nonprofit private school in the District of Columbia, or access his/her IEP at a DCPS school. Mother confirmed that Student would remain in DCPS' special education system, which CIEP Coordinator confirmed. CIEP Coordinator also shared that a triennial reevaluation would be offered in the winter of 2025, as Student's special education eligibility would expire in February 2025. Exhibit R-33.

11. On November 24, 2024, Mother wrote CIEP Coordinator by email to check with her about the timing for Student's next meeting regarding his/her IEP. Mother wrote that the parents planned to enter Student in the DCPS school lottery and were wondering what they needed to know or do concerning his/her IEP before entering the lottery. Mother wrote that the parents wanted Student to go to a school where he/she could receive special education services. CIEP Coordinator responded by email on December 2, 2024. CIEP coordinator wrote that the parents should have received an email that morning from DCPS asking if they would like to have Student reevaluated, since it was coming up on 3 years since his/her last evaluation on February 24, 2022. CIEP Coordinator wrote that having Student reevaluated was the next step to update his/her special education eligibility and that as long as he/she was still found eligible for services, Student would receive an updated IEP. Exhibit P-37.

12. At the due process hearing, Mother testified that at the June 26, 2024

---

*Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools*, Question D-2 (Revised April 2011).

meeting, she requested through CIEP Coordinator an updated IEP for Student. CIEP Coordinator testified that Mother did not request an IEP for Student until she sent an email inquiry in November 2024. The only documented request from the parents for an updated IEP for Student is dated November 24, 2024. *See* Exhibit P-37. Here the testimonial evidence was in equipoise. But the parents hold the burden of persuasion and I find that the parents did not establish that they requested an updated IEP for Student prior to November 2024. Testimony of Mother, Testimony of CIEP Coordinator, Exhibit P-22.

13. DCPS did not offer Student an IEP for the 2024-2025 school year.  
Testimony of Mother.

14. On December 20, 2024, Mother executed a DCPS referral form to initiate the referral process for Student for special education services. By this form, Mother also gave permission to Private School to share Student's information with DCPS. Exhibit R-46.

15. On January 15, 2025, DCPS' Central IEP Support Unit for Private Schools wrote the parents by email to confirm receipt of a completed student referral form for Student, proof of DC residency and proof of Enrollment at Private School. The email indicated that the parents would receive proposed dates for a re-evaluation meeting soon. Exhibit P-38.

16. On January 22, 2025, DCPS acknowledged a referral for an initial

evaluation for Student. Exhibit R-51. On January 28, 2025, DCPS issued a letter of invitation for an “Analyzing Existing Data” (AED) meeting, scheduled for March 7, 2025. Exhibit R-52. At the March 7, 2025, AED meeting, DCPS confirmed that upon obtaining the parents’ consent for evaluation, DCPS would order a full Comprehensive Psychological Evaluation of Student as well as review Independent Educational Evaluations (IEEs) obtained by the parents. Exhibit R-53.

17. On March 18, 2025, the parents executed a Consent for Initial Evaluation/Reevaluation for Student to determine special education eligibility. Exhibit P-9.

18. DCPS PSYCHOLOGIST conducted a comprehensive psychoeducational evaluation of Student over 3 days in April 2025. In her April 27, 2025 evaluation report, DCPS Psychologist reported that Student is a medically complex child under the hospital transplant institute, a local medical center and a psychologist. Medical documentation indicated that Student is at high risk for developmental delays, particularly in processing speed, communication, and motor development, with the potential for additional academic challenges. Due to his/her immunosuppressed status, Student is also at increased risk for infection. The Cognitive Assessment System, 2nd Edition (CAS2) was administered to assess Student’s cognitive abilities but, according to DCPS Psychologist, due to the timed and motor-intensive nature of several subtests, the results should be interpreted with caution, as they may not fully reflect Student’s true

