

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 22, 2025

PARENT, on behalf of STUDENT, ¹)	Date Issued: November 22, 2025
)	
Petitioner,)	Hearing Officer: Peter B. Vaden
)	
v.)	Case No: 2025-0148
)	
DISTRICT OF COLUMBIA)	Online Videoconference Hearing
PUBLIC SCHOOLS,)	
)	Hearing Dates:
Respondent.)	November 13 and 14, 2025
)	

HEARING OFFICER DETERMINATION

INTRODUCTION AND PROCEDURAL HISTORY

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by Petitioner (MOTHER) under the Individuals with Disabilities Education Act, as amended (the IDEA), 20 U.S.C. § 1400, *et seq.*, and Title 5-A, Chapter 5-A30 of the District of Columbia Municipal Regulations (DCMR). In this administrative due process proceeding, the parent seeks private school reimbursement and ongoing funding from Respondent District of Columbia Public Schools (DCPS) on the grounds that DCPS allegedly denied her child (STUDENT) a free appropriate public education (FAPE) by failing to offer him/her an appropriate Individualized Education Program (IEP) for the 2025-2026 school year.

Petitioner’s Due Process Complaint, filed on August 22, 2025, named DCPS as Respondent. The undersigned hearing officer was appointed on August 25, 2025. The

¹ Personal identification information is provided in Appendix A.

parties met for a Resolution Session Meeting on September 5, 2025 and did not resolve the issues in dispute. On September 15, 2025, I convened a telephone prehearing conference with counsel to discuss the issues to be determined, the hearing date and other matters. On October 8, 2025, DCPS filed a motion to extend the final decision due date in this case to December 5, 2025, which I granted by order issued October 9, 2025. On October 14, 2025, Petitioner, by counsel, filed a motion for enforcement of “stay-put” rights, pursuant to the IDEA’s stay-put provision, 20 U.S.C. § 1415(j), which motion I granted by order issued October 20, 2025.

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 closed to the public, was convened before the undersigned impartial hearing officer on November 13 and 14, 2025. Mother appeared online for the hearing and was represented by PETITIONER’S COUNSEL. Respondent DCPS was represented by CIEP MANAGER and by DCPS’ COUNSEL. Petitioner’s Counsel made an opening statement. Petitioner called as witnesses EDUCATIONAL ADVOCATE and SCHOOL DIRECTOR. DCPS called as witnesses SPEECH-LANGUAGE PATHOLOGIST 1 (SLP-1), SPEECH-LANGUAGE PATHOLOGIST 2 (SLP-2), CIEP SOCIAL WORKER, CIEP Manager, ASSISTANT PRINCIPAL and COMPLIANCE MANAGER.

Petitioner’s Exhibits P-1 through P-7, P-11, P-12, P-14 through P-17, P-19 through P-24, P-25 (Pages 1 and 2 only), P-26 through P-28, P-31 through P-33 and P-35 were admitted into evidence, including Exhibits P-4 through P-7, P-14, P-16, P-20, P-21 and

P-35 admitted over DCPS' objections. I sustained DCPS' objections to the remainder of Exhibit P-25 and to P-34. Exhibits P-8 through P-10, P-13, P-18, P-29 and P-30 were not offered or were withdrawn. DCPS' Exhibits R-1 through R-36 were admitted into evidence without objection. Exhibit R-3 was withdrawn.

After Petitioner rested her case on November 13, 2025, DCPS made a motion for a directed finding, which I denied. On November 14, 2025, after the close of all the evidence, Petitioner's Counsel and DCPS' Counsel made oral closing arguments. There was no request to file written closings but the hearing officer granted leave to counsel to submit citations by email to legal authorities which they deemed relevant to this matter. On November 18, 2025, counsel for the respective parties submitted, by email, citations to authorities.

JURISDICTION

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

ISSUES AND RELIEF SOUGHT

The issue raised by Petitioner against DCPS is as follows:

Whether DCPS denied Student a FAPE by failing to propose an appropriate educational program and placement for the 2025-2026 school year, including a sufficient type and amount of specialized instruction and services.

In my prehearing order, a second issue alleged by the Petitioner was stated:

Whether DCPS denied Student a FAPE by proposing the same program and placement in the Specific Learning Support program at CITY SCHOOL for the 2025-2026 school year which had been previously found inappropriate by a Hearing Officer in a February 2025 Hearing Officer Determination.

At the start of the due process hearing I granted DCPS' oral request to dismiss this issue without prejudice because this claim is encompassed by the first issue. For relief, the Petitioner requests that the hearing officer order DCPS to fund Student's placement at NONPUBLIC SCHOOL for the 2025-2026 school year, including tuition and other covered costs, and to reimburse the parent for Nonpublic School expenses for the 2025-2026 school year which she had already paid. For the reasons explained below, I conclude that the parent is entitled to private school reimbursement.

