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Confidential

<p>Parent of Adult Student and Adult Student, Petitioners, ¹</p> <p>v.</p> <p>District of Columbia Public Schools (“DCPS”) Local Educational Agency (“LEA”),</p> <p>Respondent.</p> <p>Case # 2019-0169</p> <p>Date Issued: September 15, 2019</p>	<p>HEARING OFFICER’S DETERMINATION On Petitioners’ Motion for Summary Judgment</p> <p>Counsel for Each Party listed in Appendix A</p> <p><u>Hearing Officer:</u> <u>Coles B. Ruff, Esq.</u></p>
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¹ Personally identifiable information is in the attached Appendices A & B.

JURISDICTION:

This decision or hearing officer determination (“HOD”) is written, pursuant to the Individuals with Disabilities Act (“IDEA”), P.L. 101-476, as amended by P.L. 105-17 and the Individuals with Disabilities Education Improvement Act of 2004, the District of Columbia Code, Title 38 Subtitle VII, and the District of Columbia Municipal Regulations, Title 5 Chapter E30. This HOD is a decision on a Motion for Summary Judgment and the evidence submitted with that motion. There was no formal hearing conducted.

BACKGROUND AND PROCEDURAL HISTORY:

The parent of an adult student holds education rights for his adult child (“Student”) pursuant to a power of attorney. On July 2, 2019, Student and Student’s parent (“Petitioners”) together filed a due process complaint against both the State Education Agency (“SEA”), District of Columbia Office of the State Superintendent of Education (“OSSE”), and the Local Education Agency (“LEA”), District of Columbia Public Schools (“DCPS”).

Student resides in the District of Columbia. DCPS is Student’s LEA. Student is eligible for special education with a disability classification of Intellectual Disability (“ID”). Student’s individualized educational program (“IEP”) prescribes separate school. During school year (“SY”) 2018-2019, with DCPS/OSSE funding Student attended a non-public school (“School A”). Petitioners alleged in their due process complaint that as of June 30, 2019, School A no longer had an OSSE certificate of approval (“COA”) and as a result DCPS/OSSE did not agree to fund and place Student at School C after that date.

Petitioners allege that School A no longer has an OSSE COA because School A no longer offers all graduation requirements for students on a DCPS diploma track. Petitioners assert that because Student is on a certificate track, this change in School A diploma track offerings in no way affects the Student’s program at School A, and School A continues provide Student a free appropriate public education (“FAPE”). Petitioner asserts that although OSSE and DCPS (“Respondents”) assert that pursuant to District of Columbia law they can no longer place Student at School A absent a court or hearing officer order, Respondents can and do regularly override the rule of law they are referencing.

Petitioners allege that Student will suffer academic, physical, social and emotional harm if Student is not allowed to continue to attend School A and assert that no other school with a COA can meet Student’s needs. Accordingly, Petitioners sought through their due process complaint that OSSE and/or DCPS continue to place and fund Student at School A or in the alternative that an order be issued directing them to do so and that Student be provided compensatory education for each day Student did not attend school.

Petitioners identified several issues that they sought to be adjudicated through the due process complaint, including whether DCPS denied Student a FAPE in an appropriate placement by failing to place Student at School A after June 30, 2019. Petitioner also identified as an issue, and sought as a finding, that no public school or program or non-public school or program with a valid OSSE

COA could provide Student a FAPE in an appropriate special education placement and that School A could.²

Motion for Stay Put

On July 5, 2019, Petitioners filed a Motion for Preliminary Injunction. Petitioners requested that the undersigned hearing officer (“Hearing Officer”) order Respondents to continue to fund and provide Student transportation to School A, so that the eleventh month program prescribed by Student’s IEP could continue to be implemented at School A, during the pendency of this proceeding.

On July 10, 2019, both DCPS and OSSE communicated to the Hearing Officer that neither the LEA, nor the SEA, opposed Petitioners’ motion.

