

**District of Columbia
Office of the State Superintendent of Education**

Office of Dispute Resolution
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OSSE
Office of Dispute Resolution
September 19, 2025

Confidential

Parent on behalf of Student,¹)	Case Nos. 2025-0109
)	
Petitioner)	Hearing Dates: September 11-12, 2025
)	
v.)	Conducted by Video Conference
)	Date Issued: September 19, 2025
District of Columbia Public Schools,)	
)	Terry Michael Banks,
Respondent)	Hearing Officer

HEARING OFFICER DETERMINATION

INTRODUCTION

Petitioner is the parent of an X-year-old student (“Student”) attending School C. On June 30, 2025, Petitioner filed a due process complaint notice (“*Complaint*”) alleging that the District of Columbia Public Schools (“DCPS”) denied Student a free appropriate public education (“FAPE”) by failing to comply with its child find² obligations to Student. On July 7, 2025, DCPS filed *District of Columbia Public Schools’ Response to Petitioner’s Administrative Due Process Complaint* (“*Response*”), denying that it had denied Student a FAPE in any way.

SUBJECT MATTER JURISDICTION

This due process hearing was held, and a decision in this matter is being rendered, pursuant to the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. Section 1400 *et seq.*, its regulations, 34 C.F.R. Section 300 *et seq.*, Title 38 of the D.C. Code, Subtitle VII, Chapter 25, and the District of Columbia Municipal Regulations, Title 5-A, Chapter 30.

¹ Personally identifiable information is attached in the Appendix and must be removed prior to public distribution.

² 34 C.F.R. § 300.111.

PROCEDURAL HISTORY

On June 30, 2025, Petitioner filed the *Complaint* alleging, *inter alia*, that Respondent failed to comply with its child find obligations to Student when it did not honor Petitioner's March 14, 2024 request that Student be evaluated to determine his/her eligibility for special education services and did not honor a subsequent request by her attorney on April 28, 2025. On July 7, 2025, Respondent filed its *Response* to the *Complaint*. DCPS denied having received a request for evaluations of Student in 2024. DCPS asserted that Student was initially referred for evaluations in late April 2025. After an Analysis of Existing Data ("AED") meeting on May 29, 2025, DCPS determined it would not proceed with formal assessment/evaluation procedures based on numerous data points and information about the student. Though behavior concerns were discussed and some were agreed upon, they did not rise to the level of requiring formal assessment for educational purposes nor that the student would need specialized instruction to address them. DCPS denied knowledge of self-harm by Student. DCPS also asserted that Student's grades were "very good" and that s/he was reading at a level three grades above her/his current grade level. Thus, "[S/he] does not present with a suspected disability in the educational setting that would require special education."

The parties participated in a resolution meeting on July 17, 2025 that did not result in a settlement. A prehearing conference in this case took place by video conference on July 29, 2025. The *Prehearing Order* was issued that day. An *Amended Prehearing Order* was issued on August 27, 2025 when the parties agreed to a change in the hearing dates.

The due process hearing was conducted on September 11-12, 2025 by video conference facilities. The hearing was open to the public at Petitioner's request. Petitioner filed Five-day Disclosures on September 4, 2025 containing a witness list of four witnesses and 23 documents. On September 9, 2025, Respondent filed objections to Petitioner's disclosures. Respondent objected to Petitioner's Exhibit 13 on grounds of relevance and Exhibits 8, 12, 18, 21, and 23 on grounds of foundation. Petitioners' Exhibits P1-P20 and P22-23 were admitted into evidence.

Respondent also filed Disclosures dated September 4, 2025 containing a witness list of seven witnesses and 24 documents. Petitioner did not file objections to Respondent's disclosures. Respondent's Exhibits R1-R24 were admitted into evidence.

Petitioner presented as witnesses in chronological order: Witness A, Petitioner, and Student. Witness A was admitted as an expert in special education. Respondent presented as witnesses in chronological order: Witness B, Witness C, Witness D, and Witness E. Witness B was admitted as expert in school psychology and Witness E was admitted an expert in special education. At the conclusion of testimony, the parties' counsel gave oral closing arguments.

