

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
October 12, 2025

PARENTS, on behalf of STUDENT, ¹)	Date Issued: October 12, 2025
)	
Petitioners,)	Hearing Officer: Peter B. Vaden
)	
v.)	Case No: 2025-0139
)	
DISTRICT OF COLUMBIA)	Online Videoconference Hearing
PUBLIC SCHOOLS,)	
)	Hearing Dates:
Respondent.)	October 6 and 7, 2025
)	

HEARING OFFICER DETERMINATION

INTRODUCTION AND PROCEDURAL HISTORY

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

Petitioners' Due Process Complaint, filed on August 1, 2025, named DCPS as Respondent. The undersigned hearing officer was appointed on August 4, 2025. The

¹ Personal identification information is provided in Appendix A.

parties met for a Resolution Session Meeting on August 20, 2025 and did not resolve the issues in dispute. I did not convene a prehearing conference in this case, because I convened a prehearing conference in a prior case for this student on July 30, 2025. The parents withdrew the prior complaint and filed a new complaint in this matter. Counsel agreed that another prehearing conference was not needed.

On August 6, 2025, the parents, by counsel, filed a motion for stay-put protection for Student, under 20 U.S.C. § 1415(j), which I denied by order issued August 12, 2025. The parents filed a motion for reconsideration on August 12, 2025 and I, again, denied the motion for stay-put. On August 29, 2025, the parents filed a motion to extend the final decision due date in this case, which was not opposed by DCPS. The final decision due date is now October 24, 2025. On September 8, 2025, the Petitioners filed a motion for an order for DCPS to allow the parents and their designee to observe the program DCPS proposed for Student at CITY SCHOOL 1, which I granted by order issued September 13, 2024. On September 30, 2025, DCPS filed a partial motion to dismiss which I denied, on the hearing record, on October 6, 2025.

With the parents' consent, the due process hearing was held online and recorded by the hearing officer, using the Microsoft Teams videoconference platform. The hearing, which was closed to the public, was convened before the undersigned impartial hearing officer on October 6 and 7, 2025. FATHER and MOTHER appeared online for the hearing and the parents were represented by PETITIONERS' COUNSEL.

Respondent DCPS was represented by DCPS' COUNSEL and by LEA REPRESENTATIVE. Petitioners' Counsel made an opening statement. Petitioners called as witnesses Mother and EDUCATIONAL ADVOCATE. DCPS called as witnesses LEA Representative and SPECIALIZED INSTRUCTION DIRECTOR. Petitioners' Exhibits P-1 through P-22 were admitted into evidence, including Exhibits P-3, P-13 and P-15 admitted over DCPS' objections. DCPS' Exhibits R-1 through R-14 were admitted into evidence without objection. On October 7, 2025, DCPS, by counsel, made a motion for a partial directed finding against the parents, which I denied. Following completion of the presentation of evidence on October 7, 2025, Petitioners' Counsel and DCPS' Counsel made oral closing arguments. There was no request to file written closings.

JURISDICTION

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

ISSUES AND RELIEF SOUGHT

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

- A. Has DCPS denied Student a FAPE by failing to propose an appropriate program and placement, in its proposal of 10 hours of specialized instruction services in a general education setting, in a comprehensive high school setting, for the 2025-2026 school year?
- B. Did DCPS deny Student a FAPE by predetermining his/her IEP services and placement for a July 24, 2025 IEP review meeting?

C. Did DCPS deny Student a FAPE by proposing that he/she change schools from NONPUBLIC SCHOOL 1, the school that DCPS was ordered to fund for the 2024-2025 school year, without consideration of the impact such a move would have on him/her?

For relief, Petitioners request that the hearing officer order DCPS to reimburse the parents for their expenses for Student's placement at Nonpublic School 1 for the 2025-2026 school year.

FINDINGS OF FACT

Prior Due Process Proceeding

In a recent due process proceeding concerning this Student, Case No. 2025-0027 decided May 19, 2025, Impartial Hearing Officer Terry Michael Banks found that DCPS had denied Student a FAPE and ordered DCPS to reimburse, in part, Student's 2024-2025 school year private school expenses at Nonpublic School 1. At the first day of the due process hearing in the present case, the parties agreed, on the record, that I may adopt relevant findings of fact from Hearing Officer Banks' Hearing Officer Determination (May 19, 2025 HOD). I adopt the following findings of fact from the May 19, 2025 HOD (Exhibit P-5):

A. Student is eligible for special education as a student with an Autism disability. During the 2021-2022, 2022-2023, and 2023-2024 school years, DCPS funded Student's placement at RESIDENTIAL SCHOOL, a residential facility in Connecticut.

