

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

OSSE
Office of Dispute Resolution
November 05, 2025

PARENT, on behalf of STUDENT, ¹)	Date Issued: November 5, 2025
)	
Petitioner,)	Hearing Officer: Peter B. Vaden
)	
v.)	Case No: 2025-0150
)	
DISTRICT OF COLUMBIA)	Online Videoconference Hearing
PUBLIC SCHOOLS,)	
)	Hearing Dates:
Respondent.)	October 27 and 28, 2025
)	

HEARING OFFICER DETERMINATION

INTRODUCTION AND PROCEDURAL HISTORY

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by the Petitioner parent 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 parent seeks compensatory education from Respondent District of Columbia Public Schools (DCPS) on the grounds that DCPS allegedly denied Student a free appropriate public education (FAPE) by not offering appropriate IEP's and educational placements from December 2023 until late September in 2024.

Petitioner's Due Process Complaint, filed on August 26, 2025, named DCPS as Respondent. The undersigned hearing officer was appointed on August 27, 2025. The parties met for a Resolution Session Meeting on September 9, 2025 and did not resolve

¹ Personal identification information is provided in Appendix A.

the issues in dispute. On September 11, 2025, I convened a telephone prehearing conference with counsel to discuss the issues to be determined, set the hearing date and address other matters.

With the parent's 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 27 and 28, 2025. MOTHER appeared online for the hearing and was represented by PETITIONER'S COUNSEL. Respondent DCPS was represented by LEA REPRESENTATIVE and by DCPS' COUNSEL. Petitioner's Counsel made an opening statement.

Mother testified and called EDUCATIONAL ADVOCATE as an additional witness. DCPS called as witnesses SPECIAL EDUCATION TEACHER 1, SPECIAL EDUCATION TEACHER 2 and LEA Representative. Petitioner's Exhibits P-1 through P-4, P-11, P-12, P-14 through P-22, P-24, P-26 through P-28, P-30, P-32 through P-35, P-38, P-40 through P-44, P-46 through P-56, P-63, P-64, P-66, P-67, and Pages 2 and 3 only of P-68 were admitted into evidence, including Exhibits P-12, P-24, P-63 and Pages 2 and 3 of P-68 admitted over DCPS' objections. I sustained DCPS' objections to Exhibit P-65 and Page 1 of Exhibit P-68. Petitioner did not offer the remaining exhibits included in her prehearing disclosures. DCPS' Exhibits R-1 through R-6, R-10 through R-20, R-23 through R-25 and R-27 admitted into evidence without objection. DCPS did not offer the remaining exhibits included in its prehearing disclosures.

Following the conclusion of Petitioner's case-in-chief, DCPS' Counsel made an oral motion for a directed finding against the Petitioner, which I granted in part and denied in part. I granted DCPS' motion for a directed finding with respect to any allegations as to the inappropriateness of the May 22, 2023 IEP and placement when developed and as to any denial of FAPE after September 27, 2024. I denied DCPS' motion as to Petitioner's claims that DCPS denied Student a FAPE by failing to offer appropriate IEPs from December 20, 2023 through September 26, 2024.

On October 28, 2025, after the close of all of the evidence, Petitioner's 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 raised by Petitioner against DCPS, as set out in the September 11, 2015 prehearing order are as follows:

Whether DCPS failed to provide Student with appropriate IEPs, placements, and/or locations of services to meet Student's need for more specialized instruction on his/her IEP to address his/her academic deficits in the areas of Reading, Writing, and Math for the 2023-2024 school year, and the start of the 2024-2025 school year, on the IEPs dated May 22, 2023 and May 16, 2024 (to include any relevant amendments) or at meetings on or about December 20, 2023, February 6, 2024, March 5, 2024, May 6, 2024 and May 16, 2024.

For relief, the Petitioner requests that the hearing officer order DCPS to provide

appropriate compensatory education relief to Student.