cognitive potential. Student showed strong skills in identifying patterns and understanding visual-spatial relationships, suggesting that he/she benefits from visual learning supports. He/she exhibited difficulty recalling sequences, processing verbal information, and understanding language structure—skills necessary for following multi-step directions and remembering routines. During testing, Student required frequent repetition and modeling to understand task demands but remained engaged, motivated, and demonstrated a positive attitude throughout. Academically, Student's overall performance fell within the Below Average range. His/her performance on the Letter and Word Recognition subtest was in the Average range, although he/she had not yet achieved mastery. He/she can identify some letters, and corresponding letter sounds but continues to confuse others and was unable to independently read or identify basic sight words. These challenges were also reflected in his/her Reading Comprehension performance. Student's performance on most phonological awareness tasks was within the average range, with rhyming noted as a particular strength. In math, Student demonstrated emerging number sense. He/she was able to identify some numbers and showed strengths in sequential counting and number concepts, though these skills were not yet solidified. In written language, Student's performance was well below expectations. His/her writing appeared to be labored due to fine motor challenges. DCPS Psychologist noted that Student was still in the early stages of skill development and predicted that with consistent, structured instruction in a full-time

educational setting, Student was likely to make meaningful progress across academic areas. Behavior rating scales indicated that Student demonstrated generally age-appropriate behavior and emotional regulation, with some areas requiring support. Adaptive ratings indicate strengths in socialization, particularly in building relationships and coping with support. However, challenges were noted in daily living skills, fine motor coordination, and written communication, which may affect his/her independence. DCPS Psychologist reported that Student benefitted from structure, adult support, and visual cues to navigate tasks and transitions effectively. DCPS Psychologist concluded that Student qualified for special education services under the OHI category based on his/her chronic medical conditions including the documented medical diagnosis of Methylmalonic acidemia (MMA), receipt of a liver transplant and being immunosuppressed. Exhibit R-63.

19. By letter of May 8, 2025, DCPS invited the parents to an eligibility meeting for Student scheduled for May 23, 2025. Both parents, Petitioner's Counsel, an educational advocate and two Private School representatives attended the meeting by telephone. At the May 23, 2025 meeting, the eligibility team determined that Student met all of the required criteria for the OHI disability classification, based on his/her chronic or acute health problems resulting from his/her Methylmalonic aciduria (MMA) condition. At the meeting, Petitioners' Counsel argued that Student should also be classified having a Developmental Delay, but the DCPS representative did not agree to a

Multiple Disabilities classification. After discussion regarding continuing the Developmental Delay classification, the DCPS team members decided that they were able to identify Student has having one primary disability – OHI. Student was determined eligible for special education for all academics and for related services – Behavior Support Services, Speech Language Therapy, Physical Therapy, and Occupational Therapy. Exhibits R-69, R-72.

20. A meeting to develop Student’s initial IEP was scheduled for July 14, 2025. Petitioner’s counsel objected, by email, to not holding the IEP meeting sooner and asked that DCPS reconvene prior to the end of the 2024-2025 school year so that the parents could have an opportunity to visit proposed school options and so that services that the student might require, that is, Extended School Year (ESY), could be timely considered. Exhibit P-43.

21. The initial IEP meeting was convened on July 14, 2025. Both parents, Educational Advocate, Petitioners’ Counsel, a hospital education consultant and a Private School representative attended the meeting. Reading, Mathematics, Written Expression, Communication/Speech and Language, Emotional, Social and Behavioral Development, Motor Skills/Physical Development and Health/Physical were identified as goal areas for Student. The DCPS IEP team members decided to place Student in an outside of general education Early Learning Support (ELS) classroom for 20 hours per week. In addition, the IEP provided for a host of Related Services and Consultation

Services and other aids and services for Student. Exhibit P-20.

22. The IEP lists Student's medical concerns including the following information from Student's medical providers:

Due to his/her medical complexity, all related service providers and staff working with Student should be aware of the following from his/her medical team:

- A skilled nurse must be present on-site to manage Student's g-tube feedings, ensure hydration and nutrition, and address any issues related to the g-tube.
- Student requires 1 liter of hydration during the school day via oral intake or g-tube bolus feeding as coordinated with his/her parents.
- In case of early signs of metabolic decompensation (*e.g.*, fatigue, vomiting, confusion), parents should be contacted immediately. If active symptoms are present, parents and EMS should be notified right away.
- Due to his/her immunosuppressed status, an alternative educational plan should be in place if 20–25% of students are absent due to illness.
- A low-distraction environment during meals is beneficial to encourage oral intake. Staff must be informed and able to monitor his/her dietary needs during meals and snacks.
- Student should participate in gym and recess for socialization, with therapy sessions scheduled at other times when possible.