B. The parents' objective ever since Student enrolled at Residential School was to return him/her to a local school. The parents applied to Nonpublic School 1, as well as

other private day schools, for Student's admission for the 2024-2025 school year.

C. At a DCPS multidisciplinary team (MDT) meeting on August 6, 2024, the parties conducted a triennial eligibility determination and, agreed that Student remained eligible for services with a classification of Autism Spectrum Disorder ("ASD"), and agreed that Student's IEP would reflect 29 hours per week of specialized instruction outside general education and four hours per month of behavioral support services ("BSS"). The Least Restrictive Environment ("LRE") section of this IEP provided that Student's LRE was a full-time, outside of general education, setting.

D. On September 6, 2024, Petitioners notified DCPS of their unilateral placement of Student at Nonpublic School 1 for the 2024-2025 school year. On September 9, 2024, DCPS declined to fund the Nonpublic School 1 placement.

E. DCPS had not offered Student a school placement by the beginning of the 2024-2025 school year. Student began at Nonpublic School 1 on September 4, 2024. On October 1, 2024, DCPS notified Petitioners of multiple additional private school rejections of Student's application.

F. Nonpublic School 1 serves students with attention deficit hyperactivity disorder, executive functioning challenges and mild learning differences. The maximum student to teacher ratio is 10:1, and class sizes range from six to ten. Nonpublic School 1 is accredited by the Virginia Association of Independent Schools, the National Association of Independent Schools, and the Association of Independent Schools of

Greater Washington. It advertises a 100% college acceptance rate for its high school graduates.

This Hearing Officer's Additional Findings of Fact

After considering all of the evidence received at the due process hearing in this case on October 6 and 7, 2025, as well as the argument of counsel, my additional findings of fact are as follows:

1. Student, an AGE youth, resides with the parents in the District of Columbia. Testimony of Mother.
2. At an July 24, 2025 eligibility determination meeting, Student was determined eligible for special education as a student with an Autism disability. The disability impacts Student's participation in the general education curriculum in Mathematics, Reading, Written Expression and Emotional, Social and Behavioral Development. Exhibit R-7.
3. Student is enrolled at Nonpublic School 1 for the 2025-2026 school year under the parents' unilateral placement. Student started at Nonpublic School 1 in the fall of 2024. He/she is currently in GRADE.
4. On April 24, 2024, NEUROPSYCHOLOGIST conducted a neuropsychological evaluation of Student. Neuropsychologist reported, *inter alia*, that Student has exceptional verbal reasoning and knowledge (WAIS-IV VCI – 99th percentile) alongside age appropriate visual spatial problem solving, quantitative

reasoning, working memory and processing speed. Student also demonstrated well developing core receptive and expressive language skills, including good language formulation and organization. Student's learning and memory abilities were also developing well; however, he/she tended to learn best when information is meaningful and well organized. Student had strong reading and writing skills, alongside age appropriate math reasoning skills and mild weaknesses in math fact fluency and calculation. Student was also a bright, curious, intellectual, and insightful young person who was eager to learn. Student also had a wonderful sense of humor. Student was socially motivated, had a group of friends, interacted well with adults, and enjoyed being around others. He/she had shown exceptional progress in his/her emotional and behavioral self-regulation over time. At the same time, testing revealed areas of cognitive and social/emotional weakness that contributed to Student's then-current difficulties. These weaknesses were primarily in the following domains: Social Emotional Functioning, Attention and Executive Functioning and Social Functioning. Results of the evaluation were fully consistent with an Autism Spectrum Disorder. While Student demonstrated good nonverbal communication and exceptional language skills, he/she demonstrated clear social challenges, including difficulty sustaining reciprocal conversation and limited social reciprocity. Student showed a reduced interest in the thoughts and experiences of others and had trouble reading social cues, interpreting the actions of others, taking another person's perspective, understanding the impact of

his/her actions on others, and solving social problems. Student had a reduced understanding of and ability to sustain age-appropriate reciprocal peer relationships. In addition, Student was inflexible, had a history of difficulty with change, was highly self-directed, and tended to be inflexible in social situations. He/she had a history of sensory sensitivities which had improved over time. Student's Autism Spectrum Disorder impacted his/her educational performance and day-to-day functioning in several ways. He/she had difficulty understanding the actions and intentions of others, making social situations much less predictable. Student's inflexibility and poor perspective taking may make group work challenging and impact his/her ability to cooperate and negotiate with others. Difficulties with social communication also impacted Student's social relationships as it leads to breakdowns in communication and difficulty with social problem solving. Student was described as a kind and compassionate young person who has natural leadership skills and likes to engage, laugh, and have fun when he/she feels safe. At the same time, Student had a longstanding history of anxiety, depression, and emotional and behavioral dysregulation. Student was currently experiencing a mild episode of Major Depressive Disorder. While Student had shown enormous progress in self-regulation, he/she continued to struggle to cope with large emotions, experienced low mood, and had a fragile sense of self. Student also has an undercurrent of anxiety (consistent with an Unspecified Anxiety Disorder) and a low sense of personal control, alongside an

