

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

PARENT, on behalf of)	Date Issued: September 9, 2025
STUDENT, ¹)	
)	Hearing Officer: Peter B. Vaden
Petitioner,)	
v.)	Case No: 2025-0110
)	
DISTRICT OF COLUMBIA)	Online Videoconference Hearing
PUBLIC SCHOOLS,)	
)	Hearing Dates: August 28 and 29, 2025
Respondent.)	

HEARING OFFICER DETERMINATION

INTRODUCTION AND PROCEDURAL HISTORY

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by the Petitioner parent (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 Petitioner seeks compensatory education and other relief for her child (Student) from Respondent District of Columbia Public Schools (DCPS) on the grounds that DCPS allegedly denied Student a free appropriate public education (FAPE) in the 2024-2025 school year by not conducting an appropriate special education evaluation of the student, by failing to offer appropriate Individualized Education Programs (IEPs) for the 2024-2025 school year and by failing to propose a different location of services when Student failed to make expected progress at CITY SCHOOL 1.

¹ Personal identification information is provided in Appendix A.

Petitioner's Due Process Complaint, filed on June 30, 2025, named DCPS as Respondent. The undersigned hearing officer was appointed on July 1, 2025. The parties met for a Resolution Session Meeting on July 15, 2025 and did not resolve the issues in dispute. On July 15, 2025, I convened a telephone prehearing conference with counsel to discuss the issues to be determined, the hearing date and other matters. The final decision in this case is due by September 13, 2025.

With the parent's consent, the due process hearing was held online on August 28 and 29, 2025 and recorded by the hearing officer, using the Microsoft Teams videoconference platform. Mother appeared online for the hearing and was represented by PETITIONER'S COUNSEL. Respondent DCPS was represented by LEA REPRESENTATIVE and by DCPS' COUNSEL. Petitioner's Counsel and DCPS' Counsel made opening statements.

Mother testified and called as additional witnesses PRIVATE OCCUPATIONAL THERAPIST, EDUCATIONAL ADVOCATE 1 and EDUCATIONAL ADVOCATE 2. DCPS called as witnesses DCPS OCCUPATIONAL THERAPIST (DCPS OT) and LEA Representative. Petitioner's Exhibits P-1 through P-8, P-10 through P-18, P-20 through P-26, P-27 (pages 1 and 2 only), P-28 through P-30 and P-32 through P-40, including Exhibits P-20 and P-40 admitted over DCPS' objections. Petitioner withdrew Exhibits P-9, P-19 and P-41. DCPS' Exhibits R-1 through R-15, R-23, R-26, R-28 through R-61 and R-63 through R-68 were admitted into evidence. DCPS did not offer Exhibits R-16 through R-22, R-24, R-25, R-27 and R-62.

At the conclusion of Petitioner's case in chief, DCPS, by counsel, made an oral motion for a directed finding in its favor as to Issues 1 and 3. I took the motion under advisement. In light of my conclusions in this decision, I deny the motion for a directed finding. At the conclusion of the taking of evidence, counsel for the respective parties 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 5-A DCMR § 3049.1.

ISSUES AND RELIEF SOUGHT

The issues raised by Petitioner against DCPS are as follows:

1. Whether DCPS failed to develop an IEP for Student for the 2024–2025 school year that was tailored to the student's specific and foreseeable educational challenges—namely, significant health-related absenteeism caused by Sickle Cell Anemia, including a mechanism to ensure continuity of instruction during absences, such as homebound services, virtual learning options, asynchronous materials or academic recovery planning;
2. Whether DCPS denied the student a FAPE by failing to timely and comprehensively reevaluate Student in the 2024-2025 school year in light of the student's known academic and health-related needs;
3. Whether DCPS denied the student a FAPE by failing to consider a different location of services that could provide increased instructional flexibility, health accommodations, smaller student-to-staff ratios or embedded therapeutic supports, despite the student's declining academic performance, persistent health-related absences and increasing difficulty accessing the general education curriculum due to the effects of Sickle Cell Anemia.