Small class size to allow for individual attention, consistent supervision, and timely responsiveness to medical and developmental needs.  
Trained staff are able to monitor Student at all times to ensure his/her needs are promptly recognized and addressed.  
Access to quiet/low stimulation spaces to take breaks, self-regulate and rest as needed throughout the day.

Strong home-school connection to track Student's health status, educational and therapy progress (speech, BSS, PT, OT).

Included in the IEP Other Classroom Aids and Services are the following "Medical" provisions: A skilled nurse must be present on-site to manage Student's G-tube feedings, ensure hydration and nutrition, and address issues; Student requires 1 liter of

hydration during the school days; Alternative educational plan should be created if a certain percentage of students are absent due to illness due to immunosuppressed status; Ensure staff are aware of infection control protocols; Allow flexibility for absences related to medical care (opportunities to make up work) continuous monitoring of medical and dietary needs. Exhibit P-20.

23. By email of July 24, 2025, Petitioners' Counsel informed DCPS that the parents had reviewed the July 14, 2025 IEP and Prior Written Notice (PWN) and counsel identified, *inter alia*, the following concerns:

- Under Special Considerations (OTHER) there was no reference to the Medical Treatment Plan or statement that Student requires access to a nurse at all times to be able to attend school like as we all discussed and DCPS agreed to include.
- DCPS had indicated that they would include that Student needs a referral for AT Consult in the PWN but we did not see that included.
- We strongly disagreed with DCPS not adding an adaptive goal section based on the results of the psychological.
- Parents do not agree that there will be no harm in keeping him/her with non-disabled peers. Given the variability in his/her cognitive functioning, his/her age, the fact that he/she did have some scores on academic testing that fell within the average range, and his/her performance in a general education private pre-school program, they remain concerned that LRE that DCPS is proposing is too restrictive. They would like for him/her to at least have the opportunity to access academics in a LRE with nondisabled peers prior to placing him/her in full-time DCPS program. We had suggested 15 hours of instruction outside the general education setting at his/her IEP meeting with the expectation that his/her hours and/or placement could be adjusted as necessary at his/her 30-day review meeting.
- For special education transportation, last AM pickup was marked, but first PM drop-off was not marked, even though they mentioned both in the PWN and



given his/her issues with fatigue it is needed. We disagreed with not adding an aide for transportation.

– The PWN also failed to accurately describe discussion regarding placement. Based on the DCPS description, Parents agreed that a Medical & Education Support (MES) program would be too restrictive for Student. They requested that a location of services with an MES program be considered so that he/she would have the medical supports he/she needs.

Exhibit P-49.

24. Prior to June 11, 2025, the parents applied through the DC School Lottery for Student's placement and he/she was accepted at LOTTERY SCHOOL, which the parents believe would be able to meet Student's needs. On July 30, 2025, the parents received an email from My School DC informing them that Student was withdrawn from Lottery School. By email of July 31, 2025, Petitioner's Counsel objected to Student's withdrawal from Lottery School and demanded that he/she be reinstated. Exhibits P-50, P-51.

25. On July 28, 2025, DCPS provided the parents with a Location of Service (LOS) for Student in the Early Learning Support (ELS) program at CITY SCHOOL 1, where the July 14, 2025 IEP would be implemented. By email of July 30, 2025, Petitioners' Counsel wrote DCPS that the parents were not in agreement with the City School 1 location. She wrote that the parents considered the July 14, 2025 IEP as too restrictive, "jumping straight to a self-contained setting without giving the student the opportunity to be educat[ed] with non-disabled peers." Counsel also asserted that DCPS must give the parents an opportunity to visit a proposed school location before

the student is placed there. Exhibit P-51.