FINDINGS OF FACT

Prior Cases

Student was the subject of two prior due process proceedings, in the past two school years, that went to hearing and were decided by other hearing officers. In Case No. 2023-0143, Hearing Officer Coles B. Ruff ordered DCPS to reimburse the parent for her payment to Nonpublic School for Student's tuition and costs for the 2022-2023 school year and for part of the 2023-2024 school year. In his December 22, 2023 Hearing Officer Determination (December 22, 2023 HOD), Hearing Officer Ruff found, *inter alia*, that DCPS' May 9, 2023 IEP for Student was inappropriate because it did not provide a level of specialized instruction, outside general education, that at least supported Student in all core academic subjects that involve reading and writing. In the December 22, 2023 HOD, Hearing Officer Ruff also found that there was insufficient evidence that Student's disabilities were such that Student could not receive a FAPE in a setting where Student had access to non-disabled peers. Hearing Officer Ruff concluded

that Student's least restrictive environment (LRE) was not a separate special education school and that Nonpublic School was not an appropriate prospective placement for Student. *See Exhibit P-3.*

On February 8, 2025, Hearing Officer Keith Seat issued a Hearing Officer Determination (February 8, 2025 HOD) in favor of the parent in consolidated cases 2025-0157 and 2025-0236, holding that DCPS' proposed May 13, 2024 IEP did not offer Student a FAPE. In his decision, Hearing Officer Seat found persuasive the testimony of the parent's experts that Student had a lot of weaknesses so that even Nonpublic School was challenging and that Student required more than the 20 hours per week of Specialized Instruction in a Specific Learning Support (SLS) program, which the DCPS IEP had offered. Hearing Officer Seat wrote that the need for more specialized instruction was primarily so that Student could obtain more reading intervention. Hearing Officer Seat also found that DCPS' May 13, 2024 IEP did not provide appropriate social-emotional goals for Student and DCPS did not meet its burden of persuasion that Student would not need social-emotional goals and services, including Behavioral Support Services, in his/her IEP, were he/she to move to a DCPS public school.

With regard to DCPS' proposed placement of Student in the SLS program at City School, Hearing Officer Seat found that at City School, being in larger classes than at Nonpublic School, in a larger school with a larger building, could well be overwhelming to Student. The hearing officer concluded that at City School, with the intensity of many

students changing classes and the high student to teacher ratio for electives classes, Student's deficits could not be addressed and Student would not be able to access the curriculum and make meaningful progress. Hearing Officer Seat further concluded that Nonpublic School was proper and appropriate for Student. He ordered DCPS to fund Student's tuition and related costs at Nonpublic School for the 2024-2025 school year. *See Exhibit P-7*.

Findings of Fact from November 13-14, 2025 Hearing

After considering all of the evidence received at the due process hearing in the current case on November 13-14, 2025, as well as the argument of counsel, my findings of fact are as follows:

1. Student, an AGE youth, resides with his/her parents in the District of Columbia. Testimony of Educational Advocate.
2. Student is eligible for special education as a student with Multiple Disabilities (MD), based on concomitant Specific Learning Disability and Other Health Impairment - Attention-Deficit/Hyperactivity Disorder (OHI-ADHD) impairments. Exhibits R-19A, P-17.
3. Since the 2020-2021 school year, Student has been unilaterally placed by his/her parents at Nonpublic School, where Student is currently in GRADE. Testimony of Educational Advocate.
4. Student was referred by the parents to NEUROPSYCHOLOGIST, who evaluated the child in 2019 and in October 2022. In her October 2022

Neuropsychological Evaluation Report, Neuropsychologist reported that Student performed well on a test of general knowledge. In the nonverbal domain, Student earned a strong score on a test of visual-motor skills. Weaknesses were clearly indicated in executive functioning, including working memory and attention. Teacher report indicated ongoing weaknesses in initiation, sustaining working memory, planning/organizing, and organizing his/her materials. An additional area of significant weakness was Student's output or processing speed. Language processing emerged as an additional area of challenge. Student earned a weak score on a test of oral direction-following. Student also had difficulty on a test of listening comprehension. Student earned low scores on tests of oral sentence construction and retrieval fluency. Specific testing in phonological processing indicated average range phonological awareness and phonological memory abilities. Student's scores for rapid naming remained significantly below average and predicted slow reading fluency. Student's reading skills were consistently well below grade level. He/she showed weaknesses in word decoding, passage comprehension, oral reading and reading fluency. Student did not yet have consistent knowledge of sound-symbol relationship and did not know how to decode unfamiliar words. Student also remained unable to recite the alphabet, the days of the week, and the months of the year. Student would require ongoing intervention in order to begin to crack the code of reading. In the area of written language, Student evidenced very weak spelling skills, consistent with his/her dyslexic profile. In written expression, Student struggled to compose coherent sentences. Student earned a very low score on a