ISSUES

As identified in the *Complaint* and the *Amended Prehearing Order*, the issue to be determined in this case is as follows: whether DCPS denied Student a FAPE by failing to comply with its child find obligations to Student. Specifically, Petitioner asserts that she requested initial evaluations on March 14, 2024 because Student “has some behavior issues (distractions) and [s/he] has a brother who is autistic, and his neuropsychologist recommended we have [him/her] tested in school first,” but DCPS failed to conduct evaluations of Student. Petitioner further asserts that when Student’s academic performance deteriorated during the 2024-25 school year, her attorney renewed the request for initial evaluations on April 28, 2025. DCPS convened an Analysis of Existing Data (“AED”) meeting on May 29, 2025, but ultimately declined to conduct evaluations.

FINDINGS OF FACT³

1. Student is an X-year-old⁴ student who attended School B for grade L during the 2024-25 school year.⁵ Student is enrolled at School C for the 2025-26 school year.⁶

2. On November 20, 2023, when Student was in grade B at School A, DCPS issued Student’s Term 1 report card. His/her grades were as follows: Science – B, Orchestra – B+. World History & Geography – B+, Math – A, Health & Physical Education – B, Spanish Humanities – B, English – A, and Exploratory Spanish – A.⁷ On a January 13, 2023 Scholastic Reading Inventory (“SRI”), Student’s lexile score of 1203 reflected performance at a grade P level, four grades above his/her grade level.⁸ Student was on the school’s Honor Roll for Term 1.⁹

3. On March 14, 2024, Petitioner provided a letter to School A requesting that Student be tested because “[s/he] has some behavior issues (distractions) and [s/he] has a brother whom is autistic and his neuropsychologist recommended we have [her/him] tested in school first.”¹⁰ At 5:33 p.m. that day, Teacher A acknowledged receipt of the letter and indicated that she had forwarded it to the school’s Director of Specialized Instruction.¹¹ At 6:07 p.m. that day, Staff Member A notified Petitioner as follows:

... [i]t is important to note that if a parent suspects that their child has a learning disability, the student will have to go through the MTSS process, which involves different tiers prior of evaluation. I would be happy to meet with you to discuss the

³ The Findings of Fact includes all of the oral and written evidence that I considered material in rendering the decision in this matter. The quotations of oral testimony are from my notes during the hearing, not the transcript.

⁴ Petitioner’s Exhibit (“P:”) 1 at page 6. The exhibit number is followed by the digital page number, e.g. P1:6.

⁵ Respondent’s Exhibit (“R:”) 1 at page 35. The exhibit number is followed by the digital page number, e.g. R6:35.

⁶ Testimony of Petitioner.

⁷ P15:88-89.

⁸ *Id.* at 90.

⁹ P16:92.

¹⁰ P8:53.

¹¹ P9:56.

current academic data that you have, but if any tiers have already been documented, [School Psychologist A] will inform me.¹²

On March 15, 2024, School Psychologist A replied to Petitioner that Student's academic performance did not warrant initial evaluations for suspected disability:

I wanted to add that I had a moment to look at [Student's] records and [s/he] is doing well in school and there are no documented concerns in math or reading. Unfortunately, as a school psychologist we only do evaluations for children who are academically behind and require special education to catch up to grade level expectations. We also do not perform formal Autism assessments as we do not have the testing batteries.

Should you have concerns for [Student] regarding Autism, I highly recommend you make an appointment with a developmental pediatrician who can administer the ADOS.¹³

4. In April 2024, Student earned membership in School A's National Junior Honor Society.¹⁴

5. During the 2023-24 school year, earned the following final grades with teacher comments in parentheses where provided: A's or A-'s in every subject: Science (Pleasure to have in the class. Excellent behavior. Excellent initiative), Orchestra, World History & Geography (Pleasure to have in the class. Excellent behavior. Excellent initiative), Math, Health & Physical Education (Excellent behavior. Pleasure to have in the class), Spanish Humanities (Pleasure to have in the class), English (Pleasure to have in the class), and Exploratory Spanish. Student's report card indicated that on January 13, 2023, when s/he was in grade G, his/her Scholastic Reading Inventory ("SRI") score of 1203 was at a grade P level, five grades above his/her grade level.¹⁵ Student's end-of-year ("EOY") i-Ready Math assessment score of 498 was in the 43rd percentile.¹⁶ His/her May 29, 2024 HMH Reading Inventory score of 1303 was Advanced.¹⁷

6. On April 28, 2025, Attorney A, Petitioner's counsel, requested that Student be administered the following evaluations "as a result of the student's ongoing academic and behavioral challenges:" comprehensive psychological and a functional behavior assessment ("FBA").¹⁸

7. On April 30, 2025, DCPS issued Student's report card for the third term 2024-25 school year. His/her third term grades with teacher comments where provided are as follows: A- in Orchestra, A in American Studies (Final grade), A- in Health & Physical Education (Final Grade), A in Middle School Literacy Enrichment (Pleasure to have in class), A in Advisory, B in

¹² *Id.* at 55.