FINDINGS OF FACT

After considering all of the evidence received at the due process hearing in this case, as well as the argument of counsel, my findings of fact are as follows:

1. Student, an AGE youth, resides with Mother in the District of Columbia.

Testimony of Mother.

2. Student is eligible for special education as a child with a Specific Learning Disability (SLD) as his/her primary disability and an Other Health Impairment (OHI) as a secondary disability. Exhibit P-35.

3. In summer 2023, Mother referred Student for a neuropsychological evaluation by NEUROPSYCHOLOGIST. In her September 21, 2023 Neuropsychological Evaluation report, Neuropsychologist reported that Student's "Academic Performance" and Grades were Average and that Student did well academically except he/she had difficulty in mathematics "due to match with the teacher." For her assessment, Neuropsychologist reported, *inter alia*, that Student demonstrated age-appropriate skills in cognitive processing speed, visual memory (which was improved from a prior evaluation), verbal memory for meaningful (*i.e.*, story) information (also improved from prior evaluation) and problem-solving efficiency. Student had significant difficulty with aspects of attention and executive functioning. His/ her performance was below age-level expectations across measures including sustained attention (which was much worse than prior evaluation), listening comprehension (likely due to difficulty with

sustained attention), visual working memory and inhibitory control (*i.e.*, impulsivity). Student's performance on a measure of rote verbal memory was quite poor, but this was due to his/her significant difficulties with attention. Based on parent-report measures as well as observations during the evaluation, Student demonstrated significant inattention (failed to give close attention to details/made careless mistakes in schoolwork; difficulty sustaining attention in tasks or play; did not seem to listen when spoken to directly; did not follow through on instructions/failed to finish work; avoided tasks requiring sustained mental effort; loses things for tasks; easily distracted; forgetful in activities) and hyperactivity/ impulsivity (fidgets with hands/feet or squirms in seat; leaves seat in the classroom or situations where remaining seated is expected; difficulty playing or engaging in leisure activities quietly; talked excessively; difficulty awaiting turn; interrupts or intrudes on others). These symptoms occurred across settings (*e.g.*, home, school, play, relatives' homes) and were interfering with Student's social functioning and academic progress. Neuropsychologist reported that Student met diagnostic criteria for a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD), Combined presentation, severe. She reported that Student's presentation was also consistent with a diagnosis of Frontal Lobe and Executive Function Deficit; that Student was also displaying additional behaviors associated with difficulty regulating his/her behavior and emotions. Student had been engaging in aggressive behaviors (verbal and physical); arguing and refusing to comply with requests from multiple adults; destruction of property; deliberately annoying siblings and making statements of self-harm. As such,

Student met criteria for Oppositional Defiant Disorder. Neuropsychologist recommended, *inter alia*, that Student would require pull-out special education interventions in a small group or one-on-one setting for instruction, particularly with math, consideration for extended school year services and extra time to complete class exercises, homework assignments, projects, and examinations, including standardized tests. Exhibit P-16. Although Mother testified that she provided an earlier May 2019 neuropsychological evaluation report by the same neuropsychologist (Exhibit P-11) to DCPS, the hearing evidence does not establish that Mother provided Neuropsychologist's September 21, 2023 evaluation report (Exhibit P-16) to DCPS prior to filing her the due process complaint.

4. Student is currently enrolled in GRADE at CITY SCHOOL 2, where he/she has attended since the 2024-2025 school year. From the 2021-2022 school year through the 2023-2024 school year, Student was enrolled in CITY SCHOOL 1. Both schools are DCPS public schools. Testmony of Mother.

5. Student was evaluated by DCPS in 2021 and on April 7, 2022 and was found eligible for special education services under the disability category SLD. Exhibits P-20, P-22.