test of sentence writing fluency and worked at an extremely slow pace. Student's weaknesses in handwriting, spelling, working memory, and sentence organization significantly interfered with his/her ability to express his/her thoughts in writing. In mathematics, Student showed beginning understanding of math concepts. He/she earned very low scores on tests of calculation and math fluency skills. It was likely that Student's language processing challenges interfered with his/her understanding of math. Neuropsychologist diagnosed Student with Attention-Deficit/Hyperactivity Disorder, Predominantly Inattentive Presentation (with accompanying weaknesses in executive functioning, working memory, and output speed); Generalized Anxiety Disorder; Language Disorder; Specific Learning Disorder with impairment in Reading (word reading accuracy, reading fluency, reading comprehension); Dyslexia; Specific Learning Disorder with impairment in Written Expression (spelling, organization of written expression); Specific Learning Disorder with impairment in Mathematics (memorization of math facts, fluent calculation, accurate math reasoning); and Dysgraphia. Neuropsychologist's recommendations for Student for school included, *inter alia*, a school environment with a high level of cognitive stimulation, which at the same time provided Student adequate academic support; one-on-one, daily, and intensive reading intervention; daily help with structuring and planning; intensive remedial reading intervention; help in math; written language intervention; and instruction on learning how to organize his/her materials, prepare for long-term

assignments and study for examinations. Exhibit P-2. Neuropsychologist's October 2022 report was the only psychological evaluation of Student offered into evidence.

5. On May 7, 2025, Nonpublic School convened an annual educational review meeting for Student. At the meeting, styled as an "IEP Annual Review" meeting, the private school team developed a programming document based on a DCPS IEP form. However, Nonpublic School is not a public agency and the meeting was not an actual IEP meeting within the meaning of 34 C.F.R. § 300.324(b). DCPS did not participate in the meeting. At the May 7, 2025 meeting, Student's Nonpublic School teachers reported, *inter alia*, that Student was performing two years below grade level in computation and number sense; that in Reading, Student was about one year below grade level and Student still had some gaps in decoding and encoding. His/her reading comprehension appeared to be on grade level. For Written Expression, Student was one year behind grade level. In the area of Academic Behavior/Executive Functioning for Math, Reading and Writing, Student was reported to need frequent check-ins to make sure he/she was following along; Student would get lost in multi-step math problems and used a multiplication chart to solve. Student needed teacher support to engage in lessons and did not typically raise his/her hand. Student was easily redirected, behaved appropriately in class, and followed classroom norms. Student needed help going through his/her binder to find work. He/she did not advocate for him/herself independently. Student required daily 1:1 review with the teacher in math. Student almost always paid attention in class. When Student was actively engaged in an activity,

he/she almost always would stay focused. Student participated every-so-often in whole class discussions and seemed more comfortable participating in dyads and triads. Student required chunked directions, visual directions and repeated directions to remind him/her of the steps to take to begin a task. Student turned in high caliber work in class. His/her homework was of very high caliber, but every so often he/she might not turn it in. At times, Student might try to finish a task too quickly. Student was very motivated by his/her grades. Student was doing an excellent job using accommodations and technology, including using spell-check and speech to text. Exhibit P-14.

6. Student's grades at Nonpublic School for the 4th quarter of the 2024-2025 school year were all A's or A-'s. The report card states that all Nonpublic School classrooms "provide a high level of support and accommodation to students daily." The report card specifically addresses the level of individualized support a student needs in the following areas: Understand key concepts and vocabulary; Engage in discussion about content; Persevere when learning new skills and techniques; Participate actively; Ask for help or clarification/advocate for needs; Follow directions and established routines and Use organizational supports and strategies. The level of individualized support Student needed, beyond those classroom supports provided to all students, was minimal in most subjects. In Math, Student needed moderate or maximum support in most areas. Exhibit P-20.

7. DCPS convened an IEP annual review meeting for Student on June 10, 2025. This was a virtual meeting and Mother, Educational Advocate, Petitioner's

Counsel and School Director participated. At the meeting, DCPS proposed to provide Student 20 hours per week of Specialized Instruction outside the general education setting. Some of the DCPS participants were unaware of Hearing Officer Seat's determination in the February 8, 2025 HOD that Student required more than the 20 hours per week of Specialized Instruction, which DCPS had proposed in the May 13, 2024 IEP. DCPS agreed to reconvene to finalize the IEP the following week. At the June 10, 2025 meeting, Educational Advocate stated her disagreement with the 20-hours per week proposal and requested an increase to a full-time program of 32-35 hours per week. School Director said that Student was making progress with the supports he/she had in place across the entire day at Nonpublic School and that anything less would not meet Student's needs. Testimony of Educational Advocate, Exhibit P-14.

8. Student' DCPS IEP team convened again on July 24, 2025. This was a virtual meeting and Mother, Educational Advocate, Petitioner's Counsel and School Director participated. At this meeting, DCPS again proposed for Student to receive 20 hours per week of Specialized Instruction, outside of general education, in a Specific Learning Support (SLS) program setting. Mother and her advocates disagreed with the less than full-time special education program. The proposed IEP also provided for Student to receive 4 hours per month of Speech-Language Pathology and 2 hours per month of Behavior Support Services. School Director stated that the inclusion of Behavior Support Services brought the IEP closer to what Student needed, but still did

not match the level of support Student required, which was why Student was making progress at Nonpublic School. She told the IEP team that Student was making progress with supports across the entire day and anything less would not meet his/her needs.