For relief, the Petitioner requests that the hearing officer order DCPS as follows:

- a. DCPS shall fund an IEE Occupational Therapy evaluation for Student;

- b. DCPS shall timely convene the IEP team to review the results of the evaluations and update the student's IEP appropriately;
- c. DCPS shall timely convene the IEP team to review and discuss the appropriate placement for the student;
- d. DCPS shall provide the student with compensatory education for alleged denials of FAPE that have occurred as a result of delays in comprehensively evaluating the student.

At the start of the due process hearing, Petitioner, by counsel, withdrew a request that DCPS be ordered to conduct a physical therapy evaluation of Student.

FINDINGS OF FACT

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

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

Testimony of Mother.

2. Student is eligible for special education as a student having an Other Health Impairment (OHI) disability due to Sickle Cell disease. Exhibit R-34.
3. Student was diagnosed with Sickle Cell Anemia at one month old. He/she also has asthma and allergies. Student's health significantly impacted his/her school attendance, including prolonged absences during pre-kindergarten and kindergarten. Exhibit R-29.

4. Developmentally, Student was delayed in the areas of communication, fine motor and gross motor skills. He/she began receiving services as the age of 10 months through the Good Start program. A comprehensive psychological report was completed

for Student in November of 2017, when he/she was enrolled at a DCPS elementary school. According to the evaluator, based on the results of the Wechsler Individual Achievement Test, Third Edition, along with a comprehensive review of Student's medical history, academic performance, intervention progress, and classroom-based data, findings supported that Student met the disability criteria for a student with an Other Health Impairment (OHI). Exhibit R-29.

5. Student was reevaluated by DCPS in October 2023 with the Woodcock-Johnson Test of Achievement Fourth Edition (WJ IV ACH). Student's educational achievement scores were all Low or Very Low. According to the psychologist's report, academically, Student demonstrated weaknesses in reading, mathematics and written language and he/she continued to meet the criteria for Other Health Impairment (OHI). Exhibit R-29. Student did not receive a psychological reevaluation, that included a cognitive reassessment, until spring 2025. Testimony of Educational Advocate 1.

6. For the 2023-2024 and 2024-2025 school years, Student was enrolled in City School 1. In the 2024-2025 school year, Student had a history of frequent absences due to illness. Exhibit R-29, Testimony of Mother.

7. Student's October 31, 2023 City School IEP identified Reading, Written Expression and Mathematics as goal areas. This IEP provided for Student to receive 5 hours per week of Specialized Instruction inside general education and 8.5 hours per week of special education, outside general education, divided between Reading and

Math. Exhibit R-5. As of June 4, 2024, Student was reported to be progressing on, or to have mastered, all IEP goals. Exhibit R-13.

8. Student's IEP team met for an annual IEP review on May 7, 2024. The May 7, 2024 IEP, as amended on June 4, 2024 (the May 7, 2024 IEP), identified Reading, Written Expression and Mathematics as goal areas. For Student's Special Education Services, this IEP provided for 5 hours per week, inside general education. for math and 8.5 hours per week of Specialized Instruction outside general education, divided between Reading and Written Expression. Exhibit P-8. At the May 7, 2024 IEP meeting, the parent requested a different classroom assignment for Student based on feedback from teachers regarding Student's difficulty focusing when in the presence of other students who may be off task. The IEP team sent mother information via email regarding scheduling for the 2024-2025 school year. Exhibit R-23.

9. In the May 7, 2024 IEP, for present levels of performance, it was reported that in the vocabulary domain, by offering targeted instruction and consistent practice, Student would substantially improve his/her vocabulary skills, which in turn would enhance his/her ability to comprehend texts and engage in deeper levels of reading. On the October 2023 Reading Inventory, Student's results revealed that he/she possessed a strong command of vocabulary and syntax and was capable of reading texts that offered suitable levels of challenge. Student was facing challenges in various areas of writing. He/she struggled with sentence fluency, remaining on topic, conventions and vocabulary and was performing significantly below grade level expectations. According

to the September 2023 iReady Diagnostics results for math, Student achieved an overall Level 2, indicating that Student was achieving multiple grade levels behind his/her nondisabled peers. However, overall, Student was fairly motivated to achieve a high grade, and was typically able to complete most class assignments in order receive a passing grade. Exhibit P-7.