6. Student's May 3, 2022 IEP identified Mathematics, Reading and Emotional, Social and Behavioral Development as IEP areas of concern. The IEP provided for Student to receive 3 hours per week of Specialized Instruction Services, including 2.5 hours outside the general education setting and 30 minutes inside general

education. The IEP also provide for 60 minutes per month of Behavioral Support Services. Exhibit P-22. The appropriateness of the May 3, 2022 IEP is not at issue in this proceeding.

7. Student's fourth term grades for the 2021-2022 school year were all 3's (Proficient) or 4's (Advanced). Exhibit P-46.

8. On his/her IEP progress report for Term 3 in the 2022-2023 school year, Student was reported to have Mastered two of three IEP math goals and 1 of 2 reading goals. Student was reported to be Progressing on the remaining IEP academic goals. Exhibit P-39.

9. Student became resistant to attending school in the 2022-2023 school year, especially in the 4th quarter. Testimony of Mother. For the 4th quarter, Student was absent for 22 or the 46 days in the term. Mother consulted medical professionals who provided medical excuses for most of Student's absences. Exhibit-46, Testimony of Mother. For most of the 2022-2023 school year, Student's report card grades in English Language Arts and Mathematics were 1's (Does not meet the Standard) or 2's (Approaches the Standard). Exhibit P-46.

10. City School 1 convened Student's annual IEP review meeting on May 22, 2023. Mathematics, Reading and Adaptive Daily Living Skills were identified as IEP areas of concern. The May 22, 2024 IEP continued the special education services from Student's May 3, 2022 IEP, and provided for Student to receive 3 hours per week of Specialized Instruction Services, including 2.5 hours outside the general education

setting and 30 minutes inside general education. Exhibit R-29. The appropriateness of the May 22, 2023 IEP, as of the time it was developed, is not at issue in this proceeding.

11. Student's November 3, 2023 IEP progress report stated that he/she was Progressing on IEP goals which had been introduced at that point. The special education teacher for math reported that Student had done a "fantastic job within small group instruction during the first quarter." For Adaptive/Daily Living Skills, it was reported that there had been great improvements in the school year and Student had done a great job communicating his/her feelings to the teachers. Exhibit R-10. Student's grades for the first quarter of the 2023-2024 school year were Basic (Approaches Expectation for Grade Level) in Reading, Writing & Language and Math. Exhibit P-46.

12. In the 2023-2024 school year at City School 1, Mother asked the IEP team to meet to in December to discuss increasing Student's special education service hours. The team met on or about December 20, 2023. Mother requested 10 hours per week of Specialized Instruction for Student to receive ELA and Math support outside of general education. The school team members felt there was not enough data at the time of the December 2023 meeting to support Mother's requested increase in Student's special education and decided to wait for receipt of Student's Middle-of-Year (MOY) educational diagnostic test results. Testimony of Special Education Teacher 1, Testimony of Special Education Teacher 2.

13. On the MOY i-Ready Diagnostics testing in January 2024, Student's overall Reading Performance score was 520. This was the same as his/her Beginning-of-Year (BOY) score. Student's i-Ready overall math performance score was 434, an 11 point decline from his/her BOY score. Student had progressed in Algebra and Algebraic Thinking, moving up 1 grade level. However, there was a decrease in proficiency in Measurement - Data and Geometry, both dropping one grade level. For mathematics, Student tested 1 to 3 years below expectations for his/her actual grade level. Both the reading and math scores placed Student under the 25th percentile and indicated he/she needed improvement. Exhibits P-42, P-43, R-1.

14. As of January 12, 2024, for Reading, Student's MOY Fountas & Pinnell reading levels score "R" was 4.67, close to grade level. For Written Expression, Student scored 1/3 on the Achievement Network (ANet) Interim 2 assessment in December 2023. For Speech & Language, the data suggested that Student appeared to have articulation, expressive, receptive and vocabulary skills that were within functional limits and that allowed him/her to access the general education curriculum. Exhibit R-1.

15. As of January 23, 2024, Student was reported to be progressing on all of his/her May 22, 2023 IEP annual goals, except for Reading a Grade Level Text and Providing a Writing Prompt, which has been just introduced. Exhibit P-40.