¹³ *Id.*

¹⁴ P17:94.

¹⁵ R12:65-66.

¹⁶ R5:26.

¹⁷ *Id.* at 28.

¹⁸ P10:59.

U.S. History (Pleasure to have in the class. Excellent initiative), B+ in English, C in Math., and C- in Forensic Science.¹⁹ Student's Math grade was significantly affected by his/her failure to turn in assignments. Throughout the year, s/he had a B average on tests, and an A average in "Engagement" (classroom participation), but earned term grades of C-, C, F, and F in Practice and Application, which was related to turning in assignments.²⁰ Student's January 2, 2025 Reading MAP score of 236 was at the 82nd percentile.²¹

8. On May 9, 2025, DCPS issued a PWN that acknowledged receipt of the referral from Attorney A and stated its intention "to begin an initial evaluation of [Student], effective 5/9/2025, and will review various educational data and convene an IEP Team including the parent/guardian or adult student to determine whether they are a student with a disability who qualifies for specialized instruction and related services under IDEA." The PWN also indicated DCPS' intention to initiate the Multi-tiered System of Support ("MTSS") process.²²

9. On May 29, 2025, DCPS conducted an AED meeting in response to Attorney A's referral. The Student Background Information reported that Student can often be seen napping in class, appear to be disengaged, and need prompting from teachers to remain on-task. However, s/he was described as a student who can quickly apply skills s/he has learned.²³ In Mathematics, it was reported that on a January 16, 2025 i-Ready Math assessment, Student's score of 515 indicated a grade B performance level, one grade level below Student's grade. S/he scored at grade level in Number and Operations and in Algebra and Algebraic Thinking, and at the grade B level in Measurement and Data, and Geometry. Student's Math teacher, Teacher B, reported that Student was approaching mastery of grade level concepts. "[Teacher B] adds that [s/he] is fairly capable and once shown a mathematical concept or pattern, [s/he] is able to pick it up."²⁴ In Reading, on the latest MAP Reading assessment, Student's score of 236 was in the 82nd percentile and at a grade P reading level, three grades above his/her grade.²⁵ In Written Expression, it was reported that Student scored 88% on the latest Achievement Network ("ANET") assessment from which a writing sample was reviewed. Based on the results of the assessment, it was determined that "[Student] is meeting grade level mastery of standards in reading and writing."²⁶ On a May 2025 Strengths and Difficulties Questionnaire ("SDQ"), Student score in the "Close to Average" range in all measured categories on rating scales submitted by Witness D, Student's Science teacher for most of the 2024-25 school year. On rating scales submitted by Witness E, the Manager of Special Education, Student was in the Close to Average range in Overall Stress, Emotional Distress, Behavioral Difficulties, and Hyperactivity and Concentration Difficulties, in the Slightly Raised range in Difficulties Getting Along with Other Children and Impact of Any Difficulties on the Child's Life, and in the Low range in Helpful Behavior. Petitioner's rating scales placed Student in the Very High range in Difficulties Getting Along with Other Children and Impact of Any Difficulties on the Child's Life, in the High range for Overall Stress, and in the Slightly Elevated

¹⁹ R6:35-37. The report card and testimony of Witness D reveal that Student withdrew from Witness D's Science class one week into the fourth term after receiving grades of B- and C- in the first two terms.

²⁰ P20:103.

²¹ R5:28.

²² P5:37.

²³ P6:40.

²⁴ *Id.* at 42.

²⁵ *Id.* at 43.

²⁶ *Id.* at 44.

range in Behavioral Difficulties and Hyperactivity and Concentration Difficulties. In terms of Diagnostic Predictions, both staff members scores yielded Low Risk predictions for Any Disorder, Emotional Disorder, Behavioral Disorder, and Hyperactivity or Concentration Disorder. Petitioner's scores yielded Low Risk predictions for Emotional Disorder and Behavioral Disorder and Medium Risk for Any Disorder and Hyperactivity or Concentration Disorder.²⁷ The IEP team determined that it had enough information in all areas of concern to determine whether Student needed special education and related services and concluded that "The child should not be evaluated to determine eligibility for special education and related services."²⁸

10. On May 29, 2025, DCPS issued a PWN indicating that it would not conduct evaluations of Student because the data did not reveal an educational impact warranting evaluation:

DCPS proposes not to proceed with an initial evaluation in the areas of comprehensive psychological assessment and functional behavior, which were identified, for [Student] during the AED process. This proposal is effective as of 5/29/2025.