10. In August 2024, Student started school normally. Student was present in school “like every other child.” Student started to get sick in September 2024 and missing days here and there. This became a real problem in late September. In October 2023, Student was found to have gall stones for which physicians first attempted non-surgical treatments in October and November. Student lost control of his/her bladder and was also in pain. He/she missed a lot of school. At the end of November, the physicians decided Student would require surgery to remove his/her gall bladder. Student had the surgery on December 6, 2024 and was hospitalized for 12 days. Student was not able to return to school until early January 2025. Testimony of Mother.

11. In the fall of 2024, Student was absent from City School 1 for 6 days in September, 20 days in October, 15 days in November and 4 days in December. Exhibit P-32.

12. On September 20, 2024, LEA Representative sent an email to Student’s school team and Mother to make everyone aware of Student’s IEP, medical condition and specific class needs. Exhibit R-1.

13. On October 3, 2024, LEA Representative emailed to Mother Student’s

missing assignments while he/she was out on medical leave. On October 21, 2024, LEA Representative emailed Mother to ask if she would be interested in in Home and Hospital Instructional Program (HHIP) services for Student due to his/her being out on medical leave. On October 22, 2024, LEA Representative emailed an HHIP form to Mother to complete. On October 30, 2024, City School 1 held a meeting to determine whether Student qualified for HHIP services. Student's health care providers attended. Mother did not appear, The medical team stated that Student should attend school with accommodations, but may need to attend only partially due to chronic pain. Exhibit R-1.

14. On November 6, 2024, Mother returned a call to LEA Representative. Mother stated that Student was very ill and could not attend school at the time. She stated that she did not agree with the decision for Student to come to school. Exhibit R-1.

15. Student's gall bladder surgery was scheduled for December 6, 2024. On December 3, 2024, there was a meeting at which Student's City School 1 educators discussed Student's upcoming surgery and plans to support him/her during recovery. Mother could not be reached for the meeting and the team put the plan on hold until they could reach Mother. Exhibit R-1.

16. On December 9, 2024, LEA Representative sent an email to advise Mother that Student had been approved for HHIP services from December 6 to December 20, 2024. Student was not provided education services while he/she was hospitalized.

Although Mother testified that HHIP home services were only provided late in the school year for two hours total, I find that the hearing evidence established that LEA Representative provided virtual instruction services to Student in two 2-hour sessions on December 16 and December 19, 2024. Exhibit R-1, Testimony of LEA Representative.

17. The DCPS winter break ran from December 23, 2024 through January 1, 2025. Hearing Officer Notice. Mother testified that Student returned to school at the end of the winter break, but the DCPS Student Attendance History indicates that Student had unexcused absences through January 10, 2025. Exhibit P-32.

18. Student's grades in core courses for the first term of the 2024-2025 school year were all F's except for a C- in American Studies. For the second term, Student received a C in English and F's in Math, Science and American Studies. Exhibit P-16.

19. On January 22, 2025, Case Manager emailed Mother and her attorney to propose an Analysis of Existing Data (AED) meeting for February 11, 2025. Exhibit R-1.

20. On January 23, 2025, the parent requested that Student be reevaluated for special education needs. Exhibit R-26, Testimony of LEA Representative. On January 24, 2025, DCPS sent Mother a Letter of Invitation (LOI) for an AED meeting set for February 4, 2025. The LOI stated that the purpose of the meeting was to discuss Student's educational needs Exhibit R-38. The AED meeting was rescheduled for February 21, 2025. Mother, Petitioner's Counsel and Educational Advocate attended. Due to "connectivity issues," the meeting was cut short and had to be rescheduled to

March 4, 2025. Exhibit R-1.