16. City School 1 scheduled an IEP amendment meeting for Student for March 5, 2024. At that meeting, Mother continued to request increased specialized instruction

services, outside general education, for Student. At the March 5, 2024 meeting, based on the MOY academic data, the school team agreed to increase Student's specialized instruction services, both in the general education space and outside of general education. Student's total amount of specialized instruction beginning March 5, 2024 would be 6 hours per week, divided as follows:

Math outside general education	1.5 hours per week
Math inside general education	1.5 hours per week
Specialized Instruction (unspecified) outside general education	1.5 hours per week
Specialized Instruction (unspecified) inside general education	1.5 hours per week

Exhibit R-5.

17. As of April 5, 2024, it was reported on Student's IEP Progress Report that Student had Mastered two IEP Mathematics goals and was Progressing on all of his/her other IEP goals. Exhibit P-40.

18. In April 2024 DCPS PSYCHOLOGIST conducted a comprehensive psychological evaluation of Student. In her April 26, 2024 evaluation report, DCPS Psychologist reported that Student was currently not achieving adequately for the child's age or meeting state-approved grade level standards in listening comprehension and reading comprehension; that Student had received Tier 2, Tier 3, and special education interventions with fidelity throughout the school year but had made minimal progress in these areas; and that District-level testing indicated that Student was not adequately meeting state-approved grade-level standards in written expression, basic reading skill, reading fluency skills, mathematical calculation, and mathematics problem solving.

However, formal academic testing, Student's most recent report card and teacher report and ratings suggested that Student did possess adequate skills in those areas and was responding positively to intervention. Based on school level data and input from parents and teachers, Student had received appropriate instruction for reading, writing, and mathematics. Testing and behavioral observations as well as parent reports determined that Student had adequate English proficiency and did not have a visual, hearing, or motor disability. Parent ratings indicated that Student demonstrated clinically elevated levels of anxiety and emotional dysregulation at home. Student also currently held a medical diagnosis of Oppositional Defiant Disorder. However, teacher and parent ratings and reports as well as classroom and testing observation indicated that Student was able to regulate his/her emotions appropriately at school with scaffolds and supports. Student's lack of progress to meet age or state-approved grade-level standards in reading comprehension and listening comprehension were not primarily a result of an emotional disturbance. However, it was recommended that parent ratings on Student's emotional regulation and social-emotional functioning should be used to provide Tier 2 and Tier 3 supports for Student at school. Parent ratings indicated that Student demonstrated clinically elevated levels of inattention and attention problems. Student also currently held a medical diagnosis of ADHD-Combined Presentation. However, teacher ratings and report as well as classroom and testing observation showed that Student was capable of sustaining attention and focus in the school setting with scaffolds and supports. As a result, Student's lack of progress to meet age or

state-approved grade-level standards in reading comprehension and listening comprehension were not primarily a result of difficulties with attention and focus. Data from parent and teacher noted that Student possessed adequate adaptive skills. DCPS psychologist concluded that based on the data collected, Student met criteria for a Specific Learning Disability and was eligible for special education under IDEA. DCPS Psychologist recommended, *inter alia*, that Student would benefit from activities and exercises designed to build his/her fluid reasoning skills; Student would benefit from activities and exercises designed to build his/her listening and reading comprehension; Student would benefit from instruction designed to enhance his/her listening comprehension and frustration tolerance; Student would benefit from activities and exercises designed to build his/her reading comprehension skills; Student would benefit from activities and exercises designed to build math comprehension skills; Student would benefit from activities and exercises designed to build his/her written expression skills; Student would benefit from strategies and supports designed to enhance attention to academic tasks; Student would benefit from supports designed to enhance his/her academic motivation and Student would benefit from coping strategies to improve emotional regulation. Exhibit P-20.