incredibly high need to feel in control for him/her to feel safe. His/her immense need for control was exacerbated by low social insight, rigid expectations, and extreme black-and-white thinking. Results of this assessment suggested attention-related weaknesses consistent with mild Attention-Deficit/Hyperactivity Disorder, Combined Type. Attention related weaknesses were notable for mild distractibility during the assessment. Student's test results also reflected executive functioning weaknesses in the areas of planning/organization, flexibility, emotional control, initiation, self-monitoring, task-monitoring, working memory, and organization of materials. Planning and organizational weaknesses affected the way Student organizes and synthesizes complex learned information into clear ideas, and may contribute to difficulties organizing his/her coursework, planning for long-term projects, and using inefficient study methods. Generally, Student performed better when he/she had structure, including structure in his/her day-to-day life, and structure within a task. Student's inflexibility contributed to difficulty adjusting to unforeseen changes in routine as well as coming up with new ways to solve problems in unfamiliar situations, which contributed to feelings of anxiety and frustration. Student's academic achievement test results presented a profile of academic strengths and relative weaknesses. Student had strong reading skills, and his/her comprehension and reading rate were both in the extremely high range. Student also had strong written language skills, including well developed spelling, a good understanding of grammar and sentence structure, and advanced written

composition skills. Student demonstrated average range and age appropriate mathematical reasoning and computation. Student demonstrated mild weaknesses in his/her knowledge of basic math facts consistent with a Specific Learning Disorder with impairment in math fluency. Neuropsychologist's diagnoses for Student were Autism Spectrum Disorder, Attention-Deficit Hyperactivity Disorder – Combined Presentation (ADHD-C), Frontal and Executive Function Deficit (planning/organization, flexibility, emotional control, initiation, self-monitoring, task-monitoring, working memory and organization of materials), Specific Learning Disorder with impairment in math (math fluency), Major Depressive Disorder, recurrent, mild and Unspecified Anxiety Disorder. Neuropsychologist's recommendations included, *inter alia*: Student will require specialized instruction to address his/her social emotional challenges and executive functioning weaknesses. Student needs a small classroom with a consistent schedule and routine, staffed by teachers who are interpersonally flexible and are able to form a relationship with him/her. Student requires a classroom environment that supports sustained attention, reduces distractions, and provides appropriate organizational routines for task completion (*e.g.*, visual cues and checklists). In addition, Student needs executive functioning support, including support for his/her weaknesses in organization, flexibility, task-initiation, impulse and emotional control and self-monitoring. Student's educational programming should be specifically designed to meet the social communication needs and needs of students with autism. In addition,

his/her teachers and staff should be specially trained and experienced in working with students who have autism spectrum disorder and are emotionally sensitive. Classroom accommodations for weaknesses in attention and impulse control and deficits in executive functioning, including support for his/her weaknesses in organization, are recommended, such as preferential classroom seating near the point of instruction and away from distractors, prompts to return to task as needed, and movement breaks as needed. Longer/complex assignments should be divided into smaller, more manageable parts. Student will do well in a highly structured and predictable environment. As such, he/she should be provided with a consistent daily routine and be given clear expectations for work and behavior. Changes from expected routines should be previewed with Student as unexpected deviations may undermine Student's confidence and trust in his/her teachers and other school personnel. Student should select classroom seating and study areas so as to minimize visual distractions and facilitate proximity to the instructor. Student's teachers should check in with him/her to ensure that he/she understands what is required for assignments. Student should be encouraged and supported to keep a planner to write down assignments daily. It was recommended that Student receive a social skills intervention as part of his/her educational program. Student should also receive embedded supports in natural contexts, such as coaching during lunch or class. It was essential that Student work with a counselor that he/she can build a trusting relationship with. Also recommended were

additional scaffolding around group projects and a calculator for math computation.

Exhibit P-2.

5. Mother provided Neuropsychologist's April 24, 2024 report to DCPS on June 28, 2024. Exhibit P-3.

6. In a DCPS IEP developed for Student on or about August 13, 2024, the IEP team determined that Student needed 29 hours per week of Specialized Instruction Services outside general education and 4 hours per month of Behavioral Support related services. Exhibit R-2.