21. On February 27, 2025, Educational Advocate 2 send DCPS a letter of concern on behalf of Student. Educational Advocate 2 wrote to object to DCPS' alleged failures to meet Student's needs, including, *inter alia*, DCPS' failure to provide staff training on Student's sickle cell disease, failure to provide a transition plan from hospital to campus, failure to provide a change of placement and services when Student was ill at home, failure to provide an individualized health care and emergency plan, and failure to intervene with additional services when sufficient academic progress was not made. Educational Advocate also wrote that DCPS had not conducted a comprehensive reevaluation of Student for several years even though there had been substantial changes in Student's medical condition, academic performance and placement needs. Exhibit P-28.

22. Student's City School 1 IEP team met again on March 4, 2025. At the meeting, DCPS proposed to reevaluate Student, as well to facilitate school staff training on Sickle Cell disease, provide Student unrestricted access to the nurse, and arrange for teachers to meet with Student to address missed learning and converting his/her failing grades to incomplete following a reduced workload accommodation. Exhibit P-21.

23. In April 2025, a DCPS psychologist conducted a comprehensive psychological evaluation of Student. The psychologist reported, *inter alia*, that cognitive testing revealed that Student demonstrated strengths in memory and processing speed, meaning he/she can remember information and work at a typical pace

when tasks are clear and structured. However, he/she had difficulty with verbal reasoning and problem-solving, especially when tasks involve a lot of language or abstract thinking. In Reading, Student showed relative strengths in basic skills like phonics and decoding, with scores in the Average to Low Average range. However, his/her reading fluency and comprehension fell in the Low Average to Low range, suggesting that he/she may benefit from additional time, support with understanding reading passages, and instruction that builds speed and accuracy. In Mathematics, Student demonstrated significant difficulty, with scores across most areas falling in the Very Low to Low range. In Written Expression, Student's skills fell in the Low Average range. He/she demonstrated difficulty with spelling and sentence writing under time constraints. Socially, teacher ratings of Student on the Behavior Assessment Scale for Children-3rd Edition (BASC-3) indicated Clinically Significant range for Internalizing Problems, especially Somatization, which could reflect emotional stress or symptoms related to Sickle Cell. Student also showed Clinically Significant Learning Problems and was At-Risk for Externalizing Behaviors and Adaptive Skills, including challenges with social skills, adaptability, and study habits. Student showed Average scores in Behavioral Symptoms and Functional Communication. The psychologist noted that Student's health challenges, related to Sickle Cell disease, had significantly impacted his/her school attendance, and that the frequent absences had disrupted academic progress and limited his/her access to consistent instruction and individualized support, both of which are critical given Student's learning profile. While

Student's absences resulted in missed learning opportunities, they are directly related to his/her chronic illness, which makes it more difficult for Student to keep up with schoolwork. Exhibit R-29.

24. DCPS OT conducted an occupational therapy (OT) evaluation of Student in April 2025. DCPS OT found that Student needed considerable accommodations and supports in the classroom, but that occupational therapy related services were not appropriate for Student. Testimony of DCPS OT.

25. On May 23, 2025, the City School 1 multidisciplinary team (MDT) determined that Student continued to be eligible for special education as a student with an Other Health Impairment (OHI). The MDT determined that Student's OHI disability impacted his/her participation in the general education curriculum in Mathematics, Reading, Written Expression and Emotional, Social and Behavioral Development. Exhibit R-35.

26. On June 11, 2025, City School 1 convened an IEP annual review meeting for Student. IEP goals were included for Emotional, Social and Behavioral Development, Reading, Mathematics and Written Expression. For Special Education Services, the June 11, 2025 IEP provided for Student to receive 7.5 hours per week of Special Education Services, all outside general education, including 3.5 hours for Math, 3.5 hours for Reading and 30 minutes for Written Expression. The IEP also provides for 1 hour per month of Behavioral Support consultation services. Exhibit P-10. (The appropriateness of the June 11, 2025 IEP is not at issue in this proceeding.)

27. As of June 9, 2025, Student had accrued a total of 84 absences for the school year, of which 21 were excused. Exhibit P-24.

28. For the current, 2025-2026, school year, Student matriculated to high school. In the current school year, Student physically is “OK.” Emotionally, he/she is not. Testimony of Mother.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact and argument of counsel, as well as this hearing officer’s 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 must be met by a preponderance of the evidence. *See* D.C. Code § 38-2571.03(6).