19. At a City School 1 eligibility committee meeting for Student on May 6, 2024, it was determined that Student met IDEA eligibility criteria for a Specific Learning Disability in Mathematics, Reading and Written Expression as well as for an

Other Health Impairment (OHI) due to ADHD. Exhibit R-3. Mother requested a more restrictive environment educational placement for Student. Exhibit P-31.

20. On May 16, 2024, City School 1 convened an IEP annual review meeting for Student. At that meeting, the IEP team identified Reading, Written Expression and Mathematics as goal areas for Student. For Reading, it was reported that Student's scores on the April 2024 psychological evaluation were in the Average to Above Average range, except for Reading Comprehension composite and Understanding composite which were in the Below Average range. Student's overall Written Language Composite score was in the Average range. For Mathematics, it was reported that Student's math skills had shown remarkable improvement due to Student's hard work and consistent specialized instruction. During the 2023-2024 annual year, Student successfully achieved two of his/her three math IEP goals. For special education services, the May 16, 2024 IEP team decided that Student would continue to receive 6 hours per week of Specialized Instruction Services – including for Mathematics, 1 hour and 30 minutes in general education and 1 hour and 30 minutes outside general education and for Specialized Instruction (unspecified) 1 hour and 30 minutes in general education and 1 hour and 30 minutes outside general education. Exhibit P-32. At the May 16, 2024 meeting, Mother had sought close to 10 hours per week of Specialized Instruction Services for Student, to include pull-out services for ELA and Math. Testimony of Special Education Teacher 2.

21. Student's Third Quarter grades for the 2023-2024 school year improved to 3's (Meets the Standard) in his/her core subject courses – ELA, Mathematics and Science. For the Fourth Quarter of the 2023-2024 school year, Student's grades were all 3's in core classes, except for a 4 (Exceeds the Standard) in Social Studies. Exhibit P-46.

22. For the 2024-2025 school year, Student matriculated to City School 2. At the 30-day IEP review meeting on September 27, 2024, the City School 2 IEP team amended Student's IEP to increase his/her Specialized Instruction Services to 21 hours per week, including, for Math, 5 hours outside and 5 hours inside general education, for Reading, 5 hours outside and 5 hours inside general education and for Written Expression, 1 hour inside General Education. Exhibit P-33, Testimony of Assistant Principal. Student loves City School 2. He/she feels like teachers there spend time with him/her, goes to tutoring and has no problem entering the building. Testimony of Mother.

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 parent in this case, shall bear the burden of production and the burden of persuasion, except that where there is a dispute about the

appropriateness of the child's IEP or placement, or of the program or placement proposed by the public agency, the public agency shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement; provided, that the party requesting the due process hearing shall retain the burden of production and shall establish a *prima facie* case before the burden of persuasion falls on the public agency. The burden of persuasion shall be met by a preponderance of the evidence. See D.C. Code § 38-2571.03(6).

ANALYSIS

Did DCPS fail to provide Student with appropriate IEPs, placements, and/or locations of services to meet his/her alleged need for more specialized instruction to address his/her academic deficits in the areas of Reading, Writing, and Math beginning in December 2023 for the 2023-2024 school year and for the start of the 2024-2025 school year?

In this due process proceeding, the parent seeks compensatory education for Student and other relief from DCPS on the grounds that DCPS allegedly denied her child a FAPE by not sufficiently increasing his/her Specialized Instruction Services hours beginning December 20, 2023 through the end of the 2023-2024 school year and for the first several weeks at the start of the 2024-2025 school year. I find that through the testimony of Educational Advocate, the parent made a *prima facie* showing that beginning in December 2023, Student's IEP special education services were no longer adequate for him/her. Therefore the burden of persuasion as to the appropriateness of Student's IEPs after December 20, 2023 falls on DCPS. For the reasons explained below, I find that DCPS met its burden of persuasion.