Given that there was no dispute between the parties as to the location of Student’s stay put placement, the Hearing Officer issued an order on July 21, 2019, granting Petitioners’ motion and ordering that School A is Student’s “Stay-Put” location during the pendency of the proceeding. And that as of July 5, 2019, and thereafter, during the pendency of this proceeding until a Hearing Officer’s Determination (“HOD”) is rendered, DCPS/OSSE is to fund Student’s tuition and related services at School A and provide Student transportation services.

LEA Response to the Complaint:

The LEA filed a response to the complaint on July 11, 2019. The LEA denied that there has been any failure to provide Student with a FAPE. In its response DCPS asserted, inter alia, the following:

Student was enrolled at School A, a non-public day school for SY 2018-2019. Student is identified as a student with Autism. The October 26, 2018, IEP requires 28.75 hours per week of specialized instruction, 6 hours per month of speech language pathology, and 4 hours per month of occupational therapy outside general education. Student is on the high school certificate track. On April 17, 2019, OSSE sent School A a letter of intent to refuse to renew the school’s COA.

On April 23, 2019, School A confirmed that it did not intend to appeal OSSE’s determination. On April 29, 2019, School A sent OSSE a letter outlining proposals that would allow the school to continue to hold a COA. On May 13, 2019, OSSE sent final notice to School A that its COA

² Section 3 of Petitioners’ due process complaint under the section titled “Issues Presented” had six bullet points that the Hearing Officer has summarized as follows: (1) Whether DCPS and OSSE discriminated against Student on the basis of Student’s disability by failing to make a reasonable modification of its policies and practices and place Student at School A; (2) Whether (a) any DCPS public school or program or non-public school or program with a valid OSSE COA can provide Student a FAPE in an appropriate special education placement; and (b) whether School A can provide Student a FAPE in an appropriate special education placement; (3) Whether DCPS denied Student a FAPE in an appropriate placement by failing to place Student at School A; (4) Whether DCPS and OSSE denied Student a FAPE by failing to consider the harmful effects of Student leaving School A when selecting Student’s least restrictive environment; (5) Whether DCPS denied Student a FAPE by failing to issue a prior written notice when it refused to place Student at School A after June 30, 2019; (6) Whether DCPS denied Student a FAPE by failing to implement Student’s IEP by failing to place Student in an appropriate school by June 30, 2019.

would not be renewed as of June 30, 2019, because of its failure to comply with OSSE guidelines and inability to comply with the graduation requirements outlined in the DC Code. DCPS was copied on the May 13, 2019, letter from OSSE.

On May 28, 2019, the multidisciplinary team (“MDT”) including Student’s parent convened to discuss Student’s transition to a non-public school with a COA. DCPS proposed to refer Student to three schools. The non-public referral process typically requires a parent interview and Student visit. At the meeting parent expressed interest only in one of the three schools offered. Parent refused to participate in the visits to several of other schools. On July 8, 2019 parent agreed to visit another school but refused to allow Student to participate. DCPS is continuing the referral process to identify an appropriate non-public day school for Student. DCPS will issue a location of service letter upon Student’s acceptance to a school that can implement Student’s IEP.

SEA Response to the Complaint:

The SEA filed a response to the complaint on July 11, 2019. The SEA denied that there has been any failure to provide Student with a FAPE. In its response OSSE asserted, inter alia, the following:

OSSE denies that Student receives special education and related services from OSSE, as OSSE is not the direct provider of FAPE, but the SEA for the District of Columbia. DCPS is the LEA and the direct provider of FAPE for Student. It is the LEA, not OSSE, who is directly responsible for FAPE, including placement. In its role, OSSE is limited to supporting LEAs in identifying/finding a placement in accordance with the IEP team’s placement decision and Student’s needs.

DCPS did not reach out to OSSE for assistance in supporting Student’s team with Student’s Student, including identifying a location. OSSE denies that School A is the only school in the region able to provide Student a FAPE. OSSE denies that Student’s IEP requires ■■■ to be in an eleven-month program. Student’s IEP, dated Oct. 26, 2018, notes that the student’s Least Restrictive Environment (LRE) is a Separate School and that the student does not need extended school year services (ESY).

OSSE denies that School A “lost” its COA and clarifies as follows. School A decided not to proceed with correcting identified noncompliance and completing its COA renewal application. As a result, on July 1, 2019, School A’s COA expired. As of the date of this response School A does not hold a DC COA and therefore cannot serve students funded by the District of Columbia.