26. On August 20, 2025, DCPS unilaterally amended the July 14, 2025 IEP without reconvening the IEP team. Exhibit R-81. The parents did not participate in amending the IEP. Only typographical errors were corrected to reflect what occurred at the July 14, 2025 meeting. No substantive change to the IEP was made. Testimony of CIEP Team Manager.

27. City School 1 has 2 ELS classrooms for children in Student's grade level. (The class has students from 3 grades.) The classroom where Student would have been assigned would have 5 children (including Student) taught by a special education teacher and 2 teaching assistants. The school has a full-time nurse. In the ELS program, the ELS children attend physical education and specials classes with typically developing peers. One of the instructional assistants accompanies the children to those classes. Testimony of Assistant Principal.

28. City School 1 was undergoing a major construction project over the 2025 summer and school staff was housed in a different school building. School staff returned to the building 5 days before the start of school for the 2025-2026 school year. The parents could have visited the school at that time. The parents visited City School 1 on August 29, 2025. Assistant Principal gave them a tour of the school and showed them two ELS classrooms. She told the parents that the school had been assigned a school nurse, but the nurse was not present in the building during the parent's visit.

Exhibit P-54, Testimony of Assistant Principal. When the parents visited the school, there were 3 children in the ELS classroom. Mother was worried that the ELS program was not rigorous enough for Student. She was also concerned that the school location was too far from the hospital in the city that served Student. The parent elected not to enroll Student in City School 1 and for their child to continue to attend the program at Private School. Testimony of Mother.

29. On September 2, 2025, Petitioners' Counsel wrote DCPS by email to advise the District that after visiting City School 1, the parents did not believe the placement or location of services to be appropriate and that they had decided to unilaterally place Student back at Private School for the 2025-2026 school year. Petitioners' Counsel wrote that during the parents' school visit, they were unable to meet with any of the related service providers or the school nurse to discuss how the school would address Student's significant medical needs. Petitioners' Counsel wrote that, according to Student's doctor, City School 1 was too far away from the hospital, and the child could not go there. She wrote that the parents were also concerned that the learning environment would not fit Student's needs academically in that it was beneath his/her capabilities, and in a very small class size. Petitioners' Counsel wrote that the parents continued to request that DCPS make a FAPE available for Student, including developing an appropriate IEP and offering a suitable location of services. Exhibit P-44.

### **CONCLUSIONS OF LAW**

Based upon the above Findings of Fact and argument of counsel, as well as this hearing officer's own legal research, my Conclusions of Law are as follows:

#### **Burden of Proof**

As provided in the D.C. Special Education Student Rights Act of 2014, the party who filed for the due process hearing, the parents in this case, shall bear the burden of production and the burden of persuasion, except that where there is a dispute about the appropriateness of the child's IEP or placement, or of the program or placement proposed by the public agency, the public agency shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement; provided, that the party requesting the due process hearing shall retain the burden of production and shall establish a *prima facie* case before the burden of persuasion falls on the public agency. The burden of persuasion shall be met by a preponderance of the evidence. *See* D.C. Code § 38-2571.03(6).

#### **ANALYSIS**

1. Did DCPS deny Student a FAPE by failing to timely reevaluate or timely conduct triennial reevaluations for the child?

The parents allege that DCPS denied Student a FAPE by failing to timely reevaluate him/her for special education following the child's initial evaluation by Early Stages on February 24, 2022. In their due process complaint, the parents allege that

DCPS should have reevaluated Student by February 2024. The parents have the burden of persuasion for this claim.

Student was initially evaluated and determined eligible for special education at City School 1 on February 24, 2022. From the 2023-2024 school year, Student has been unilaterally placed by the parents at Private School, a part-time program which DCPS deems to be a home schooling program. The IDEA mandates that special education reevaluations must be conducted at least every three years. The requirement extends to D.C. resident children who are enrolled in private schools or are home schooled, provided the parents consent to evaluating the child. Under the law of the District, a local education agency (LEA) shall assess or evaluate a student who may have a disability and who may require special education services within 60 days from the date that the student's parent or guardian provides consent for the evaluation or assessment. D.C. Code § 38-2561.02(a)(2)(A). The LEA shall make reasonable efforts to obtain parental consent within thirty (30) days from the date the student is referred for an assessment or evaluation. 5A DCMR § 3005.4(a).