7. In the May 19, 2025 HOD in Case No. 2025-0026, Hearing Officer Banks determined that DCPS had denied Student a FAPE for the 2024-2025 school year and the Parents were entitled to partial private school tuition reimbursement because DCPS failed to meet its burden of proving that it provided Student an appropriate placement (location of services) by the beginning of the 2024-2025 school year. Hearing Officer Banks concluded that the parents met their burden of proving that their unilateral placement of Student at Nonpublic School 1 was a proper placement, because the placement at Nonpublic School 1 was reasonably calculated to enable Student to receive educational benefits. Hearing Officer Banks reduced tuition reimbursement because he concluded that the parents and their representatives "were complicit in delaying the referral process" for a nonpublic school by failing to notify DCPS of their intentions in the early spring of 2024, when the parents were already engaged in applying to local day

schools. Hearing Officer Banks ordered DCPS to reimburse the parents for the expenses incurred for tuition and related services (including transportation) at Nonpublic School 1 from December 8, 2024 through the end of the 2024-2025 school year. Exhibit P-5.

8. In Case No. 2025-0026, the parents had also requested an order placing Student at Nonpublic School 1 prospectively. Hearing Officer Banks did not find that Nonpublic School 1 would be an “appropriate” prospective placement for Student. The hearing officer explained that District of Columbia law requires nonpublic special education schools to ensure that all of their teachers hold state certification as special education teachers; that OSSE maintains a list of all schools in the region that are qualified to provide special education services to District students; that as of February 2025, Nonpublic School 1 was not on OSSE’s list of approved schools; that while Nonpublic School 1 advertised that it serves students with Attention Deficit-Hyperactivity Disorder (ADHD), it did not purport to be a special education school. Rather, it held itself out as a college preparatory school; that there was no evidence in the record that any teacher at Nonpublic School 1 was required by the school to obtain state certification in special education as required by the District of Columbia’s regulations and there was no evidence in the record of Nonpublic School 1’s ability to meet the needs of students with Autism Spectrum Disorder classifications; that Student’s IEP required him/her to receive full-time specialized instruction outside general education and that Nonpublic School 1 was incapable of meeting this

requirement because all of its classes were general education classes. Hearing Officer Banks concluded that Petitioners failed to meet their burden of proving that Nonpublic School 1 was an appropriate prospective placement for Student. Exhibit P-5.

9. On May 1, 2025, LEA Representative conducted an observation of Student at Nonpublic School 1. She observed, *inter alia*, that in math class, the student-to-teacher ratio was 8:1; Student silently followed along with the teacher's review of a lesson and was perceived to be on task; for worksheet completion independently, Student was on task and the teacher checked in on Student 1:1. LEA Representative reported that it was "evident that the student requires 1:1 support to address academic needs." It was noted by the private school math teacher that Student "requires 1:1 support and staff prompting to get on task, stay on task and complete work." In the Academic Support class, Student worked 1:1 on math test corrections with the math teacher. Exhibit R-2. The math teacher told LEA Representative that Student needed help to get started, prompts to engage, and extra support to turn work in. The teacher stated that Student works "great" with him one on one. He was not sure if Student used peer tutoring. Exhibit P-6.

10. Student's final grades for the 2024-2025 school year at Nonpublic School 1 were all A's and B's, except for a D- in math. Exhibit P-10.

11. On May 20, 2025, DCPS proposed an IEP, under which Student would receive Specialized Instruction, outside general education, for 29 hours per week and 4

hours per month of Behavioral Support Services. The IEP team decided that Student required specialized instruction in a full-time outside-general-education setting in order to access the curriculum. The parents agreed with the team's IEP services and least restrictive environment (LRE) decision. Exhibit P-6. Testimony of Mother.

12. On June 10, 2025, DCPS provided notice to the parents that NONPUBLIC SCHOOL 2 had been identified as Student's location of service for the 2025-2026 school year with a start date of August 27, 2025. Exhibit P-13.

13. By email of June 23, 2025, Petitioners' Counsel notified DCPS that consistent with prior discussions at IEP meetings and the recent due process hearing, the parents did not believe that Nonpublic School 2 was an appropriate placement for Student given his/her unique profile and needs and that additionally, Student would be entering GRADE in fall 2025 at Nonpublic School 1; that it would be incredibly disruptive to move him/her for that school year and likely cause regression and a return of Student's school refusal. Petitioners' Counsel wrote that the parents would not be placing their child at Nonpublic School 2 and were instead asking that DCPS place and fund Student at Nonpublic School 1. Exhibit P-13. On July 17, 2025, Petitioners' Counsel sent a follow-up unilateral placement notice to DCPS that Student would attend Nonpublic School 1 for the 2025-2026 school year and that this decision was made in order to provide him/her the FAPE to which he/she was entitled. Exhibit P-14. By email of July 10, 2025, Mother wrote Nonpublic School 2 that Student had flourished at

Nonpublic School 1 in the 2024-2025 school year and intended to finish high school there. Exhibit P-15.