The team conducted an AED meeting on 5/29/2025 and determined that at this time there is no educational impact on [Student's] learning and [his/her] current data does not support further need for comprehensive testing to determine if [s/he] qualifies as a student with a disability who is eligible for special education and related services under IDEA...

[Petitioner's Attorney, Attorney B] asserted that [Student] may qualify for a disability under the category of ED, OHI, or Autism and that further testing would support this conclusion. [Student's] parents and [Attorney B] objected to the team decision, stating that [Student's] grades were being impacted and that [s/he] was exhibiting self-harming behaviors at home and at school. The team mentioned concerns about prior learning environments (specifically in the science classroom) being a potential barrier for [Student] and that once [s/he] was placed in an alternative science classroom, [his/her] academic data showed proficiency and remains consistent across [his/her] academic classes. At this time, data of behavioral concerns do not demonstrate educational impact on the student's overall performance in which there would be a discrepancy between grade level and performance.²⁹

11. On or about June 9, 2025, Examiner A of Facility A completed a Developmental Evaluation of Student. The purpose of the independent evaluation was to analyze "longstanding social and emotional challenges, and specifically to provide diagnostic clarification regarding a potential neurodevelopmental diagnosis (e.g., autism). [S/he] is currently in therapy for unspecified depression, trauma, and self-injurious behavior."³⁰ Student's parents reported that

²⁷ *Id.* at 45-47.

²⁸ *Id.* at 48.

²⁹ P7:50.

³⁰ P12:65.

Student began weekly psychotherapy with Therapist A, a Licensed Graduate Professional Counselor, in April 2025.

They reported that [Student] started scratching [him/herself] with a paperclip in [grade G, two years earlier], which shifted [this year] to cutting [him/herself] with blades. [Her/his] mother found a suicide note and [Student] reported that [s/he] had considered dying by suicide and made a suicidal gesture around four months ago but did not have the intent of dying at that time. [S/he] has a safety plan with [his/her] therapist and [his/her] parents have also removed dangerous objects and locked up potentially harmful items in their home. [Student] denied current suicidal ideation or other safety concerns.³¹

The parents also reported “multiple incidents of bullying at school starting from [grade F, five years ago] to the present.”³²

On the Differential Ability Scales (“DAS-II”), Student scored in the Above Average range in the Verbal Cluster (116 -86th percentile), in the Average range in General Conceptual Ability (98 – 45th percentile) and Nonverbal Reasoning (93 – 32nd percentile), and in the Below Average range in the Spatial Cluster (85 – 16th percentile), which measures visual-spatial processing. Petitioner and Student completed rating scales on the Conners-4, which assesses attention deficit hyperactivity disorder (“ADHD”). Both rated concerns in the Very Elevated Range regarding Inattention/Executive Dysfunction, Emotional Dysregulation, and Depressed Mood. Petitioner also rated Anxious Thoughts in the Very Elevated range and Impulsivity in the Slightly Elevated range. Student rated Hyperactivity and Anxious Thoughts in the Slightly Elevated range. Both indicated significant functional impairment in the areas of Schoolwork and Peer Interactions, while only Petitioner reported some impact to Family Life. The Total ADHD Symptoms and the ADHD Inattentive Symptoms fell in the Very Elevated range for both Student and Petitioner’s reports. The ADHD Index probability score fell in the Very High range on both reports, indicating a high likelihood of a diagnosis of ADHD. Student and Petitioner also completed the Behavior Assessment System for Children Edition (“BASC-3”), which assesses various aspects of internalizing and externalizing functioning. Attention Problems fell in the Clinically Significant range on both Student’s and Petitioner’s reports. The parent report measure included an ADHD probability score, which fell in the Clinically Significant range. The Executive Functioning scale, which is reported only on the parent form, fell in the At-Risk range.³³ On the parent report form, Petitioner indicated Clinically Significant Conduct Problems, Atypicality, and Withdrawal. Student’s self-report revealed Clinically Significant elevations regarding Attitude to Teachers, Social Stress, Anxiety, Depression, and Sense of Inadequacy. Student rated Clinically Significant challenges with Interpersonal Relationships and Self-Esteem and At-Risk concerns related to Relations with Parents, Self-Reliance, Attitude to School, Atypicality, and Locus of Control. “Overall, Student’s self-report on the BASC-3 indicated notable concerns for [his/her] emotional functioning, particularly related to anxiety and depression, as well as indicators for potential diagnoses of autism and ADHD.”³⁴

³¹ *Id.* at 67.