ANALYSIS

– Did DCPS fail to develop an IEP for Student for the 2024–2025 school year that was tailored to the student’s specific and foreseeable educational

challenges—namely, significant health-related absenteeism caused by Sickle Cell Anemia, including a mechanism to ensure continuity of instruction during absences, such as homebound services, virtual learning options, asynchronous materials or academic recovery planning?

– Did DCPS deny Student a FAPE by failing to consider a different location of services that could provide increased instructional flexibility, health accommodations, smaller student-to-staff ratios or embedded therapeutic supports, despite the student’s declining academic performance, persistent health-related absences, and increasing difficulty accessing the general education curriculum due to the effects of Sickle Cell Anemia?

The focus of the parent’s complaint in this case appears to be that DCPS allegedly failed to respond appropriately to Student’s educational decline and chronic absenteeism in the 2024-2025 school year, resulting from severe health complications related to Sickle Cell disease. Student was diagnosed with Sickle Cell disease when an infant and this condition underlies his/her eligibility for special education as a student with an Other Health Impairment. Petitioner alleges that DCPS failed to develop an appropriate IEP for the 2024-2025 school year tailored to Student’s “foreseeable” significant absenteeism caused by Sickle Cell Anemia and failed to consider a different location of services to address Student’s absenteeism and declining educational performance allegedly caused by his/her Sickle Cell disease.

Student’s IEP for the 2024-2025 school year was developed by City School 1 on May 7, 2024 and amended on June 4, 2024 (the May 7, 2024 IEP). This IEP provided for Student to receive Special Education Services for 13.5 hours per week, including 5 hours for math inside general education and 8.5 hours per week, divided between Reading and Written Expression, outside general education.

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.

Petitioner has not alleged a procedural violation with respect to the May 7, 2024 IEP. Therefore, I turn to the second prong of the *Rowley* inquiry. Was the May 7, 2024 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). An IEP must be evaluated as of the time it was developed. *See, e.g., Z. B. v. District of Columbia*, 888 F.3d 515, 524 (D.C. Cir. 2018) (Standard calls for evaluating an IEP as of the time IEP was created.)

The only evidence offered by Petitioner regarding the alleged inappropriateness of the May 7, 2024 IEP, as of the time it was developed, was Educational Advocate 2's testimony that there was not sufficient progress being seen in Student's reading because the May 7, 2024 IEP indicated that he/she still needed targeted instruction. This expert did not address the appropriateness of the IEP overall or the adequacy of the IEP goals,

special education services and accommodations, or educational placement. I did not find her testimony probative as to the initial appropriateness of the May 7, 2024 IEP.

Nor was it established that at the time the May 7, 2024 IEP was developed, Student was expected to incur significant health-related absenteeism caused by Sickle Cell Anemia. Mother testified that Student started the 2024-2025 school year normally, “like every other child.” She explained that Student started getting sick in September 2024 due to gall stones and was missing school days here and there. Assuming that the gall stones were a complication of Student’s Sickle Cell disease, there was no probative evidence that Student’s gall stone disease related absences were foreseeable at the time the May 7, 2024 IEP was developed.

I find that Petitioner failed to make a *prima facie* case that the May 7, 2024 IEP, as amended on June 4, 2024, *as of the time it was developed*, was not reasonably calculated to enable Student to make appropriate progress. *See, e.g., W.S. v. District of Columbia*, 502 F. Supp. 3d 102 (D.D.C. 2020) (“In determining the sufficiency of a *prima facie* case, . . . a hearing officer must determine whether, after considering all of a plaintiff’s evidence, a reasonable trier of fact could find in favor of the plaintiff.” *Id.* at 121.)

The parent also contends that when Student’s academic performance declined with his/her frequent health-related absences from school in the 2024-2025 school year, DCPS denied Student a FAPE by not considering a different location of services for Student, with increased instructional flexibility, health accommodations, smaller student-to-staff ratios or embedded therapeutic supports. It is problematic that

Petitioner frames this claim as a location of services issue because there was no evidence at the due process hearing that City School 1 was not capable of implementing Student's IEP. *See, e.g., B.D. v. District of Columbia*, No. CV 15-1139 (RJL), 2021 WL 6049879, at *9 (D.D.C. Dec. 21, 2021) (So long as the location of services is based on and capable of implementing the student's IEP, local educational agencies generally have discretion in selecting the appropriate site.)