OSSE admits that in accordance with District of Columbia law and regulation, it may only place students at schools with a COA. OSSE denies the allegation that it “regularly overrides the District’s” law that COA nonpublic special education schools or programs shall not accept a placement of District of Columbia student with a disability whose education is funded by the District of Columbia government.

Resolution Meeting:

Petitioners and DCPS participated in a resolution meeting on July 23, 2019, and did not resolve the complaint. The parties did not mutually agree to shorten the 30-day resolution period. The 45-day period began on August 2, 2019, and ends [and the HOD is due] on September 15, 2019.

Petitioners' Motion to Withdraw Complaint as to OSSE

On August 1, 2019, Petitioners filed an unopposed motion to withdraw their complaint without prejudice as to OSSE only and to maintain the complaint as to DCPS. On August 8, 2019, the Hearing Officer granted Petitioners motion and dismissed the due process complaint as to OSSE. The complaint as to DCPS remained in effect.

Petitioners' Motion for Summary Judgment:

On August 9, 2019, Petitioners filed a Motion for Summary Judgment citing § 709 of the Office of the Dispute Resolution (“ODR”) Standard Operating Procedures (“SOP”) (2018) and Rule 56 of the Federal Rules of Civil Procedure. DCPS did not file any opposition to Petitioners’ motion. Based upon no filing by DCPS, the Hearing Officer considered Petitioners’ motion to be unopposed.

Petitioners seek summary judgment on a single issue that they raised in their due process complaint, and in essence seek a finding by the Hearing Officer that no school other than School A can provide Student a FAPE in an appropriate special education placement. In their motion, Petitioners also seek to withdraw the remaining claims and issues raised in the complaint against DCPS.

Although in the due process complaint Petitioners stylized the issue on which they are seeking summary judgment as “declaratory judgment,” the Hearing Officer has construed the issue as seeking a specific factual finding and/or conclusion of law that no program other than School A is currently available for SY 2019-2020 to meet Student’s specific needs and to provide Student a FAPE. The Hearing Officer revised the issue to more accurately reflect, in the Hearing Officer’s opinion, the issue Petitioners have truly posed. The Hearing Officer below makes findings of fact and conclusions of law in deciding the Petitioner’s Motion for Summary Judgment, grants Petitioner’s motion and directs DCPS to place and fund Student at School A for SY 2019-2020 and provide transportation services.

ISSUE:³

The issue adjudicated is:

Whether (a) any DCPS public school or program or non-public school or program with a valid

³ In their motion and in the due process complaint, Petitioners stated this issue as follows: “Declaratory judgment finding that there is no public school or program and no nonpublic school or program with a valid Certificate of Approve except The Harbour School Annapolis pursuant to D.C. Code § 38-2561.03(b)(1) and 5-A D.C.M.R. 2800.3.”

OSSE COA can provide Student a FAPE in an appropriate special education placement; and (b) whether School A can provide Student a FAPE in an appropriate special education placement.

RELEVANT EVIDENCE CONSIDERED:

This Hearing Officer considered, and made findings of fact and conclusions of law based on, the statements of fact and arguments made by Petitioners in their motion and the supporting documents Petitioner’s submitted with their motion that are listed in Appendix A.

FINDINGS OF FACT:⁴

Student is an adult special education student with a disability classification of ID. Student has been diagnosed with primary generalized epilepsy, static encephalopathy and has multiple types of seizures. Student’s seizures can last up to forty-five minutes at a time. Student had been seizure free for an extended period, but they recurred and Student is now back on medication. (Petitioner’s Exhibits A & B)

Student’s father holds education rights for Student pursuant to a power of attorney. (Petitioner’s Exhibit C)

DCPS is Student’s LEA. Student’s IEP prescribes an LRE and placement in a separate School. During SY 2018-2019 Student attended School A. (Petitioner’s Exhibit B)