³² *Id.*

³³ *Id.* at 69-70.

³⁴ *Id.* at 70.

The potential for a diagnosis of autism was measured on the Autism Diagnostic Observation Schedule (“ADOS-2”) with interviews of Student and Petitioner. The Total Score on Petitioner’s ratings fell in the Very Elevated range, indicating many behavioral characteristics similar to other youth diagnosed with autism, as well as the DSM-5 Scale indicating Very Elevated symptoms directly related to the DSM-5 diagnostic criteria for autism. All of the scales were elevated to a degree including many that were Very Elevated, including Social/Emotional Reciprocity, Atypical Language, Behavioral Rigidity, Sensory Sensitivity, and Attention. Student’s scores on the ADOS-2 “fell above the Autism cutoff with a high level of autism-spectrum related traits.”³⁵

Examiner A diagnosed Student with Autism Spectrum Disorder (ASD”), ADHD, Social Anxiety Disorder, and Unspecified Depressive Disorder.³⁶

12. Attorney A provided DCPS a copy of Examiner A’s evaluation on July 31, 2025.³⁷

13. Witness A was Petitioner’s educational advocate, expert in special education, and was listed in Petitioner’s disclosure as an employee of Attorney A’s law firm. She testified that she first met Student on August 28, 2025. Witness A testified that Student tested above grade level in grade C and grade G and earned A’s and B’s in grade B at School A. However, at School B, Witness A opined that as the rigor increased, Student “could no longer mask deficits in math, history, and science” and may not have been performing up to his/her own potential. When asked whether she believed Student had autism, Witness A replied that s/he did for a number of reasons: when Student was little, s/he had very focused and task-oriented behavior. S/he would line up his/her toys. S/he would walk on her/his toes. Now s/he has collected 200 toy ducks. His/her backpack is disorganized. S/he has facial gestures and hand posturing. When asked if she believes Student has ADHD, Witness replied that she did for a number of reasons: although Student is not hyperactive, s/he internalizes his/her feelings and emotions, shuts down when s/.he is overwhelmed, her/his executive functioning is very chaotic, has difficulty initiating tasks, has difficulty with multistep tasks, and s/he will quit tasks because s/he gets lost in the steps. Witness A also testified that she suspects Student has a learning disability because s/he is a high performer in reading but tested at only a grade B level in math. Testing would “maybe fill in the question of why there’s a gap between those two.” Witness A testified that School B declined to evaluate Student at the AED meeting because s/he was “not failing [his/her] classes.” When I asked her if that is what the AED report stated, she conceded that the report actually stated that there was no showing of an educational impact on Student’s learning. Witness A opined that Student should be administered the following evaluations: neuropsychological, psychological, speech and language, and occupational therapy (“OT”). When I asked why Student needed a speech and language evaluation, Witness A replied that Student was shutting down. “I don't know what's going on inside [her/his] brain, whether it's a thinking, processing, whether it's emotional processing. So I need both those psychological and those speech and language processing to be able to compare the two to get the whole picture of the student.” When I asked why Student needed an OT evaluation, Witness A replied, “to make sure we rule out everything.” Witness A also alluded to “sensory issues” that needed to be analyzed. Witness A opined that School A denied Petitioner’s request for

³⁵ *Id.* at 70-71.

³⁶ *Id.* at 72.

³⁷ P11:63.

evaluations in 2024 for impermissible reasons: it did not have the capability to conduct testing for autism and Student must first go through MTSS.

Witness A developed a Compensatory Education Proposal for Student in Petitioner's Exhibit 23. She opined that but for DCPS' denials of FAPE, Student would be performing above grade level. "That's were [his/her] potential is." Witness A proposed the following as compensatory services: 300 hours of academic tutoring, 60 hours of behavioral support services ("BSS"), a neuropsychological evaluation, a comprehensive psychological evaluation, a cognitive evaluation, an FBA and a behavior intervention plan ("BIP"), an OT evaluation, and a speech and language evaluation. When asked how she derived 300 hours of tutoring as appropriate compensation, she conceded that "I didn't do any kind of math formula. It's based upon my opinion... based on my years of experience." When asked how she derived 60 hours of counseling, Witness A offered no direct response. Witness A opined that Student should have been receiving ten hour per week of specialized instruction and four hours of BSS per month since March 14, 2024, the date Petitioner first requested initial evaluations from School A.