Arguably, implicit in Petitioner's location of services issue is a claim that DCPS denied Student a FAPE by failing to consider a different location of services, such as homebound services, in response to Student's persistent health-related absences in the fall of 2024. That fall, Student was absent from City School for 6 days in September, 20 days in October, 15 days in November and 4 days in December. Unsurprisingly, Student's grades for the first term of the 2024-2025 school year were mostly F's. According to Mother's testimony, Student's absences were due to his/her gall stone disease. DCPS OT opined in his testimony that work avoidance was a factor. According to DCPS OT, Student exhibited work avoidance behaviors and when challenged at school, Student lacked persistence and staying with teachers and materials.

Whether Student's chronic absenteeism in fall 2024 was largely health-related or due also to work avoidance, his/her gall stone related illness and chronic absenteeism were new information regarding Student which Student's IEP team needed to address. The IDEA requires that a local education agency (LEA) ensure that the IEP team reviews each student's IEP, and revises the program, as appropriate, to address, *inter alia*, any

lack of expected progress, information provided by the parent and the child’s anticipated needs. *See* 34 C.F.R. § 300.324(b)(1). Because the IEP must be “tailored to the unique needs” of each child, *Bd. of Educ. v. Rowley*, 458 U.S. 176, 181, 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982), it must be regularly revised in response to new information regarding the child’s performance, behavior, and disabilities. *D.S. v. District of Columbia*, 699 F. Supp. 2d 229, 234 (D.D.C. 2010).

In a case with comparable facts, *Springfield Sch. Comm. v. Doe*, 623 F. Supp. 2d 150 (D. Mass. 2009), the U.S. District Court found that where the student had been truant for over 30 days in two months, the hearing officer had regulatory justification for concluding that, given the totality of circumstances, the LEA ought to have at least considered reconvening the child’s IEP team. “Plaintiff’s failure to respond to [the student’s] chronic truancy within the context of his IEP was reason enough for the hearing officer to conclude that he had been denied a FAPE.” *Id.* at 161–62. *Cf. Gaston v. District of Columbia*, No. CV 18-1703 (RJL), 2019 WL 3557246 (D.D.C. Aug. 5, 2019) (“From B.G.’s initial IEP in March 2017 to the December 2017 team meeting, B.G. had shown a consistent and troubling decline in academic and behavioral performance. . . . While a wait-and-see approach may have been defensible in October 2017, by December it was evident that B.G. needed more than tinkering at the margins of her weekly specialized instruction time.” *Id.* at *6.)

The IDEA does not specify a time period within which an IEP team must review an IEP based on new information (outside of the annual IEP review). In an analogous

analysis of timeliness for a parent-requested special education reevaluation, the U.S. District Court for the District of Columbia decided that in light of the lack of statutory guidance, an LEA must conduct a special education reevaluation, when requested by a parent, in a “reasonable period of time,” or “without undue delay,” as determined in each individual case. *See Herbin ex rel. Herbin v. District of Columbia*, 362 F.Supp.2d 254, 259 (D.D.C.2005). I conclude that, in response to new information about the child’s needs, an LEA must likewise ensure that the child’s IEP is reviewed, and revised when appropriate, within a reasonable period of time or without undue delay.

In this case, Student’s school attendance plummeted in October 2024. From December 6, 2024 through the end of the 2024-2025 winter break, Student was absent from school for gall bladder surgery. Beginning January 22, 2025, DCPS attempted to schedule an IEP team meeting to discuss Student’s educational needs. However on January 23, 2025, the parent requested that Student be reevaluated. Student was assessed for the reevaluation in April and May 2025 and his/her eligibility was confirmed on May 23, 2025. DCPS completed Student’s IEP review and revision on June 11, 2025. Considering the need for City School 1 to hold an AED meeting prior to reevaluating Student and allowing time to complete the reevaluation after obtaining the parent’s consent, I find that the parent has not established that DCPS’ failure to complete Student’s IEP revision until June 11, 2025 constituted an unreasonable period of time or undue delay.