Exhibits P-21, P-22. Over the parent's objection, the DCPS CIEP team finalized the proposed IEP. Testimony of Educational Advocate.

9. The July 24, 2025 final IEP, Exhibit P-17, misstates the IEP meeting date. The correct date is July 24, 2025. (Hereafter in this HOD, I will identify Exhibit P-17 as the "July 24, 2025 IEP.") The July 24, 2025 IEP identifies Mathematics, Reading, Written Expression, Communication/Speech and Language and Emotional-Social-Behavioral Development as goal areas for Student. For Special Education and Related Services, the July 24, 2025 IEP provided for Student to receive 20 hours weekly of Specialized Instruction, 4 hours monthly of Speech-Language Pathology and 2 hours monthly of Behavioral Support Services, all provided outside general education. The July 24, 2025 IEP does not provide a statement of what reading intervention services which Student would receive. The IEP also provided for consultation services for Speech Language Pathology (30 minutes per month), Specialized Instruction (2 hours per month) and Behavioral Support Services (30 minutes per month). For "Other Classroom Aids and Services", the IEP provided aids and services to support symptoms associated with ADHD, fluid reasoning and visual processing. These aids and services, included, *inter alia*, repetition of directions with direct and clear instructions; Teacher should check for understanding; Frequent movement and sensory breaks; Access to

math manipulatives and math tools; Sentence starters for answering comprehension questions, word problems, and written responses; Use of graphic organizers; Monitor independent work; Provide reading materials with pictures; Require access to visuals (*i.e.* Models, examples, etc.) and other non-text materials; Multi-sensory learning opportunities and hands-on learning opportunities; Immediate feedback and correction; Read aloud access to curriculum-based materials, word problems, and directions; and Supports relating to executive functioning skills (check-lists, organizers, etc.). Exhibit P-17.

10. On July 28, 2025, DCPS issued a Prior Written Notice (PWN) to Student's parents giving notice, *inter alia*, that DCPS held an IEP meeting and proposed 20 hours of specialized instruction and that the student was eligible for specialized instruction in an SLS classroom. The PWN stated that Student's family and the family's attorney disagreed with this proposal and indicated that Student required a full time IEP. Exhibit P-17.

11. Under DCPS' proposed July 24, 2025 IEP, Student would have been placed in the SLS program at City School, a 20-hour per week program, for English, math, science and social studies. In this program, the SLS students rotate between core academic classes, each taught by a special education teacher and an aide. For Student's grade, there are currently less than 10 students in the group. The maximum SLS class size is 12 students, for a student to adult ratio of 6:1. The SLS students also attend an electives class every day, in the general education setting, with typically developing

peers. The maximum class size for the electives classes is 25 students normally taught by one teacher. Testimony of Assistant Principal.

12. On July 17, 2025, Petitioner's Counsel gave written notice to DCPS' NON-PUBLIC UNIT DIRECTOR that Student would attend Nonpublic School for the 2025-2026 school year in order to provide Student a FAPE. Petitioner's Counsel requested that DCPS place and fund Student at Nonpublic School and gave notice that should DCPS refuse the parent's request for funding, the parent reserved the right to seek funding for that placement. Exhibit P-24. Nonpublic Unit Director responded by letter of August 13, 2025 that it was DCPS's position that the LEA had made, and would continue to make, a FAPE available to Student and that DCPS did not agree to bear the cost of a private placement for Student. Exhibit P-24.

13. The parents unilaterally re-enrolled Student in Nonpublic School for the 2025-2026 school year and Student currently attends the private school. Testimony of Educational Advocate.

14. Nonpublic School is a nonpublic day school in the District of Columbia for students with language-based learning disabilities. It has an enrollment of 370 students in Grades 1 through 12. Class size at Nonpublic School is no more than 10 students, except for physical education which has 23 students. The school holds a current certificate of approval (COA), issued by the Office of the State Superintendent of Education (OSSE), to operate a nonpublic special education school or program for students with disabilities. At Nonpublic School, Student is making overall progress

toward his/her Nonpublic School “IEP” goals. At Nonpublic School, Student does not receive direct services for speech and language or services from a social worker or a psychologist. Testimony of School Director.

15. Student has definite needs in Reading. At Nonpublic School, Student is in a small group reading class, with 4 students, which is separate from his/her English class, because of his/her encoding and fluency needs. Not all students in Student’s grade have the small group reading class. Testimony of School Director. Student still requires a separate reading class at his/her reading level. At the July 24, 2025 IEP review meeting, because Student was not yet enrolled in a DCPS school, the DCPS representative were not able to give information on how reading interventions would be provided to Student at City School under the DCPS IEP. Testimony of Educational Advocate.

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

In this proceeding, Petitioner seeks private school tuition funding from DCPS on the grounds that DCPS allegedly denied Student a FAPE by failing to propose an appropriate IEP, educational placement and location of services for the 2025-2026 school year. For the reasons explained below, I find that the District failed to meet its burden of persuasion that it offered Student an appropriate IEP for the 2025-2026 school year and that the parent is entitled to tuition reimbursement.