On cross-examination, Witness A conceded that she has never observed Student in class. She also conceded that Examiner A did not solicit rating scales from any of Student's teachers when she conducted her Developmental Evaluation. When I asked Witness A to identify the negative academic impact during the 2023-24 school year, she cited P15:88, the first term report card that reflected lower grades than Student received in the 2022-23 school year.³⁸

14. Petitioner testified that during the 2023-24 school year, Student performed "very well" and made the Honor Society. However, Petitioner testified that emotionally, Student suffered that year from "a long history of bullying, started withdrawing, started "lacking in hygiene," and there was "a lot of social stuff going on." Petitioner testified that during the 2024-25 school year, Student's social/emotional issues affected his/her grades and s/he "started declining fast." Teachers said Student was not turning in assignments. Petitioner attributed the failure to turn in assignments to Student's inability to perform independently at the higher grade level. Petitioner also attributed Student's lower level of performance to the influence of one of her/his classmates who "coerced" Student to do things. Petitioner testified that one teacher was "relentless" with Student, and Student began to feel unwanted. Petitioner found a razor blade in Student's bedroom and a suicide note. These events occurred on or about March 31, 2025. Petitioner took Student to a psychiatric hospital, but s/he was not admitted or diagnosed. Petitioner sought help from a therapist and found Therapist A who has treated Student since April 2025. Petitioner met with School B staff on April 10, 2025. She wanted Student removed from the Science class because s/he was not performing well. Petitioner testified that she was not worried about Student's grade in the class but the emotional harm s/he was suffering due to the teacher's comments. Student "had given up on everything by then. [S/he] used to be bubbly. Now [s/he] doesn't like anything. [She's] lost interest in school." At the AED meeting in May 2025, the teachers said that Student was withdrawing: putting her/his head down on her/his desk and/or sleeping in class and not paying attention. In Math, Student was not turning in assignments and not participating in class.³⁹

³⁸ Testimony of Witness A.

³⁹ Testimony of Petitioner.

15. Witness B was DCPS' expert witness in school psychology. Witness B was critical of Examiner A's use of the ADOS-2 to determine autism. According to Witness B, the ADOS-2 is inappropriate for students beyond elementary school; the validity of the test wanes with the increasing age of students. Witness B opined that the Monteiro Interview Guidelines for Diagnosing the Autism Spectrum ("MIGDAS-2"), the NEPSY-II, and the Social Language Development Test ("SLDT") are preferable instruments for students of Student's age. The SLDT "is an even more robust measure that provides empirical objective data that looks at social communication... At its heart, autism is a social communication disorder. And so we must use robust measures of social communication." Witness B was also critical of Examiner A's failure to interview any of Student's teachers. "It's difficult to derive clinical meaning from the evaluation without input from the teachers." Witness B testified that in order to suspect a disability, she would expect to see an adverse educational impact, but Student had a "very strong" academic history with "very solid academic attainment." There were no teacher comments indicating emotional or social communication difficulties that were affecting his/her academic progress. There were no failing grades or inability to meet grade level expectations. The mere diagnosis of autism does not mean that a student is eligible for services; there must also be an inability to access the curriculum. Witness B opined that she would not have considered Student a candidate for services; s/he had straight A's in 2023-24, and there was no educational or behavioral impact. Moreover, Petitioner's letter on March 14, 2024 failed to provide any reason to suspect a disability; no symptoms were mentioned in the letter and the fact that Student's brother had been diagnosed with autism is not relevant to Student. On cross-examination, in response to a question about Examiner A's evaluation, Witness B testified that it would be hard to reach a diagnostic impression of autism, ADHD, or any other disability without understanding the student's presentation across multiple settings.⁴⁰

16. Witness C was Student's English teacher during the 2024-25 school year at School B. The class was co-taught with a special education teacher, Witness E; there were 25 students in the class. She described Student as "very quiet." Witness C testified that she had Student in the first period and Student often presented as being tired. Student was a "strong reader and writer" and performed at the grade P level in Reading on MAP assessments, three grades above her/his grade level. Witness C testified that Student's writing was at grade level, but s/he required "some prompting." Student would sometimes have her/his head on her/his desk but responded well to redirection; s/he would pick up her/his head and finish her/his work. Student would say that s/he was tired but would not say why. Witness C opined that Student's ANET writing sample indicated her/his ability to analyze texts and to structure an essay appropriately. There was nothing to indicate the need for individualized instruction. Witness C conceded that Student's sleeping in class was a concern, but her/his overall performance did not warrant additional academic support. On cross-examination, Witness C was asked what differentiated Student's grade of B+ at the time of the AED meeting from students who were getting A's. She replied that the difference was the failure to turn in assignments, but a B means that s/he had mastered the content.⁴¹