December 2023 IEP Team Meeting

In the 2022-2023 school year, Student attended City School 1, a DCPS public school. Student was eligible for special education as a student with a Specific Learning Disability (SLD). City School 1 convened an annual IEP review meeting for Student on May 22, 2023. Mathematics, Reading and Adaptive Daily Living Skills were identified as IEP areas of concern. The IEP team determined that Student should receive 3 hours per week of Specialized Instruction Services, including 2.5 hours outside the general education setting and 30 minutes inside general education. In December 2023 Mother asked the City School 1 IEP team to meet to discuss increasing Student's special education service hours. The team met on or about December 20, 2023. At that meeting, Mother requested an additional 10 hours per week of Specialized Instruction for Student to receive English Language Arts (ELA) and Math support outside of the general education classroom. At the time of the meeting, the school team members felt there was not enough data to support the requested increase in special education services and decided to wait for Student's Middle-of-Year (MOY) diagnostic test results. Student's IEP team met again on March 5, 2024 and doubled Student's Specialized Instruction from 3 hours per week to 6 hours per week, including 3 hours per week outside of the general education setting.

Petitioner's expert, Educational Advocate, opined that when the IEP team met at the Mother's request in December 2023, Student required additional special education support, including more pull-out support for Math, Reading and Written Expression.

That is, the IEP team should not have waited until it had more data. I disagree.

Generally, an LEA must ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved and revises the IEP, as appropriate. *See* 34 CFR § 300.324(b). However, the IDEA requires that the IEP team have sufficient data “to determine the educational needs of the child; the present levels of academic achievement and related developmental needs and what special education and related services are needed to enable the child to participate, as appropriate, in the general education curriculum.” *See* 34 C.F.R. § 300.305(a).

Special Education Teacher 1 and Special Education Teacher 2 explained that at the time of Mother's December 2023 request, the IEP team did not have sufficient data to warrant an increase in Student's services. Special Education Teacher 1 felt that Student was making progress under the May 2023 IEP and she knew that MOY testing would be conducted in January 2024. Special Education Teacher 2 similarly testified that by December 2023, the IEP team only had the single Beginning-of-Year (BOY) diagnostic testing and that other data indicated that Student was making progress. She opined that it would not have been appropriate to change Student's IEP in December 2023.

I found more persuasive the opinions of DCPS' experts that at the time of the December 20, 2023 meeting, Student's IEP team did not have sufficient data to warrant increasing Student's special education services from 3 hours per week to 10 hours per

week as Mother requested. These experts were Student's special education teachers and knew the child well. For her part, Petitioner's expert, Educational Advocate, never evaluated or taught the child. Nor did she attend any of Student's IEP meetings. I conclude that DCPS has provided "a cogent and responsive explanation" for the City School 1 IEP team's decision not to revise Student's May 22, 2023 IEP when requested by the parent in December 2023. *Cf. Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988 at 1001-02.9 (2017).

Appropriateness of Spring 2024 IEPs

In spring 2024, the City School IEP team amended or revised Student's IEP on March 5, 2024 and on May 16, 2024. At both IEP meetings Mother sought an increase of special education for Student to at least 10 hours per week of Specialized Instruction outside general education. The school IEP team members agreed to an increase to 6 hours per week of Specialized Instruction, of which only half of services would be outside of general education. Mother contends that DCPS' failure to agree to her requested increase in special education services made the IEPs inappropriate.

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. The parent has not alleged the DCPS failed to comply with IDEA procedures in developing the spring 2024 IEPs. Therefore I will move to the second, substantive, prong of the *Rowley* inquiry: Were the March 5, 2024 IEP Amendment and the May 16, 2024 annual IEP reasonably calculated to ensure Student would receive appropriate educational benefit?

March 5, 2024 Amended IEP

As noted, when the City School 1 IEP team met on March 5, 2024, the school members of the team decided to increase Student’s specialized instruction services to 6 hours per week – three hours inside and three hours outside of general education. Three of the six hours of specialized instruction were designated for Math and the remaining three hours were unspecified.