14. On or about June 2, 2025, DCPS PSYCHOLOGIST made a review of Neuropsychologist's April 24, 2024 neuropsychological evaluation of Student. DCPS Psychologist also conducted an observation of Student in math class at Nonpublic School 1 and a teacher interview. The math teacher stated that Student sometimes struggled with work submission and often required more one-on-one assistance in class to get started and stay on task. The teacher stated that Student often required prompting and could do well with the teacher; however, working on his/her own usually resulted in less work completion. The math teacher reported that Student could utilize peer tutors if needed and often utilized the teacher's assistance for test corrections. DCPS Psychologist reported that Student presented with behaviors consistent with Autism. Exhibit P-11.

15. DCPS convened an eligibility meeting for Student on July 24, 2025. A few days prior to the meeting, DCPS sent the parents and Educational Advocate a draft revised IEP which changed Student's special education services from 29 hours per week outside general education, as provided DCPS' May 20, 2025 IEP, to 10 hours per week of Specialized Instruction inside the general education setting. The draft IEP continued 4 hours of Behavioral Support Services per month and added consultation behavioral support services (1 hour per month) and consultation specialized instruction (1 hour per

week.) Mother was told at the July 24, 2025 meeting that the service location proposed for Student was the in-boundary DCPS school, City School 1. Mother and the parents' representatives actively participated in the meeting. Educational Advocate provided verbal feedback at the meeting and written feedback after the meeting. DCPS took some suggestions from the parent and Educational Advocate and followed their input that Student needed an IEP reading goal. The parents disagreed with DCPS' proposal to place Student in the general education setting at the DCPS public school, which the DCPS representatives did not change. Exhibit P-17, Testimony of Educational Advocate. Testimony of Mother. The only new information concerning Student considered by the July 24, 2025 IEP team, not considered for the May 20, 2025 IEP, was DCPS Psychologist's June 2, 2025 report reviewing Neuropsychologist's April 24, 2024 evaluation of Student. Testimony of LEA Representative. When asked by Educational Advocate at the meeting what had warranted the change from full-time special education in the May 20, 2025 IEP, DCPS provided nothing to explain the decision. Testimony of Educational Advocate.

16. On August 13, 2025, the Acting Director of DCPS' Central IEP Team wrote the parents to acknowledge their July 17, 2025 unilateral placement notice for Student. The Acting Director wrote that it was DCPS' position that it had made, and would continue to make, a Free Appropriate Public Education available to Student. Exhibit P-14.

17. The parents unilaterally continued Student's enrollment at Nonpublic School 1 for the 2025-2026 school year. They made that decision because Student had allegedly done so well at the private school in the 2024-2025 school year. In the 2025-2026 school year, Student is thriving in the small class setting. He/she is receiving great support in preparing for college and has great relations with teachers. 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 parents in this case, shall bear the burden of production and the burden of persuasion, except that where there is a dispute about the appropriateness of the child's IEP or placement, or of the program or placement proposed by the public agency, the public agency shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement; provided, that the party requesting the due process hearing shall retain the burden of production and shall establish a *prima facie* case before the burden of persuasion falls on the public agency. The burden of persuasion shall be met by a preponderance of the evidence. See D.C. Code § 38-2571.03(6).

ANALYSIS

Reimbursement for Private School Expenses

Student has been unilaterally placed by the parents at Nonpublic School 1 since the start of the 2024-2025 school year. In Case No. 2025-0027, Hearing Officer Banks ordered DCPS to reimburse the parents for their Nonpublic School 1 expenses incurred from December 8, 2024 through the end of the 2024-2025 school year. In the present proceeding, the parents seek reimbursement from DCPS for their unilateral placement of Student at Nonpublic School 1 for the 2025-2026 school year.

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). 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.)

The first, indispensable, requirement for private school tuition reimbursement is that the District failed to offer the child a FAPE. Petitioners have alleged the following denials of FAPE by DCPS in this case – all concerning the July 24, 2025 IEP proposed for Student:

A. Whether DCPS denied Student a FAPE by failing to propose an appropriate program and placement, in its proposal of 10 hours of specialized instruction services in a general education setting, in a comprehensive high school setting, for the 2025-2026 school year;

B. Whether DCPS denied Student a FAPE by predetermining his/her IEP services and placement for the July 24, 2025 IEP review meeting and

C. Whether DCPS denied Student a FAPE by proposing that he/she change schools from Nonpublic School 1, the school that DCPS was ordered to fund for the 2024-2025 school year, without consideration of the impact such a move would have on Student?

In *Middleton v. District of Columbia*, 312 F. Supp. 3d 113 (D.D.C. 2018), U.S.