17. Witness D was Student's Science and Forensic Science teacher during the 2024-25 school year at School B. Witness D testified that at the beginning of the year, Student was very conscientious, very smart, and routinely came to voluntary tutoring sessions. As time progressed,

⁴⁰ Testimony of Witness B.

⁴¹ Testimony of Witness C.

Student became “more social” with some of his/her classmates and Witness D moved his/her seat. Student also stopped coming to the tutoring sessions and turning in assignments and appeared to be distracted by her/his peers. Student was failing due to not turning in assignments; s/he made up some of the work but not all. Matters came to a head when s/he failed an easy vocabulary test and asked to retake it. Student took the retest on April 1, 2025, but Witness D caught her/him cheating with notes in her/his lap. Witness D notified Petitioner by email that Student was napping in class and caught cheating on a test. After a meeting with Petitioner and the Assistant Principal on April 10, 2025, Student was transferred to a different Science teacher one week into the fourth term.⁴²

18. Witness E was the Manager of Special Education and LEA Representation at School B. She also co-taught Student’s English class with Witness C during the 2024-25 school year. She testified that Student was “very nice, quiet,” and did not present behavioral concerns. Sleeping in class was infrequent; Student might have his/her head on the desk during first period, but s/he was easily redirected. Witness E testified that as indicated in the May 29, 2025 PWN, once Student was transferred to a different science class, s/he demonstrated proficiency; s/he was demonstrating grade level proficiency in all of her/his classes except Science, then demonstrated proficiency in Science once the transfer was made. Witness E characterized Student as a “hard worker” that needed redirection but was easily redirected. Student was meeting grade level expectations and there were no behavioral concerns. On cross-examination, Witness E was asked if Student having his/her head down in class and other off-task behaviors mentioned in the Observations section of the AED report, by themselves, constituted adverse educational impacts.⁴³ She replied that she considered them to be Tier 1 concerns. “If I saw it across multiple teachers it might be different.” When asked if a child needs to be failing classes in order to require initial evaluations, Witness E replied, “difficulty in multiple classes.”⁴⁴

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the arguments of counsel, and this Hearing Officer’s own legal research, the Conclusions of Law of this Hearing Officer are as follows: The burden of proof in District of Columbia special education cases was changed by the local legislature through the District of Columbia Special Education Student Rights Act of 2014. That burden is expressed in statute as the following:

Where there is a dispute about the appropriateness of the child’s individual educational program 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.⁴⁵

⁴² Testimony of Witness D.

⁴³ P6:41.

⁴⁴ Testimony of Witness E.

⁴⁵ D.C. Code § 38-2571.03(6)(A)(i).

The issues in this case do not include an alleged failure of DCPS to provide an appropriate IEP or placement. Thus, under District of Columbia law, Petitioner bears the burden as to all issues.⁴⁶

Whether DCPS denied Student a FAPE by failing to comply with its child find obligations to Student. Specifically, Petitioner asserts that she requested initial evaluations on March 14, 2024 because “[s/he] has some behavior issues (distractions) and [s/he] has a brother who is autistic, and his neuropsychologist recommended we have [him/her] tested in school first,” but DCPS failed to conduct evaluations of Student. Petitioner further asserts that when Student’s academic performance deteriorated during the 2024-25 school year, her attorney renewed the request for initial evaluations on April 28, 2025. DCPS convened an Analysis of Existing Data (“AED”) meeting on May 29, 2025, but ultimately declined to conduct evaluations.

IDEA requires local education agencies (“LEAs”) to identify and evaluate all students suspected of having disabilities to determine their eligibility for special education services. LEAs must ensure that

All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.⁴⁷

The regulations define a child with a disability as follows:

Child with a disability means a child evaluated in accordance with §§ 300.304 through 300.311 as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.⁴⁸

In order to qualify as a disability requiring services under IDEA, the disability must adversely affect a child’s educational performance.⁴⁹

⁴⁶ *Schaffer v. Weast*, 546 U.S. 49 (2005).