Reimbursement for Private School Expenses

In the Court's decision in *E.W.-G. v. District of Columbia*, No. CV 20-2806 (CKK), 2023 WL 2598680 (D.D.C. Mar. 22, 2023), U.S. District Judge Colleen Kollar-Kotelly explained the private school tuition reimbursement remedy under the IDEA:

[P]arents who “unilaterally” place a child with a disability in a private school, without consent of the school system, “do so at their own financial risk.” *Florence Cty. Sch. Distr. Four v. Carter*, 510 U.S. 7, 15 (1993) (quoting *School Comm. of Town of Burlington, Mass. v. Dep't of Educ. of Mass.*, 471 U.S. 359, 373-74 (1996)). To qualify for tuition reimbursement under the IDEA, a plaintiff must demonstrate that: (1) the school district failed to provide a FAPE; (2) the plaintiff's private placement was suitable; and (3) the equities warrant reimbursement for some or all of the cost of

the child's private education. *Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 247 (2009).

E.W.-G. at *2 (D.D.C. Mar. 22, 2023). “[I]f there is an ‘appropriate’ public school program available . . . the District need not consider private placement, even though a private school might be more appropriate or better able to serve the child.” *Jenkins v. Squillacote*, 935 F.2d 303, 305 (D.C. Cir. 1991). *See, also, 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.)

Did DCPS deny Student a FAPE by failing offer him/her an appropriate IEP in July 2025?

The first, indispensable, requirement for private school reimbursement is that the local education agency (LEA) failed to offer the child a FAPE. Since the 2020-2021 school year, Student has attended Nonpublic School under the parents’ unilateral placement. In prior due process proceedings, other Impartial Hearing Officers have ordered DCPS to reimburse the parents for Student’s Nonpublic School expenses for the 2024-2025 school year, the 2022-2023 school year and part of the 2023-2024 school year.

An unusual aspect of this due process history is that the respective hearing officers in the prior cases reached opposite conclusions on whether Student needed

instruction in a special school. In Case No. 2023-0143, Hearing Officer Ruff found that there was insufficient evidence that Student's disabilities were such that the child could not receive a FAPE in a setting where he/she had access to non-disabled peers and that Nonpublic School was not the child's least restrictive environment (LRE). But last school year, in the consolidated cases, Numbers 2024-0157 and 2024-0236 decided February 8, 2025, Hearing Officer Seat found that being in a larger DCPS school with a larger building and larger classes, could well be overwhelming to Student and was not an appropriate educational placement for him/her.

That brings us to the 2025-2026 school year. With the input of Mother and her advisors, DCPS developed a new IEP for Student on July 24, 2025 IEP. As with the May 13, 2024 IEP determined to be inadequate by Hearing Officer Seat, the July 24, 2025 IEP would have placed Student in the 20-hour per week Specific Learning Support (SLS) classroom at City School. Under the July 24, 2025 IEP, Student would be in the SLS program for most of the school day, but would attend elective classes (Art, Music or Physical Education), as well as lunch and recess, in the general education setting with typically developing peers. The 2025 IEP also provided for Student to receive 4 hours per month of Speech-Language Pathology and 2 hours per month of Behavioral Support Services, and provided for consultation services to assist school staff to work with Student. The behavior support and consultation services had not been offered in the May 13, 2024 IEP.

At the July 24, 2025 IEP meeting and in this due process proceeding, the parent's representatives contended that Student required a full-time special education program, with no classes in the general education setting, and therefore, the IEP proposed by DCPS was inappropriate. The parent made the same argument in both prior due process proceedings.

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. In this case, Petitioner has not alleged a procedural violation with respect to the July 24, 2025 IEP. Therefore, I turn to the second prong of the *Rowley* inquiry. Was the July 24, 2025 IEP reasonably calculated to enable [Student] to make progress appropriate in light of the child'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.

Through the testimony of Petitioner’s experts, Educational Advocate and School Director, the parent made a *prima facie* case that the July 24, 2025 IEP was not appropriate for Student. Therefore, the burden as to the IEP’s appropriateness falls on DCPS. While I am persuaded, as was Hearing Officer Ruff in the 2023 case, that a special school such as Nonpublic School, is not Student’s least restrictive environment (LRE), I nonetheless find that DCPS did not meet its burden of persuasion that the July 24, 2025 IEP was appropriate because the IEP lacked provision for reading intervention services which Student required.

Educational Placement

As to the educational placement issue, at the due process hearing, Educational Advocate made the case for the parent's position that Student needed Specialized Instruction for every class. This expert testified that she had observed that even at Nonpublic School, Student was inattentive, did not follow directions, did not initiate communication with peers, only responded when called upon and required multiple redirections from teachers to get on task. Educational Advocate opined that in a DCPS general education art or music classroom, with 22 students, the pace would be too fast for Student, because Student lacked the skills to self-initiate and ask the teacher when he/she needed help. Educational Advocate also testified that she had observed a large general education physical education (PE) class at City School and she opined that in that setting, Student would have difficulty following multi-step directions, responding quickly, interacting with peers, asking questions and initiating tasks. Educational Advocate opined that due to his/her executive functioning deficits, Student needed special education support, in small classes, throughout the school day.