In *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), U.S. Magistrate Judge Matthew Sharbaugh explained the IDEA’s IEP requirement:

Congress enacted the IDEA to help ensure all children with disabilities receive a “free appropriate public education” or “FAPE.” *See* 20 U.S.C. § 1400(d)(1)(A). This mandate “requires an educational program reasonably calculated to enable a child to make progress in light of the child’s circumstances.” *Endrew F. v. Douglas Cnty. Sch. Dist.*, 580 U.S. 386, 403 (2017).

. . .

An IEP must also identify the “special education and related services . . . that will be provided” to help the child “advance appropriately toward attaining the annual goals.” 20 U.S.C. § 1414(d)(1)(a)(i). At least annually, the IEP Team must review and revise a child's IEP “as appropriate.” *See id.* § 1414(d)(4).

. . .

A court reviewing “an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal.” *Andrew F.*, 580 U.S. at 399 (emphasis in original). After all, “Congress has not committed to educational perfection.” *Z.B.*, 888 F.3d at 528; *Leggett v. Dist. of Columbia*, 793 F.3d 59, 70 (D.C. Cir. 2015) (“[A] public school district need not guarantee the best possible education or even a potential-maximizing one.”) (citation and quotations marks omitted). Equally important, a judicial assessment of an IEP's “substantive adequacy” must be based on information “as of the time each IEP was created rather than with the benefit of hindsight.” *Edward M.R. v. Dist. of Columbia*, 128 F.4th 290, 294 (D.C. Cir. 2025) (quoting *Z.B.*, 888 F.3d at 524). Putting these principles together, then, “[t]he key inquiry regarding an IEP's substantive adequacy is whether, taking account of what the school knew or reasonably should have known of a student's needs at the time, the IEP it offered was reasonably calculated to ensure the specific student's progress.” *Z.B.*, 888 F.3d at 524.

N.T., 2025 WL 1895485, at *1–2. “[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. v. Dist. of Columbia*, No. 20-CV-2765 (BAH), 2022 WL 683570 at *7 (D.D.C. Mar. 8, 2022), quoting *Andrew F.*, *supra*, 137 S. Ct. at 1001-02.

At the due process hearing in the present case, Student’s special education teachers at City School 1 explained the reasoning behind doubling Student’s special education services in the March 5, 2024 IEP, but not agreeing to Mother’s request for at

least 10 hours of specialized instruction per week.² Student’s math teacher, Special Education Teacher 1, testified that Student had been making progress toward his/her IEP goals in the May 22, 2023 IEP, indicating to the teacher that what they had in place for Student was working. The ELA teacher, Special Education Teacher 2 similarly testified that Student was making good progress on his/her IEP goals in the first half of the 2023-2024 school year. Both DCPS experts agreed that Student did not need a more restrictive setting. *See Andrew F.*, 580 U.S. at 401 (“[F]or most children, a FAPE will involve integration in the regular classroom[.]”)

Petitioner’s expert, Educational Advocate, opined that Student needed more pull-out special education hours because at the time of the December 2023, March 2024 and May 2024 IEP meetings, Student was performing below grade level in both reading and math. While it is true that on standardized tests such as the i-Ready online assessment, Student scored below grade level, that would not be unexpected for any child with a

² In the due process hearing, Petitioner’s witnesses focused on a February 6, 2024 email to Petitioner’s Counsel from Special Education Teacher 2, stating that City School 1 followed an inclusion model which allowed for push-in and pull-out small group instruction, but the school did not have separate classrooms where students were pulled out daily for specific subjects for alternative classes. *See Exhibit P-54*. Petitioner’s representative contended that this statement indicated that City School 1 engaged, improperly in “shoehorning,” a form of predetermination where a school district develops a student’s IEP based on a school’s capabilities. *See, e.g., Wade v. District of Columbia*, No. CV192101TJKZMF, 2022 WL 17485678, at *4 (D.D.C. Dec. 7, 2022). I find that Petitioner has not established her shoehorning claim because there was no evidence that in the 2023-2024 school year, School 1 educators ever agreed that Student needed more than 6 hours per week of Specialized Instruction as provided in the spring 2024 IEPs. I conclude that DCPS has established that the February 5, 2024 IEP Amendment and the May 16, 2024 IEP were reasonably calculated to enable Student to make educational progress in light of his/her circumstances—and not crafted in light of City School 1’s capabilities.