On November 24, 2024, Mother requested DCPS to update the IEP process for Student. I find that this request triggered DCPS' obligation to reevaluate Student. Following receipt of Mother's November 24, 2024 IEP request, DCPS was required under D.C. law to make reasonable effort to secure the parents' written consent for the evaluation by December 24, 2024 and to complete Student's evaluation by February 22,

2025, (90 days after November 24, 2024). Coincidentally, this date was only two days before Student's triennial reevaluation due date. A meeting to develop Student's IEP should have been conducted, by March 24, 2025, that is, within 30 days of the eligibility determination due date. *See* 34 C.F.R. § 300.323(c)(1). DCPS obtained the parents' consent to evaluate Student on March 18, 2025 and completed the eligibility evaluation on May 23, 2025. This was some three months beyond the February 22, 2025 evaluation completion due date provided in the D.C. Code. Student's IEP was developed on July 14, 2025.

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

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

34 C.F.R. § 300.513(a)(2).

In this case, because DCPS did not complete Student's eligibility evaluation until May 23, 2025, the District did not convene Student's IEP team to develop his/her initial

IEP until July 14, 2025. As a result, Student was unable to participate in Extended School Year (ESY) services in summer 2025, even though the July 14, 2025 IEP team determined that ESY services were necessary for the provision of FAPE to Student. I conclude, therefore, that DCPS' failure to timely complete Student's special education eligibility evaluation in the 2024-2025 school year was a denial of FAPE because the procedural violation impeded Student's right to a FAPE and caused a deprivation of educational benefit.

2. Did DCPS deny Student a FAPE by failing to provide him/her with an appropriate IEP/Placement and/or Location of Service for the 2025 Extended School Year (ESY) and/or the 2025-2026 School Year because the July 14, 2025 IEP failed to adequately address Student's medical needs or the fact that he/she needed a placement with a full-time nurse available; failed to include adaptive goals or an adaptive goal section despite the findings of the DCPS psychological evaluation; failed to provide sufficient transportation support, including modifications in both pick-up and drop-off, as well as access to staff that could address any medical needs that arise; failed to provide the student with his/her least restrictive environment (LRE) in that the placement is more restrictive than necessary given the student's age, cognitive and academic testing and his/her prior performance in a private program?

DCPS' July 14, 2025 IEP, as amended on August 20, 2025, provided for Student's educational placement in an Early Learning Support (ELS) program at a DCPS public school. This is a 20 hour per week program where children with disabilities receive academic services in a self-contained classroom and attend specials classes with typically developing peers, accompanied by a teaching assistant. The parents contend that this proposed educational placement was overly restrictive for Student. They also

allege that the July 14, 2025 IEP failed to adequately address Student's medical needs, improperly omitted adaptive goals and lacked appropriate supports for the child's special education transportation.

In *Middleton v. District of Columbia*, 312 F. Supp. 3d 113 (D.D.C. 2018), U.S. District Judge Rudolph Contreras explained how a court or a hearing officer must assess an IEP:

In reviewing a challenge under the IDEA, courts conduct a two-part inquiry: "First, has the State complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits?" *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 206–07, 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982) (footnotes omitted).

*Middleton* at 128.

With regard to procedural compliance, aside from DCPS' delay in developing the July 14, 2025 IEP addressed in the preceding section, Petitioners have not claimed that DCPS failed to comply with IDEA procedures in developing the IEP. I turn, therefore, to the substantive prong of the *Rowley* inquiry, was the July 14, 2025 IEP reasonably calculated to enable Student to make progress in light of Student's circumstances? *See Andrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 399, 137 S. Ct. 988, 999, 197 L. Ed. 2d 335 (2017). In *A.D. v. Dist. of Columbia*, No. 20-CV-2765 (BAH), 2022 WL 683570, (D.D.C. Mar. 8, 2022), U.S. District Judge Beryl Howell explained the IDEA's IEP requirement:



A “free and appropriate public education,” or “FAPE,” is delivered by local education authorities through a uniquely tailored “ ‘individualized education program,’ “ or “IEP.” *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist.*, 137 S. Ct. 988, 993-994 (2017); *see also* 20 U.S.C. §§ 1401(9)(D), 1412(a)(1). To be IDEA-compliant, an IEP must reflect “careful consideration of the child’s individual circumstances” and be “reasonably calculated to enable the child to receive educational benefits,” *Endrew F.*, 137 S. Ct. at 994, 996 (cleaned up), “even as it stops short of requiring public schools to provide the best possible education for the individual child,” *Z.B. v. District of Columbia*, 888 F.3d 515, 519 (D.C. Cir. 2018). . . . An IEP failing to satisfy these statutory directives may be remedied through an IDEA claim to the extent the IEP “denies the child an appropriate education.” *Z.B.*, 888 F.3d at 519.

*A.D.*, 2022 WL 683570 at \*1. “[A]n IEP’s adequacy thus ‘turns on the unique circumstances of the child for whom it was created,’ and a reviewing court should defer to school authorities when they ‘offer a cogent and responsive explanation’ showing that an IEP ‘is reasonably calculated to enable the child to make progress appropriate in light of [her] circumstances.’” *A.D.* at \*7, quoting *Endrew F.*, *supra*, 137 S. Ct. at 1001-02. I find that through the testimony of Mother and Educational Advocate, the parents made a *prima facie* case that the July 14, 2025 IEP was inappropriate. Therefore the burden of persuasion on the IEP’s appropriateness falls on DCPS. DCPS did not meet that burden.

With regard to the IDEA’s least restrictive environment (LRE) requirement, the Act contemplates a continuum of educational placements to meet the needs of students with disabilities. Depending on the nature and severity of the disability, a student may be instructed in regular classes, special classes, special schools, at the home, or in

hospitals and institutions. *See* 5E DCMR § 3012, 20 U.S.C. § 1412(a)(5), 34 CFR § 300.115. The IDEA requires that children with disabilities be educated in regular classes unless that cannot be “achieved satisfactorily.” In *K.N. v. Bridges Pub. Charter Sch.*, 113 F.4th 970 (D.C. Cir. 2024), the D.C. Circuit Court of Appeals pronounced,

The [IDEA] . . . requires states to ensure that:

[t]o the maximum extent appropriate, children with disabilities . . . are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

20 U.S.C. § 1412(a)(5)(A). That command to “mainstream” disabled students is a central feature of the IDEA’s design.

*K.N.*, 113 F.4th at 982 (Citation omitted). In a recent decision, *N.T. v. District of Columbia*, No. 23-CV-370-CRC-MJS, 2025 WL 1895485 (D.D.C. July 9, 2025), *report and recommendation adopted*, No. 23-CV-370 (CRC)(MJS), 2025 WL 2635655 (D.D.C. Sept. 12, 2025), the U.S. District Court explained,

[T]he IDEA requires that “‘to the maximum extent appropriate,’ public schools provide students with disabilities an education in the ‘least restrictive environment’ possible.” *Z.B. v. Dist. of Columbia*, 888 F.3d 515, 528 (D.C. Cir. 2018) (*quoting* 20 U.S.C. § 1412(a)(5)(A)). This generally means that the “removal of children from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” *Id.* (citation and quotation marks omitted). Stated simply, “the IDEA requires that children with disabilities receive education in the regular classroom whenever possible.” *Endrew F.*, 580 U.S. at 400 (citation and quotation marks omitted); *id.* at 401 (“[F]or most children, a FAPE will involve

integration in the regular classroom[.]”); *see also* *Z.B.*, 888 F.3d at 528 (similar). *N.T.*, 2025 WL 1895485, at \*1. *See, also*, U.S. Department of Education, *Assistance to States for the Education of Children with Disabilities*, 71 Fed. Reg. 46540 (August 14, 2006) (“Thus, before a child with a disability can be placed outside of the regular educational environment, the full range of supplementary aids and services that could be provided to facilitate the child’s placement in the regular classroom setting must be considered.” 71 Fed. Reg. at 46588.)