Petitioner's expert from Nonpublic School, School Director, testified that Student was now applying executive functioning needs more successfully than in the last school year. However, School Director, likewise, opined that Student needed supports for academics, behavior and executive functioning to be implemented across the school day.

DCPS' expert, CIEP Manager, agreed that data from Nonpublic School supported that Student needed Specialized Instruction for Reading and spelling, but noted that at Nonpublic School, Student was able to access reading and math close to his/her grade

level peers. She testified that electives classes at City School are “not challenging” as far as academic demands, and she opined that Student does not require Specialized Instruction in non-academic settings.

In another Nonpublic School reimbursement case, appealed to the U.S. District Court in *S.J.-D. v. District of Columbia*, No. 24-CV-00707 (DLF), 2025 WL 2694806 (D.D.C. Sept. 22, 2025), the same expert appeared for the parents. In that case, Educational Advocate testified that the child required an adult’s checking in and needed teacher reassurance and prompting and having her rehearse what is the next step, which Educational Advocate opined “just can’t be programmed for in a larger setting.” See *S.J.-D.*, 2025 WL 2694806, at *6.

In his decision in *S.J.-D.*, U.S. District Judge Dabney L. Friedrich found that the fact that the child required an adult checking in with her in a special education environment did not mean that such check-ins would be ineffective in a general education environment. The Court found that Educational Advocate provided “no basis to conclude that DCPS could not effectively provide the kind of supports that allowed *S.J.-D.* to succeed at Nonpublic School. The Court noted that Student’s IEPs specifically provided for direct adult supervision through frequent check-ins, checks for understanding, and repetitions of directions by her teachers. The Court concluded that, “[g]iven credible testimony that “*S.J.-D.* would benefit from interaction with non-disabled peers,” . . . the hearing officer properly determined that [Educational

Advocate's] testimony failed to establish that S.J-D. required full-time specialized instruction in light of IDEA's least restrictive environment requirement". *Id.* at *7.

I reach the same conclusion in the present case. DCPS' proposed July 24, 2025 IEP provided for Student to be in the small SLS classroom for most of the day *and* provided other classroom aids and services for all classes – including electives classes for Art and Music. These aids and services included, *inter alia*, repetition of directions with direct and clear instructions, teacher check-ins, sentence starters for answering comprehension questions, word problems, and written responses, use of graphic organizers, monitoring of independent work, immediate feedback and correction and supports relating to executive functioning skills (check-lists, organizers, etc.). Per the IEP, these aids and services would have been required for Student's regular education classes for art and music, *see* 34 C.F.R. § 300.42, and there was no creditable evidence that the aids and services would be ineffective in a general education environment. DCPS' experts credibly testified that Student would benefit from access to typically developing peers.

With regard to the general education PE class at City School, Student's PE class at Nonpublic School is in a similar setting – 23 students taught by a general education teacher. No evidence was offered that Student was unable to handle that PE setting at Nonpublic School.

Student has been enrolled in Nonpublic School since the 2020-2021 school year and there was no evidence at the hearing that he/she has been exposed to general

education classes in the last five school years. Like the hearing officer in *S.J-D.*, I find that Educational Advocate’s and School Director’s opinions that Student would not be able to make appropriate progress in the SLS program at City School, with electives in the general education setting, conjectural and speculative. *See H.R. v. District of Columbia*, No. 21-cv-1856, 2024 WL 3580663, at *7 (D.D.C. July 30, 2024) (*cited in S.J-D at *7*) (finding that testimony “based on the unsupported assumption that because [a student] had progressed in smaller class sizes, he could not progress in larger ones” was “based on conjecture” and insufficient). With respect to the educational placement for Student proposed per the July 24, 2025 IEP – 20 hours per week of Specialized Instruction in the SLS program at City School – I conclude that DCPS has met its burden of persuasion that this placement was reasonably calculated to enable Student to make progress appropriate in light of his/her circumstances. *See Andrew F., supra*, 580 U.S. at 399.

Reading Intervention

In the February 8, 2025 HOD, Hearing Officer Seat wrote that he was not persuaded that 20 hours per week of Specialized Instruction in an SLS program at City School was adequate for Student. But Hearing Officer Seat wrote that the need he found for more specialized instruction was “primarily” so that Student could obtain more reading intervention. In the October 2022 Neuropsychological Evaluation Report, Neuropsychologist expressly recommended intensive remedial reading intervention for Student. At Nonpublic School, because of his/her encoding and fluency needs, Student

is in a separate class for reading intervention with only 4 students. In that class, Student receives direct, explicit morphology and encoding instruction.