Specific Learning Disability. *See* 34 C.F.R. § 300.309(a)(1) (A child may have a specific learning disability if he/she does not achieve adequately for the child's age or to meet State-approved grade-level standards.) (Special Education Teacher 2 testified that for ELA, Student was about 1 year below grade level in some areas and on grade level in others.) Importantly, the question is not whether Student was on grade level, but whether he/she was likely to make appropriate progress with the special education services offered in the March 5, 2024 and May 16, 2024 IEPs. *See, e.g., Andrew F., supra*, 137 S. Ct. at 1001-02.

Educational Advocate was a credible witness with years of experience in special education, but she had only become involved in this case about 2 months before the hearing and had never evaluated or taught the child or attended his/her IEP meetings. I found the testimony of Special Education Teacher 1 and Special Education Teacher 2, who both taught Student in the 2023-2024 school year, more persuasive. I find that DCPS met its burden of persuasion that for the March 5, 2024 IEP, increasing Student's Specialized Instruction Services from 3 hours per week to 6 hours per week was reasonably calculated to enable Student to make appropriate progress.

May 16, 2024 Annual IEP

On May 16, 2024, City School 1 convened an IEP annual review meeting for Student. Although at that meeting, Mother continued to request at least 10 hours per week of Specialized Instruction Services, outside of general education, for Student, the City School 1 team members continued the February 5, 2024 IEP provision for Student

to receive 6 hours per week of Specialized Instruction Services, including 3 hours outside of the general education setting and 3 hours inside general education. At the due process hearing, Petitioner's expert, Educational Advocate, opined that Student should have been offered close to 10 hours of Specialized Instruction because the child was below grade level. DCPS' expert, Special Education Teacher 1, opined that the IEP hours were appropriate because they "were working" for Student. That is, Student was making progress under the February 5, 2024 IEP Amendment. Student's ELA teacher, Special Education Teacher 2, similarly opined that the May 16, 2024 IEP was appropriate because Student was making progress under the February 5, 2024 IEP.

The evidence at the hearing supported the DCPS experts' opinions. DCPS Psychologist had reported that on the April 2024 psychological evaluation, Student's math skills had shown "remarkable improvement." During the 2023-2024 annual year, Student successfully achieved two of his/her three math IEP goals. On the April 2024 psychological evaluation, for reading, Student's scores were in the Average to Above Average range, except for Reading Comprehension composite and Understanding composite, which were in the Below Average range. Student's overall Written Language Composite score was in the Average range. As of April 5, 2024, it was reported on Student's IEP Progress Report that Student had Mastered two IEP Mathematics goals and was Progressing on all of his/her other IEP goals. For the 2023-2024 school year, Student's Third and Fourth Quarter grades improved to 3's (Meets the Standard) in core subject courses, except for a 4 (Exceeds the Standard) in Social Studies. In light of

Student's documented progress under the February 5, 2024 IEP, I find that DCPS has met its burden of persuasion that it was appropriate to continue 6 hour per week of Specialized Instruction hours in the April 16, 2024 IEP.

In summary, I conclude that DCPS has met its burden of persuasion that the March 5, 2024 IEP provision and the May 16, 2024 annual IEP were reasonably calculated to enable Student to make progress appropriate in light of his/her circumstances. *See Andrew F., supra*, 137 S. Ct. at 999.

ORDER

All relief requested by the Petitioner herein is denied.

November 5, 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