In this case, at the July 14, 2025 IEP team meeting, the DCPS IEP team members, determined, over the parents’ objection, that Student’s educational placement for most of the school week would be an Early Learning Support special class, serving only children with disabilities. The decision of the DCPS team to place Student in such a restrictive educational environment was made out of the understandable concern for Student’s medical needs. According to DCPS’ witnesses, Speech-Language Pathologist and CIEP Manager, the CIEP IEP team members decided to place Student in the ELS special class because in the very small classroom, Student would be “getting eyes-on” from three adults.

However, before placing Student in a special classroom for 20 hours per week, DCPS was required to consider the full range of supplementary aids and services, including a dedicated aide, that could be provided to facilitate the child’s placement in the regular classroom setting. For the preceding two school years, Student had attended

Private School, a part-time regular education day school. At Private School in the 2024-2025 school year, Student was able to keep up with his/her typically developing classmates in the general education setting. The hearing evidence did not establish that at the July 14, 2025 IEP meeting, DCPS considered the provision of supplementary aids and services to enable Student to be educated for academics, at least for part of the school week, in the regular classroom setting. I find that DCPS did not meet its burden of persuasion that at the time of the July 14, 2025 IEP team meeting, the nature or severity of Student's OHI disability was such that his/her education in regular classes with provision of supplementary aids and services, including a dedicated aide, could not be achieved satisfactorily. *See Z.B., supra*. DCPS, therefore, did not establish that its proposed July 14, 2025 IEP offered Student a FAPE.

The parents also allege that the July 14, 2025 IEP failed to adequately address Student's medical needs, improperly omitted adaptive goals and lacked appropriate supports for special education transportation. I find that DCPS established that the IEP was appropriate on both the medical needs and adaptive goals fronts. The IEP includes very extensive and detailed descriptions of Student's medical needs, including the requirement for a skilled nurse on site, as reported by the child's medical providers.

Petitioners' expert, Educational Advocate, opined that the IEP should have included adaptive goals, which had been provided in Student's prior IEP. However, the prior IEP was developed in the 2021-2022 school year, when Student was a preschooler

with a developmental delay disability. There was no evidence that Student received or required adaptive support in his/her program at Private School. Moreover, Educational Advocate never met Student in person or conducted a formal evaluation of the child. DCPS' expert, CIEP Manager, testified that adaptive concerns for Student were addressed in the Speech-Language and Emotional, Social and Behavioral Development sections of the July 14, 2025 IEP. She opined that a separate adaptive goals section was not needed in the child's IEP. On this issue, CIEP Manager's opinion was more persuasive than that of Educational Advocate and I find that DCPS met its burden of persuasion that the July 14, 2025 IEP was not inappropriate for want of separate adaptive goals or an adaptive goal section.

With regard to special education transportation, Petitioners provided no competent evidence of what, if any, special aids or accommodations Student needed to utilize school transportation. I do not find that the omission of particular special education transportation accommodations in the July 14, 2025 IEP denied Student a FAPE. However, Student's IEP team will need to review and revise the IEP to address the least restrictive environment concerns and I will direct DCPS to also ensure that the IEP team looks again at Student's special education transportation needs and revises the IEP transportation provision, as appropriate.

#### Relief

For relief in this case, Petitioners request that I order DCPS to ensure that

Student's IEP is reviewed and appropriately updated. As explained above, Student's IEP must be revised to ensure consideration of the full range of supplementary aids and services, including a dedicated aide, that could be provided to facilitate the child's placement in the regular classroom setting for all or part of the school day. The hearing evidence was not sufficient for this hearing officer to determine whether Student, with appropriate supplementary aids and services, could be safely placed in a general education classroom. However, mainstreaming is a central feature of the IDEA and the Act requires that the IEP team fully consider that option before removing the child from the regular education setting. In addition, I will order DCPS to ensure that the special education transportation provision in Student's IEP is reviewed by the IEP team to determine what particular aids, services and accommodations Student may need to safely use the transportation service.

The Petitioners also request compensatory education relief. When a hearing officer finds a denial of FAPE he has "broad discretion to fashion an appropriate remedy, which can go beyond prospectively providing a FAPE, and can include compensatory education. . . . [A]n award of compensatory education 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. v. District of Columbia*, 817 F.3d 792, 797-98 (D.C. Cir. 2016) (internal quotations and citations omitted.)