The July 24, 2025 IEP does not include direct Specialized Instruction for Student in Reading. At the IEP meeting, the DCPS team members were not able to detail how reading support would be provided to Student if he/she were in the SLS program at City School. The IDEA does not require IEPs to provide a specific reading program for a student. *See, e.g., H.R. v. District of Columbia*, No. CV 21-1856 (TJK), 2024 WL 3580663, at *8 (D.D.C. July 30, 2024). However, the Act does require that an IEP include a statement of the special education and related services and supplementary aids and services to be provided to the child. *See* 34 C.F.R. § 300.320(a)(4).

According to the parent's expert, School Director, Student continues to need a separate reading class because he/she still reads slow for his/her age and grade level. Educational Advocate also opined that Student still requires a separate reading class at his/her reading level. For her part, DCPS' expert, CIEP Team Manager, testified that Student *did* need Specialized Instruction support in Reading.

Although one of the annual goals in the July 24, 2025 IEP refers to Student's receiving "explicit instruction and multisensory strategies" in Reading to apply learned phonics skills, the IEP does not include a statement of reading interventions to be provided to Student. Assistant Principal testified that the SLS Program at City School uses the i-Ready digital reading program for reading intervention, but the proposed July 24, 2025 IEP does not state whether Student would to receive i-Ready instruction or any

reading interventions at all. CIEP Team Manager sought to justify the omission of reading intervention services in Student's IEP by pointing out that Student was now almost reading at grade level at Nonpublic School. However, Student's good progress in reading at Nonpublic School, where he/she is in a separate, small, reading class, does not establish that he/she no longer needs individualized reading interventions. *See, e.g., N.G. v. District of Columbia*, 556 F. Supp. 2d 11, 35 (D.D.C. 2008) (If only examine the child's performance in small, highly-structured, private schools, disabled students who are making progress in an appropriate program could be automatically disqualified from receiving the very services enabling their success.)

In order for parents to decide whether to accept an IEP proposed by the District, they must have sufficient information to make an informed decision. That includes a statement of what Reading interventions Student would receive. *See, e.g., R.E. v. New York City Dep't of Educ.*, 694 F.3d 167, 186 (2d Cir. 2012) ("At the time the parents must choose whether to accept the school district recommendation or to place the child elsewhere, they have only the IEP to rely on, and therefore the adequacy of the IEP itself creates considerable reliance interests for the parents.")

Considering Neuropsychologist's recommendation that Student needed intensive remedial reading intervention, Hearing Officer Seat's finding that Student's need for more specialized instruction was "primarily" so that Student could obtain more reading intervention, the opinions of both parties' experts that Student still needed services for Reading and DCPS' awareness that Student was receiving reading intervention in a

separate reading class at Nonpublic School, I conclude that DCPS did not provide a cogent and responsive explanation for the CIEP team's decision not to provide a statement in the July 24, 2025 IEP of the special education reading intervention services that would be provided to Student. I find that DCPS did not meet its burden of persuasion that, absent provision for reading intervention services, the July 24, 2025 IEP was appropriate for Student.

Behavioral Support

The July 24, 2025 IEP included goals for Emotional, Social and Behavioral Development and provision for 2 hours per month of Behavioral Support Services, as well as behavior support consultation services. Petitioner's expert, Educational Advocate, opined that this level of behavioral services was insufficient because Student needed behavior support, throughout the school day, in small classes. DCPS' expert, CIEP Social Worker, testified that she had observed Student at Nonpublic School and his/her behavior was very good. She testified that Student had appropriate behavior in class and did not disrupt other students. The behavior support expert opined that the July 24, 2025 IEP made FAPE available to Student. On this issue of appropriate behavioral support, I found CIEP Social Worker to be a more credible witness. Educational Advocate did not qualify as an expert in behavior support or school psychology. Moreover, her opinion that Student needed such support throughout the school day was another iteration of her overarching opinion that it would be inappropriate for Student to attend any classes in the general education setting. I found

that opinion unpersuasive.

Other Reimbursement Requirements

In this decision I have determined that DCPS did not meet its burden of persuasion that its proposed July 24, 2025 IEP, without provision for reading interventions services, was appropriate. This failure to offer an appropriate IEP was a denial of FAPE. *See, e.g., Edward M.-R. by & through T.R.-M. v. District of Columbia*, 660 F. Supp. 3d 82, 90–91 (D.D.C. 2023), *aff'd sub nom. Edward M.R. v. District of Columbia*, 128 F.4th 290 (D.C. Cir. 2025) (Child has received a FAPE, if the child's IEP sets out an educational program that is reasonably calculated to enable the child to receive educational benefits.) I consider, next, the other two requirements for tuition reimbursement pronounced in the D.C. Circuit's *Leggett* decision: that the private school chosen by the parents, Nonpublic School, was proper and that the parents did not otherwise act unreasonably.

When evaluating whether a unilateral private placement was proper, the hearing officer is to employ the same standard used in evaluating the education offered by a public school district. *See M.G. v. Dist. of Columbia*, 246 F. Supp. 3d 1, 12 (D.D.C. 2017). “Such a standard requires that a private school need not guarantee the best possible education or even a potential-maximizing one.” *Id.* at 12. (citing *Leggett, supra* at 70) (Internal quotations and citations omitted.) All that is required of the parents is that the private school be reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *See Leggett, supra* at 70;

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).