District Judge Rudolph Contreras explained how a court or a hearing officer must assess an IEP:

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

(1982) (footnotes omitted).

Middleton at 128.

With regard to procedural compliance, Petitioners claim that DCPS denied Student a FAPE by predetermining his/her IEP services and placement for the July 24, 2025 IEP. The Petitioners did not meet their burden of persuasion for this procedural claim. As U.S. Magistrate Judge Robin Meriweather explained *Shipley v. District of Columbia*, No. CV 18-2550 (CRC/RMM), 2020 WL 13669941 (D.D.C. Mar. 6, 2020), *report and recommendation adopted in part*, No. 18CV2550CRCRMM, 2020 WL 13669870 (D.D.C. Mar. 24, 2020),

“The IDEA guarantees parents of disabled children the opportunity to participate in the evaluation and placement process.” *J.N. v. District of Columbia*, 677 F. Supp. 2d 314, 320 (D.D.C. 2010) (citations omitted). A parent must show more than merely “some impediment,” and must establish a deprivation of “meaningful” participation. *See, e.g., A.M. v. District of Columbia*, 933 F. Supp. 2d 193, 198 (D.D.C. 2013); *see also Dixon v. District of Columbia*, 83 F. Supp. 3d 223, 231 (D.D.C. 2015) (to show harm, plaintiff must allege she was “seriously deprived” of her rights). The fact that a parent objects to the school’s decisions does not mean that the parent was denied meaningful participation. *See Paoletta v. District of Columbia*, 210 Fed. App’x 1, 2 (D.C. Cir. 2006).

Shipley at *16.

Here, the record indicates that Mother – and particularly the parents’ representative, Educational Advocate – actively participated in the July 24, 2025 IEP meeting. DCPS provided the draft IEP several days before the meeting and Mother and Educational Advocate were able to express their objections and provide their input at

the IEP meeting. Following the meeting, DCPS added an IEP goal for reading based on Educational Advocate's recommendation. The fact that DCPS held to its position that Student no longer needed placement in a nonpublic, separate school does not mean that the parents were deprived of meaningful participation in the development of the July 24, 2025 IEP. *Cf. Hawkins v. District of Columbia*, 692 F.Supp.2d 81, 84 (D.D.C. 2010) (Parents' right to participate in the formation of their child's IEP does not constitute a veto power over the IEP team's decisions).

Turning next to the substantive prong of the *Rowley* inquiry, was the July 24, 2025 IEP reasonably calculated to enable Student to make progress in light of Student's circumstances? *See Andrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 399, 137 S. Ct. 988, 999, 197 L. Ed. 2d 335 (2017). In *A.D. v. Dist. of Columbia*, No. 20-CV-2765 (BAH), 2022 WL 683570, (D.D.C. Mar. 8, 2022), U.S. District Judge Beryl Howell explained the IDEA's IEP requirement:

A "free and appropriate public education," or "FAPE," is delivered by local education authorities through a uniquely tailored "individualized education program," "or "IEP." *Andrew 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," *Andrew 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 *Andrew F.*, *supra*, 137 S. Ct. at 1001-02.

I find that through the testimony of the parents’ expert, Educational Advocate, Petitioners made a *prima facie* case that the July 24, 2025 IEP was inappropriate. Therefore the burden of persuasion as to the IEP’s appropriateness falls on DCPS. DCPS did not meet its burden.

During the 2021-2022, 2022-2023, and 2023-2024 school years, DCPS funded Student’s residential placement at an out-of-state residential school. It was not until the end of the 2023-2024 school year that the parents and Student’s DCPS IEP team agreed that Student was ready for a less restrictive placement at a separate day school. In an April 2024 neuropsychological evaluation, Neuropsychologist diagnosed Student with Autism Spectrum Disorder, Attention-Deficit Hyperactivity Disorder – Combined Presentation, Frontal and Executive Function Deficit, Specific Learning Disorder with impairment in math (math fluency), Major Depressive Disorder and Unspecified Anxiety Disorder. Neuropsychologist’s recommendations included, *inter alia*, that Student would require specialized instruction to address his/her social emotional challenges and executive functioning weaknesses and that Student needed a small

classroom with a consistent schedule and routine. In keeping with that recommendation, DCPS' August 13, 2024 and May 20, 2025 IEPs provided for Student to receive 29 hours per week of Specialized Instruction Service outside general education. The setting for these services would have been in a special nonpublic school, that is, not in a DCPS public school. In fact, on June 10, 2025, DCPS notified the parents that Nonpublic School 2, a special education day school, had been identified as Student's location of service for the 2025-2026 school year. (The parents rejected the Nonpublic School 2 placement.)