Petitioner's expert, Educational Advocate 2 also opined that Student should have been considered for homebound services in the fall of 2024. In a 2020 policy document the U.S. Department of Education state,

It has long been the Department's position that when a child with a disability is classified as needing homebound instruction because of a medical problem, as ordered by a physician, and is home for an extended period of time (generally more than 10 consecutive school days), an individualized education program (IEP) meeting is necessary to change the child's placement and the contents of the child's IEP, if warranted.

U.S. Department of Education, *Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak*, 76 IDELR 77, 120 LRP 9718 (March 12, 2020). In the present case, Petitioner offered no evidence that a physician ordered homebound instruction for Student in fall 2024.

Student was approved by DCPS for Home and Hospital Instructional Program (HHIP) services when he/she was hospitalized in December 2024 for gall bladder surgery. The District of Columbia Municipal Regulations (DCMR), 5A DCMR § 3024, provide, regarding Home and Hospital Instruction Required for FAPE:

1. Home instruction and hospital instruction are placements provided to a child with a disability if the IEP Team determines that the child cannot receive educational benefit in a less restrictive setting.
2. A child with a disability may be placed in home or hospital instruction only if the IEP team determines that the child cannot receive an educational benefit in a less restrictive setting.
3. The IEP Team shall document in the child's IEP:
 - (a) The determination of placement in home or hospital instruction; and

(b) The type of educational services to be provided in the home or hospital, based on the child's needs.

4. The LEA shall ensure that children with disabilities placed in home or hospital instruction receive timely notice of extracurricular activities and are permitted to participate in extracurricular activities to the extent they are able to do so.

Id. An LEA shall begin delivering home or hospital instruction no later than 5 school days following an approval of an application for home or hospital instruction. D.C. Code § 38-251.06(a).

On October 30, 2024, City School 1 held an initial meeting to determine whether Student qualified for HHIP services. Student's health care providers attended. Mother did not appear. The medical team stated that Student should attend school with accommodations, but may need to attend only partially due to chronic pain. At that point it was not determined that Student could not receive an educational benefit in a less restrictive setting than the HHIP program.

Student was hospitalized for gall bladder surgery on or about December 6, 2024 and did not return to school until the end of winter break. On December 9, 2024, LEA Representative emailed Mother to advise her that Student had been approved for HHIP. On December 16 and December 19, 2024, LEA Representative provided HHIP virtual instruction services to Student in 2-hour sessions for a total of 4 hours. DCPS schools were closed for winter break from December 23, 2024 through January 1, 2025.

It appears that Student missed approximately 11 school days, including approximately 30 hours of special education services, due to his/her hospitalization for

gall bladder surgery and recuperation. I find that DCPS' provision of only 4 hours of HHIP services to Student during this period cannot be considered appropriate educational services, based on Student's needs. *See* 5A DCMR § 3024(3).² Otherwise, Petitioner did not meet her burden of persuasion that DCPS denied Student a FAPE by failing to consider a different location of services (or other IEP revisions) because of Student's Sickle Cell disease related medical problems.

– Did DCPS deny the student a FAPE by failing to timely and comprehensively reevaluate Student in the 2024-2025 school year in light of the student's known academic and health-related needs?

Upon the parent's January 24, 2025 request, DCPS completed a reevaluation of Student for special education in May 2025. Student had been previously reevaluated in October 2023 and his/her continued eligibility for special education as a student with an Other Health Impairment was confirmed. Petitioner alleges that DCPS denied Student a FAPE because it did not reevaluate him/her earlier in the 2024-2025 school year in light of Student's health-related needs and academic decline. I disagree.

The IDEA requires that an LEA must conduct a special education reevaluation if the LEA determines that the educational or related services needs of the student child warrant a reevaluation or if the student's parent or teacher requests a reevaluation.

Reevaluations must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary. *See* 34 C.F.R. § 300.303 (a), (b).