Student has attended Private School since the 2020-2021 school year and it is undisputed that he/she has made good progress at the school. Nonpublic School is an independent private day school in Washington, D.C. for students, Grades 1 through 12, with language-based learning disabilities. The total enrollment is around 370 students. Classes at Student's level have no more than 10 students, except for PE which has 23 students. Some of the teachers at Nonpublic School do not hold teaching certificates, or hold teaching certification in content areas but not in special education. However, the school holds a current certificate of approval (COA), issued by OSSE to operate a nonpublic special education school or program for students with disabilities.

DCPS' expert, Compliance Manager, opined in his testimony that even though Nonpublic School holds a COA from OSSE, the school was not proper for Student because most of the school's teachers are not certified in special education and because data did not support that Student needed to be in self-contained classes for electives. Compliance Manager's opinion that Private School is not proper for Student for these reasons seeks to impose a higher standard than that articulated in *Leggett*. See, e.g., *E.B. v. District of Columbia*, No. 24-CV-663 (DLF), 2025 WL 2878535, at *5 (D.D.C. Oct. 8, 2025) (“[Nonpublic School] holds a Certificate of Approval from the OSSE to serve special needs children. Although the defendant points to the OSSE’s remedial proceedings against [Nonpublic School] for teacher certifications in 2022, fact remains

that the OSSE renewed [Nonpublic School's] Certificate of Approval in October 2023. The Court will not revisit the OSSE's decision to authorize placement of disabled students at [Nonpublic School] despite a lack of certification among its teachers, nor have the parties asked it to do so." *Id.* at *5 (citations to record omitted.) I find that the parents' choice of Nonpublic School for their child for the 2025-2026 school year was reasonably calculated to enable Student to make progress appropriate in light of the his/her circumstances. Therefore, their school choice was proper under the IDEA. *See Leggett* at 72.

Lastly, the *Leggett* decision requires that the "equities weigh in favor of reimbursement — that is, the parents did not otherwise act 'unreasonabl[y]." *Leggett*, 793 F.3d at 67. Reimbursement may be "reduced or denied" if the parents failed to notify school officials of their intent to withdraw the child or otherwise acted unreasonably. *Leggett, supra*, at 63; 34 C.F.R. § 300.148(d). Here the parents did not act unreasonably. At the July 24, 2025 IEP meeting, the parent's representatives discussed the parent's concern for IEP reading interventions for Student, but the DCPS representatives stated they were unable to provide that information because the parents had not yet enrolled Student in City School. DCPS may not await a child's enrollment before offering an appropriate IEP. *See District of Columbia v. Wolfire*, No. CIV.A. 12-1527, 2013 WL 4830664, at *4 (D.D.C. Sept. 6, 2013), *report and recommendation adopted*, 10 F. Supp. 3d 89 (D.D.C. 2014) (Settled holding that enrollment of a child,

who is a resident of the District of Columbia, in a private school does not relieve DCPS of its obligation to develop an IEP if the student is eligible for special education services.)

By email letter of July 17, 2025, Petitioner's Counsel provided written notice to DCPS that Student would attend Nonpublic School for the 2025-2026 school year in order to provide Student a FAPE. In the February 8, 2025 HOD, Hearing Officer Seat found that Nonpublic School was proper and appropriate for Student, and ordered DCPS to fund Student's tuition and costs at the private school for the 2024-2025 school year. Under those circumstances, I find that there has been no showing that the parents acted unreasonably in continuing Student's unilateral placement at Nonpublic School for the 2025-2026 school year.

In this proceeding, Petitioner has met the three requirements for reimbursement of private school expenses pronounced by the D.C. Circuit in its *Leggett* decision. I conclude, therefore, that the parents are entitled to reimbursement funding from DCPS for tuition and related expenses for Student's enrollment at Private School for the 2025-2026 school year. The parent also seeks funding from DCPS for Student to remain at Nonpublic School for the rest of the 2025-2026 school year. Considering that Student has attended Nonpublic School for over five years, I find that it would be unduly disruptive to require Student to transfer from Nonpublic School to the proposed DCPS school in the middle of the current school year. *Cf. Branham v. Government of the Dist. of Columbia*, 427 F.3d 7, 12-13 (D.C. Cir. 2005) (Asking whether setting aside placement order might disrupt child's education.) I conclude that the parents are entitled to

funding from DCPS for tuition and related expenses for Student's continued enrollment at Nonpublic School for the remainder of the 2025-2026 school year.

ORDER

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

ORDERED:

1. Upon receipt of reasonably required documentation of payment, DCPS shall promptly reimburse the parents for covered tuition and related expenses incurred by the parents for Student to attend Nonpublic School for the 2025-2026 school year;
2. DCPS shall fund Student's covered Nonpublic School tuition and covered related expenses, not heretofore paid, for the remainder of the private school's 2025-2026 regular school year and
3. All other relief requested by the Petitioner herein is denied.

Date: November 22, 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