To the parent's surprise, DCPS convened another IEP meeting for July 24, 2025, when the MDT team was scheduled to meet to review Student's special education eligibility. At that meeting the DCPS representatives changed Student's special education services from the full-time placement in a separate day school to 10 hours per week of Specialized Instruction in a public school general education classroom. The only new information driving this decision was DCPS Psychologist's June 2, 2025 review of Neuropsychologist's April 24, 2024 evaluation of Student. However, DCPS had received the neuropsychological evaluation report from the parents in June 2024. Moreover, as noted above, Neuropsychologist recommended that Student needed a small classroom with a consistent schedule and routine. Nothing in the hearing record indicates that the DCPS review psychologist contested that recommendation. I conclude, therefore, that DCPS did not offer a cogent and responsive explanation for the

decision of the July 24, 2025 IEP team to change Student’s services and educational placement from 29 hours per week of Specialized Instruction in a special school setting to 10 hours per week of services in a DCPS public school general education classroom. DCPS did not establish that the July 24, 2025 IEP was reasonably calculated to enable Student to make progress appropriate in light of his/her circumstances. I find that DCPS failed to offer Student a FAPE for the 2025-2026 school year.

Having determined that DCPS denied Student a FAPE by offering inadequate special education services and an inappropriate educational placement in the proposed July 24, 2025 IEP, I do not reach the parent’s additional claim that DCPS denied Student a FAPE by not considering the impact on Student of the proposed school change from Nonpublic School 1 to City School 1. *See, e.g., Adams v. District of Columbia*, 285 F. Supp. 3d 381 (D.D.C. 2018) (“[W]hen an HOD finds an IDEA violation, ‘[w]hether the Hearing Officer based such a finding on one, or two, or three alleged violations is irrelevant—the result would be the same.’” *Id.* at 391 (quoting *Green v. District of Columbia*, 2006 WL 1193866, at 9 (D.D.C. May 2, 2006))).

Whether Nonpublic School 1 was proper.

Having found that DCPS failed to offer Student a FAPE with its proposed July 24, 2025 IEP, I turn next to the other two requirements for tuition reimbursement pronounced in the D.C. Circuit’s *Leggett* decision – that the private-school placement chosen by the parents was otherwise “proper under the Act”; and the equities weigh in

favor of reimbursement—that is, the parents did not otherwise act “unreasonabl[y]” “*Leggett*, 793 F.3d at 66–67. The parents must shoulder the burden of persuasion that their choice of Nonpublic School 1 for Student’s 2025-2026 school year was proper.

As the Court recently explained in *G.L. v. District of Columbia*, No. 24-CV-00280-TSC/ZMF, 2025 WL 2424310 (D.D.C. Aug. 22, 2025),

A unilateral private-school placement is proper when it is “reasonably calculated to enable the child to receive educational benefits.” *Leggett*, 793 F.3d at 71 (quoting *Rowley*, 458 U.S. at 207). Like a public placement, a unilateral private placement “need not guarantee the best possible education or even a potential maximizing one.” *M.G. v. District of Columbia*, 246 F.Supp.3d 1, 12 (D.D.C. 2017) (quoting *Leggett*, 793 F.3d at 70). In *Leggett*, the student’s private school placement was proper because “it was the only placement on record that could have provided [her] with an education that met her identified needs.” 793 F.3d at 71–72. The private placement would not have been appropriate if DCPS had offered an alternative with the same services. *See id.*

G.L. 2025 WL 2424310, at *11.

Student’s recent special education case history is unusual because in Case No. 2025-0027, Hearing Officer Banks expressly did not find that Nonpublic School 1 would be an “appropriate” *prospective* placement for Student for the 2025-2026 school year.

This was because,

- As of February 2025, Nonpublic School 1 was not on OSSE’s list of approved schools;
- While Nonpublic School 1 advertises that it serves students with ADHD, it does not purport to be a special education school. Rather, it holds itself out as a college preparatory school;

- There was no evidence that any teacher at Nonpublic School 1 was required by the school to obtain state certification in special education;
- There was no evidence in the record of Nonpublic School 1's ability to meet the needs of students with ASD classifications and
- Nonpublic School 1 was incapable of meeting Student's prior IEP requirement to receive full-time specialized instruction outside general education, because the private school's classes were general education classes.

See Exhibit P-5 at 12. Hearing Officer Banks' decision on prospective placement notwithstanding, the hearing officer concluded, in the May 19, 2025 HOD, that Nonpublic School 1 was a "a proper placement" for parental reimbursement because the placement was reasonably calculated to enable Student to receive educational benefits.