² The District of Columbia regulations specify that the child's IEP team shall determine the type of HHIP services the child needs. *See* 5A DCMR § 3024(3). Under the facts and timing in this case, it appears that convening Student's IEP team to make such a determination at the time of his/her hospitalization would have been impracticable.

Student's triennial reevaluation was not due until October 2026. There was no evidence the parent or a teacher requested an earlier reevaluation until the parent's request in January 2025. After receiving that request, DCPS proceeded to hold an AED meeting for Student and obtain parental consent. DCPS completed Student's reevaluation on May 23, 2025. The parent offered no evidence that the reevaluation process was unreasonably delayed.

Petitioner's expert, Educational Advocate 1, opined that an eligibility evaluation should include cognitive, educational achievement and social-emotional assessments at minimum. Cognitive and social-emotional assessments were included in DCPS comprehensive psychological evaluation conducted for Student's spring 2025 reevaluation. It appears that the only formal evaluation instrument used for DCPS' October 2023 triennial reevaluation of Student was the WJ-IV educational achievement test. However, whether the October 2023 triennial reevaluation of Student was appropriate or sufficiently comprehensive is not an issue before the hearing officer.

For relief in this case, Petitioner sought, *inter alia*, an order for DCPS to fund an Independent Educational Evaluation (IEE) Occupational Therapy evaluation for Student. The IDEA regulations provide parents with a limited right to obtain an IEE at public expense. The limited right arises only after the LEA has procured an evaluation with which the parent disagrees. *See* 34 C.F.R. § 300.502(b). Although the parent's occupational therapy (OT) expert, Private Occupational Therapist disagreed with the June 11, 2025 IEP team's decision not to provide IEP OT services to Student, there was

no evidence that this expert or the parent disagreed with the May 16, 2025 OT evaluation conducted by DCPS OT. The parent is not entitled to public funding for an IEE OT evaluation. I conclude that Petitioner has not met her burden of persuasion that DCPS denied Student a FAPE by failing to timely and comprehensively reevaluate him/her in the 2024-2025 school year.

Compensatory Education

In this decision, I have found that DCPS denied Student a FAPE by providing only 4 hours of HHIP services to Student during the 11 school day period that Student was absent from school for gall bladder surgery and recuperation. For relief, the parent seeks a compensatory education award. When a hearing officer finds a denial of FAPE he has “broad discretion to fashion an appropriate remedy, which can go beyond prospectively providing a FAPE, and can include compensatory education. . . . [A]n award of compensatory education must be reasonably calculated to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place.” *B.D. v. District of Columbia*, 817 F.3d 792, 797-98 (D.C. Cir. 2016) (internal quotations and citations omitted.)

In her compensatory education plan (Exhibit P-39), Petitioner’s expert, Educational Advocate 2 recommends that Student be awarded *inter alia*, 72 hours of tutoring as compensatory education for DCPS’ alleged failure to provide Student an appropriate location of services for the 2024-2025 school year. This recommendation was premised on the witness’ assumption that there were 181 days of harm. However, in

this decision, I have found that the only denial of FAPE established by the parent, inadequate HHIP services, occurred over an 11 school day period, following Student's hospitalization for gall bladder surgery in December 2024. DCPS provided 2 hours of HHIP services on two days during the 11-day period. In my discretion as the hearing officer for this case, I will order DCPS to provide Student tutoring as compensation for the remaining 9 schools days that Student was absent, based on the 2 hours per day HHIP formula. That is, I will award Student 18 hours of compensatory education tutoring.

ORDER

1. As compensatory education for the denial of FAPE found in this decision, DCPS shall promptly issue funding authorization to the parent for Student to receive 18 hours of 1:1 independent academic tutoring by an instructor experienced with working with students with disabilities. If transportation is needed for the child to meet with the tutor, DCPS shall fund the parent's transportation costs in accordance with OSSE regulations.
2. All other relief requested by the Petitioner herein is denied.

Date: September 9, 2025

s/ Peter B. Vaden
Hearing Officer

Hearing Officer Contact Information:

Peter B. Vaden
Peter.Vaden@dc.gov
Telephone: 434-923-4044

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