On April 29, 2019, OSSE informed Petitioners that it would not be renewing School A’s COA, and effective June 30, 2019, School A would be without an OSSE COA. The reason for the non-renewal among others was that School A had not been offering a foreign language or D.C. History to OSSE-funded students, and School A issued Maryland State Board of Education diplomas to OSSE-funded students on the diploma track. Student’s IEP states that Student will receive a Certificate of IEP when Student turns 22, and not a diploma. (Petitioner’s Exhibits B & D)

DCPS convened an IEP meeting on May 28, 2019, to discuss new schools for Student to attend. At that meeting Student’s father stated that he did not think that any other school besides School A could meet Student’s needs because Student had struggled to acclimate to the school when Student first arrived and Student is now emotionally attached to School A. (Petitioner’s Exhibits C & F)

Student’s father stated that he would consider three specific schools that had COAs. However, to date none of these schools have accepted Student. (Petitioner’s Exhibit C)

Around June 10, 2019, one of the schools being considered called Student’s father to set up an interview. However, after speaking with the representative from the school, Student’s father decided that it was not an appropriate school for Student because the representative told him that the school did not have an epilepsy protocol and that to her knowledge, there were no students at

⁴ The evidence that is the source of the Findings of Fact (“FOF”) is noted within parenthesis following the finding.

the school with epilepsy. On June 26, 2019, one of other schools under consideration told Student's father that the school could not meet Student's needs. (Petitioners' Exhibit C)

On July 11, 2019, Student and Student's father visited another of the schools being considered. Student was shy and quiet upon arriving, asking to stay with Student's father and holding his hand throughout the tour. Student mostly kept Student's head down and did not look into each room to observe. Student glanced at students Student's passed in the hallway, most of whom were accompanied by staff. At the end of the tour Student told Student's father "Daddy, I'm nervous, I want to go home." At this point, Student was almost in tears and Student's face had turned red, a sign Student is uncomfortable and might have a seizure. That school has still not made an offer for admission. However, Student would lack a peer group there because Student function at a lower level than Student. In contrast, Student has a strong social network at School A. (Petitioner's Exhibits C, F & G)

Due to Student's medical history of seizures, Student's neurologist at Children's National Medical Center believes that it would be in Student's best interest to remain at School A because teenagers with epilepsy are at a higher risk for learning difficulties, behavioral problems, and social isolation. Student is now comfortable at School A and Student's neurologist notes that the stress of moving to a new school could lower ■ seizure threshold. (Petitioner's Exhibit A)

DECISION ON PETITIONERS' MOTION and CONCLUSIONS OF LAW:

ODR's SOP does not specifically allow for a motion for summary judgment in lieu of a due process hearing. However, there is nothing in IDEA or the SOP that precludes such a motion. Although the SOP is the primary source of procedures for due process hearings conducted in the District of Columbia, Hearing Officers can and do routinely look to the Federal Rules of Civil Procedure ("FRCP") as procedural guidance when the SOP is silent on an matter.

Under FRCP Rule 56, A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

The moving party "bears the initial responsibility of informing the [tribunal] of the basis for its motion, and identifying those portions of the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, which it believes demonstrate the absence of a genuine issue of material fact." *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). In opposing a motion for summary judgment, the non-moving party "must designate specific facts showing that there is a genuine issue for trial." *Id.* at 324.

Petitioner asserts that in this matter there are no genuine issues as to the material fact and that they are entitled to judgment as a matter of law. Although DCPS filed a response to the due process complaint in which it denied any alleged denial of FAPE to the Student by DCPS, DCPS presented no written opposition Petitioners' motion and submitted no documents that refute those submitted by Petitioners.

SOP§709 (c)(5) states the following:

Any party wishing to respond to or oppose a motion must file the response or opposition within three (3) business days of the filing of the motion. Any party wishing to file a response or opposition to a motion shall follow the procedures outlined above for transmitting a copy of the response or opposition to ODR, the assigned Impartial Hearing Officer, and the other party. Responses contesting facts shall so state and supply supporting affidavits, declarations, or documents as appropriate. Failure to timely respond may be taken as concession of the motion.