Barely three weeks later, on June 10, 2025, DCPS provided notice to the parents that a special education day school, Nonpublic School 2, had been identified as Student's location of service for the 2025-2026 school year. The parents rejected the Nonpublic School 2 placement because they asserted it would be too disruptive to move Student to a different school for the 2025-2026 school year. Petitioners' Counsel wrote DCPS that the parents would not be placing their child at Nonpublic School 2 and were instead asking DCPS to place and fund Student at Nonpublic School 1. Had the placement process ended there, Petitioners might have been sorely challenged to establish that their decision to send Student back to Nonpublic School 1 was "proper" under the *Leggett* analysis.

But DCPS dropped its proposal to place Student at Nonpublic School 2 and, at

the July 24, 2025 IEP meeting, decided instead to place Student entirely in the general education setting at DCPS School 1. At the due process hearing in this case, DCPS was unable to provide a cogent and responsive explanation for the July 24, 2025 IEP team's decision to change Student's educational placement from a full-time special school to 10 hours per week of Specialized Instruction in a DCPS general education classroom.

As noted above in this decision, Hearing Officer Banks determined in the May 19, 2025 HOD that Nonpublic School 1 was a "proper" placement for Student for reimbursement purposes, even though not appropriate as a prospective placement. At the due process hearing in this case, Petitioners' expert, Educational Advocate, testified that Nonpublic School 1 met Student's need for very small classes, a focus on executive functioning challenges, individualized attention, skill development and high level instruction. Mother testified that Student's teachers said that he/she is doing wonderfully and has become a real leader at Nonpublic School 1. Student's final grades for the 2024-2025 school year at Nonpublic School 1 were all A's and B's except for D- in math. On this evidence, I conclude that the parents have met their burden of persuasion that their unilateral placement of Student at Nonpublic School 1 for the 2025-2026 school year was proper because it was "reasonably calculated to enable the child to receive educational benefits." *Leggett*, 793 F.3d at 71 (quoting *Rowley*, 458 U.S. at 207). Moreover, as in *Leggett*, DCPS had not offered any other appropriate placement option to Student for the start of the 2025-2026 school year. *Cf. M.G. v. District of Columbia*,

246 F. Supp. 3d 1, 11–12 (D.D.C. 2017) (Plaintiff was left with private school as “the only school reasonably calculated to offer educational benefit” to her child.)

Parents did not act unreasonably.

Lastly, the D.C. Circuit’s *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).² There is no dispute that the parents gave DCPS timely notice of their rejection of the July 24, 2025 IEP and of

²

Limitation on reimbursement. The cost of reimbursement described in paragraph (c) of this section may be reduced or denied—

(1) If—

(i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph (d)(1)(i) of this section;

(2) If, prior to the parents’ removal of the child from the public school, the public agency informed the parents, through the notice requirements described in §300.503(a)(1), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

(3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

34 C.F.R. § 300.148(d)

their intent for Student to return to Nonpublic School 1 for the 2025-2026 school year. As discussed above in the “proper placement” analysis, the parents arguably acted unreasonably in rejecting DCPS initial proposal to place Student at Nonpublic School 2. However, DCPS’ decision at the July 24, 2025 IEP team meeting to change Student’s educational placement from a full-time special education day school to the general education setting at a DCPS public school left the parents without an appropriate LEA placement option. On these facts, I find that the parents did not act unreasonably in re-enrolling Student in Nonpublic School 1 for the 2025-2026 school year.

Lastly, DCPS argued that the parents should not be entitled to private school reimbursement because in their request for relief in this case, the parents sought “funding” for Student’s 2025-2026 placement at Nonpublic School 1 as opposed to reimbursement. However, upon determining that a school district has denied a student a FAPE, a hearing officer is vested with broad discretion to further the IDEA’s remedial purposes by ordering what he deems to be appropriate relief. *See T.F. by Ellern-Feldman v. District of Columbia*, No. 1:23-CV-03612 (CJN), 2025 WL 947524, at *8 (D.D.C. Mar. 28, 2025). Moreover, a request for “funding” Student’s placement at Nonpublic School 1, can properly be construed as inclusive of a claim for reimbursement. *See, e.g., Q.C-C. v. District of Columbia*, 164 F. Supp. 3d 35, 46 (D.D.C. 2016). In this case, I deem the parents’ request for reimbursement to be appropriate relief and they are therefore entitled to reimbursement from DCPS for their tuition and

related expenses incurred for Student's enrollment at Nonpublic School 1 for 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 documentation of payment by the parents as may be reasonably required, DCPS shall promptly reimburse the parents their expenses for covered tuition and related expenses, including covered privately-owned vehicle transportation expenses, incurred for Student's enrollment at Nonpublic School 1 for the private school's 2025-2026 regular school year and
2. All other relief requested by the Petitioners herein is denied.

Date: October 12, 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