Petitioners' expert, Educational Advocate, opined in her testimony that as compensatory education, Student should be awarded 300 hours of tutoring, 45 hours of counseling, 10 hours of Speech-Language Pathology, 10 hours of Physical Therapy and 10 hours of Occupational Therapy. Her premise for this recommendation is that if Student had been provided appropriate IEPs from the beginning of the 2024-2025 school year, Student would have made one more year of academic progress than he/she made at Private School.

I find this proposal wanting for several reasons. First, in this decision, I have determined that Student should have been offered an initial IEP by March 24, 2025, not in August 2024 as assumed by Educational Consultant. More importantly, Educational Consultant did not apparently consider Student's successful record at Private School, where according to the school's director, the child has "absolutely" been able to keep up with his/her typically developing classmates. In other words, the evidence does not support that Student has lost one year of academic progress. Moreover, Educational Advocate has never met Student in person or observed the child in a school setting. This expert's opinion that the child would have made an additional year of progress, if provided an appropriate IEP in the spring of 2025, was not persuasive. I decline to follow Educational Advocate's compensatory education proposal.

However, Student is entitled to compensatory education relief for missing out on Extended School Year services in summer 2025 due to DCPS' delay in developing the

July 14, 2025 IEP. Assuming a 4 hour per day ESY program over 16 days, Student missed some 64 hours of ESY special education. In her compensatory education proposal, Educational Advocate recommended that Student be awarded approximately .4 hours of compensatory tutoring for each hour of missed specialized instruction. Using that formula, I will award Student 25 hours of academic tutoring as compensatory education for DCPS' failure to provide the child an IEP in time for the summer 2025 ESY program. *See B.D., supra* (Hearing officer's broad discretion to fashion an appropriate remedy.)

Finally, the parents seek reimbursement for out-of-pocket expenses incurred to provide educational services and/or transportation for Student until a suitable IEP and school location is made available for the child. For the 2024-2025 and 2025-2026 school year, the parents have unilaterally placed Student at Private School, a part-time program. No evidence was offered at the due process hearing on the cost to the parents for this program. The hearing evidence was undisputed that Student has made appropriate progress at Private School and there was no evidence that the parents acted unreasonably in sending their child to the school. On these facts, I find that the parents' choice of Private School for Student was proper under the IDEA. Accordingly, I will order DCPS to reimburse the parents for their covered expenses for Student to attend Private School from March 24, 2025, the date by which DCPS should have offered Student an appropriate IEP, through the date that a revised IEP is completed pursuant



to this decision. *See Leggett v. District of Columbia*, 793 F.3d 59, 63 (D.C. Cir. 2015) (IDEA requires school districts to reimburse parents for their private-school expenses if (1) school officials failed to offer the child a free appropriate public education; (2) the private-school placement chosen by the parents was otherwise proper under the Act; and (3) the equities weigh in favor of reimbursement—that is, the parents did not otherwise act unreasonably.) To be clear, I do not order DCPS to place Student prospectively at Private School for the reasons, *inter alia*, that the parents have not requested that relief and because Private School does not offer a full-time education program or special education services.

**ORDER**

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

**ORDERED:**

1. Within 15 school days of the date of this decision, DCPS shall convene Student's IEP team, including the parents and their representatives and ensure that Student's IEP is reviewed and revised, as appropriate, pursuant to this decision and 34 C.F.R. § 300.324(b) and 20 U.S.C. § 1412(a)(5)(A), as well as giving due consideration to other information available to the IEP team;
2. Upon receipt of documentation of payment by the parents as may be reasonably required, DCPS shall promptly reimburse the parents their expenses for covered tuition and related expenses incurred for Student's enrollment at Private School from March 24, 2025 through the date that a final revised IEP is offered for the child pursuant to this hearing officer determination and
3. All other relief requested by the Petitioners herein is denied.

Date: November 2, 2025

s/ Peter B. Vaden  
Peter B. Vaden, Hearing Officer

**NOTICE OF RIGHT TO APPEAL**

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

cc: Counsel of Record  
Office of Dispute Resolution