Rule 56(e) states: If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:...(2) consider the fact undisputed for purposes of the motion;

Because DCPS filed no response in opposition to Petitioners' motion, the Hearing Officer concludes that Petitioners motion is conceded and there is no genuine issue as to material fact that is in dispute. After consideration of Petitioner's Motion, the arguments made therein and the evidence that has been presented with Petitioners' motion, the Hearing Officer concludes that Petitioners' arguments are persuasive and that summary judgment is appropriate in this instance. Accordingly, this Hearing Officer hereby grants Petitioner's Motion for Summary Judgment, and makes the following conclusions of law in discussing the issue adjudicated. In the order below, the Hearing Officer directs DCPS to place and fund Student at School A for SY 2019-2020 and provide transportation services.

ISSUE: Whether (a) any DCPS public school or program or non-public school or program with a valid OSSE COA can provide Student a FAPE in an appropriate special education placement; and (b) whether School A can provide Student a FAPE in an appropriate special education placement.

Conclusion: The evidence presented by Petitioner supports a finding that School A can provide Student at FAPE and is an appropriate special education program and that no DCPS school or program or non-public school or program with an OSSE-COA can meet Student's unique needs. As result, the Hearing Officer directs in the order below that DCPS place and fund Student at School A for SY 2019-2020 and provide Student transportation services.

The overall purpose of the IDEA is to ensure that "all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A). *See Boose v. Dist. of Columbia*, 786 F.3d 1054, 1056 (D.C. Cir. 2015) (the IDEA "aims to ensure that every child has a meaningful opportunity to benefit from public education").

Pursuant to IDEA §1415 (f)(3)(E)(i), a decision made by a Hearing Officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education ("FAPE").

34 C.F.R. § 300.17 provides:

A free appropriate public education or FAPE means special education and related services that--
(a) Are provided at public expense, under public supervision and direction, and without charge;
(b) Meet the standards of the SEA, including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved;
and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Sec. 300.320 through 300.324.

Pursuant to IDEA §1415 (f)(3)(E)(ii), in matters alleging a procedural violation, a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies impeded the child's right to FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding provision of FAPE, or caused the child a deprivation of educational benefits. An IDEA claim is viable only if [DCPS'] procedural violations affected the student's substantive rights." *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006)

Pursuant to 5E DCMR 3030.14 the burden of proof is the responsibility of the party seeking relief. *Schaffer v. West*, 546 U.S. 49, 126 S.Ct. 528 (2005). However, under District of Columbia law, in this instance because Petitioners challenge Student's educational placement, Respondent DCPS held the burden of persuasion after Petitioner established a prima facie case. The normal standard is preponderance of the evidence. See, e.g. *N.G. V. District of Columbia* 556 F. Sup. 2d (D.D.C. 2008) see also 20 U.S.C. §1451 (i)(2)(C)(iii).

In *Board of Education v. Rowley*, the United States Supreme Court set forth a two-part inquiry for determining whether a school district has satisfied the FAPE requirement. First, the state must have "complied with the procedures set forth in the Act." *Rowley*, 458 U.S. at 206. Second, the IEP that is developed must be "reasonably calculated to enable the child to receive educational benefits." *Rowley*, 458 U.S. at 206-07. To be appropriate under 34 C.F.R. § 300.324, the IEP must consider the (i) strengths of the child; (ii) concerns of the parents; (iii) results of the initial or most recent evaluation; and (iv) academic, developmental, and functional needs of the child.

"The IEP is 'the centerpiece of the statute's education delivery system for disabled children.'" *Andrew F. ex rel. Joseph F. v. Douglas County Sch. Dist. RE-1*, 137 S. Ct. 988, 994, 197 L. Ed. 2d 335 (2017), quoting *Honig v. Doe*, 484 U.S. 305, 311, 108 S. Ct. 592, 98 L.Ed.2d 686 (1988). "The IEP is the means by which special education and related services are 'tailored to the unique needs' of a particular child." *Andrew F.*, 137 S. Ct. at 994, quoting *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 181, 102 S. Ct. 3034, 73 L. Ed. 2d 690 (1982).

In the case at hand, there has been no challenge to Student's IEP. Petitioners in this instance assert that if Student's placement does not remain School A, Student will lack an appropriate education placement where Student's IEP can be appropriately implemented and Student's unique needs met.

Pursuant section 38-2561.03 of the D.C. Code, an LEA cannot place a child with a disability in a nonpublic special education school or program that has "not received and maintained a valid [COA]" from OSSE, unless a court or impartial hearing officers orders placement.

Pursuant to subsections 38-2561.03(b)(2)(A) and (B), a hearing officer may only order placement at a nonpublic school without a COA if he determines that “(A) There is no public school or program able to provide the student with a free appropriate public education; and (B) There is no nonpublic special education school or program with a valid [COA] that meets the requirements of subsection (a)(2) of this section.”

Pursuant to Title 5A of the DCMR § 2800 , nonpublic special education schools may not accept placement of a D.C. student with a disability, “whose education is funded by the District of Columbia government unless it receives and maintains a [COA] issued by OSSE.” However, a due process hearing officer may order placement at a school without a COA, but “only in exceptional circumstances where the student, because of the student’s unique and highly specialized needs, cannot be served by a nonpublic special education school or program with a certificate of approval.”

Student’s LRE pursuant to Student’s IEP is a nonpublic special education school. The evidence demonstrates that DCPS has sent applications to several nonpublic schools with COAs. However, none of these schools have offered Student admission.

In addition, the evidence demonstrates that the non-public schools where either Student or Student’s parent visited were not appropriate for Student. Student’s visit to one the proposed schools resulted in Student becoming extremely distressed.

The evidence demonstrates that Student has specialized needs including a history of complex epilepsy that can lead to prolonged seizures. Student’s neurologist pointed out the risk associated with Student moving from School A to another school.

The evidence demonstrates that School A can provide Student a FAPE and implement Student’s IEP. Although School A may not offer foreign languages or D.C. History, as OSSE requires for its students on a diploma track, these are not requirements for Student’s Certificate of IEP track.

In viewing the uncontested facts, the preponderance of the evidence supports a conclusion that no other school with a COA can serve Student due to Student’s unique and highly specialized needs and that Student’s continued placement at School A is appropriate and warranted.

Accordingly, in the order below the Hearing Officer grants Petitioner’s motion and directs that DCPS place fund Student at School A for SY 2019-2020 and provide transportation services.

ORDER: ⁵

1. Petitioners’ Motion for Summary Judgment is hereby granted.
2. DCPS shall immediately place and fund Student at School A ([REDACTED]) for SY

⁵ Any delay in Respondent meeting the timelines of this Order that is the result of action or inaction by Petitioners shall extend the timelines on a day for day basis.

2019-2020 and provide Student transportation services.

3. The remaining issues alleged in the Petitioner's due process complaint as to DCPS are hereby dismissed with prejudice.⁶
4. All other relief requested by Petitioners in their due process complaint is denied.

APPEAL PROCESS:

The decision issued by the Hearing Officer is final, except that any party aggrieved by the findings and decision of the Hearing Officer shall have ninety (90) days from the date of the decision of the Hearing Officer to file a civil action with respect to the issues presented at the due process hearing in a District Court of the United States or a District of Columbia court of competent jurisdiction, as provided in 20 U.S.C. §1415(i)(2).

/S/ Coles B. Ruff

Coles B. Ruff, Esq.
Hearing Officer
Date: September 15, 2019

Copies to: Counsel for Petitioner
Counsel for LEA
OSSE-SPED {due.process@dc.gov}
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⁶ The issues that are dismissed with prejudice are as follows:

- (1) Whether DCPS discriminated against Student on the basis of Student's disability by failing to make a reasonable modification of its policies and practices and place Student at School A;
- (2) Whether DCPS denied Student a FAPE in an appropriate placement by failing to place Student at School A;
- (3) Whether DCPS denied Student a FAPE by failing to consider the harmful effects of Student leaving School A when selecting Student's least restrictive environment;
- (4) Whether DCPS denied Student a FAPE by failing to issue a prior written notice when it refused to place Student at School A after June 30, 2019;
- (5) Whether DCPS denied Student a FAPE by failing to implement Student's IEP by failing to place Student in an appropriate school by June 30, 2019.