⁴⁷ 20 U.S.C. § 1412(a)(3)(A); 34 C.F.R. § 300.111(a)(1)(i).

⁴⁸ 34 C.F.R. § 300.8(a)(1).

⁴⁹ 34 C.F.R. § 300.8(c)(1)(i) (autism), 34 C.F.R. § 300.8(c)(4)(i) (emotional disturbance), 34 C.F.R. § 300.8(c)(5) (hearing impairment), 34 C.F.R. § 300.8(c)(6) (intellectual disability), 34 C.F.R. § 300.8(c)(7) (multiple disabilities), 34 C.F.R. § 300.8(c)(8) (orthopedic impairment), 34 C.F.R. § 300.8(c)(9)(ii) (other health impairment), 34 C.F.R. §

The District's regulations require local education agencies ("LEAs") to treat referrals from parents as requests for initial evaluations to determine eligibility for services.⁵⁰ If the LEA declines to evaluate upon a request from a parent, it must issue a prior written notice ("PWN").⁵¹ If the LEA agrees to evaluate, it must make and document reasonable efforts to obtain parental consent to evaluate within thirty days from the date on which the child is referred for an initial evaluation, and begin such efforts no later than ten business days from the referral date, and evaluate and make an eligibility determination within sixty days from the date that the student's parent or guardian provided consent for the evaluation.⁵²

School Year 2023-24

Petitioner's March 14, 2024 letter to School A requesting that Student be tested constituted a referral for an initial evaluation for special education services.⁵³ Teacher A acknowledged receipt of the referral later that day by email and Staff Member A notified Petitioner that School A declined to initiate testing, informing Petitioner that Student must first go through DCPS' MTSS, progressively increasing academic interventions available to all general education students who evince academic deficits. On March 15, 2024, School Psychologist A sent Petitioner an email stating that Student did not warrant initial evaluations because "[s/he] is doing well in school and there are no documented concerns in math or reading," and "we only do evaluations for children who are academically behind and require special education to catch up to grade level." School Psychologist A also informed Petitioner that School A does not test for autism because "we do not have the testing batteries" and advised Petitioner to solicit an appointment with a developmental pediatrician.

School A's failure to issue a PWN providing its reasons for declining to evaluate Student violated 5-A DCMR Section 3005.2. The failure to issue a PWN to a parent is a procedural violation. A hearing officer's determination of whether a child was denied a FAPE must be based on substantive grounds. In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies (i) impeded the child's right to a FAPE; (ii) significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) caused a deprivation of educational benefit.⁵⁴ In other words, an IDEA claim is viable only if procedural violations affected the child's substantive rights.⁵⁵

The responses provided to Petitioner by Staff Member A and School Psychologist A were also legally problematic. First, it is not a defense to a child find claim that the student has not yet received MTSS interventions. If there is a reason to suspect a child has a disability, the child must receive initial evaluations whether or not the LEA has initiated academic interventions. Second, a

300.8(c)(11)(speech or language impairment), 34 C.F.R. § 300.8(c)(12)(traumatic brain injury), and 34 C.F.R. § 300.8(c)(13)(visual impairment).

⁵⁰ 5-A DCMR § 3004.1(a).

⁵¹ 5-A DCMR § 3005.2.

⁵² 5-A DCMR § 3005.4.

⁵³ 5-A DCMR § 3004.1(a).

⁵⁴ 34 C.F.R. 300.513(a).

⁵⁵ *Leggett v. District of Columbia*, 793 F.3d 59, 67 (D.C. Cir. 2015); *Brown v. District of Columbia*, 179 F. Supp. 3d 15, 25-26 (D.D.C. 2016), quoting *N.S. ex rel. Stein v. Dist. of Columbia*, 709 F. Supp. 2d 57, 67 (D.D.C. 2010).

student may be entitled to child find even if s/he is performing at grade level. For example, if a child has a history of superior cognitive ability, evidence of behavior affecting academic performance and mere grade level performance might justify initial evaluations. Third, although School A staff members may have observed no symptoms of autism with Student, if a child were to exhibit symptoms of autism that were having an adverse effect on the child's academic performance, the LEA would have the obligation to test the child for autism rather than to advise the parent to seek independent testing.

Petitioner's referral letter offered no indication that Student had a disability, stating only that "[s/he] has some behavior issues (distractions)." Petitioner also asserted that Student's brother is autistic, but that has no relevance to Student. As is noted above, in order to qualify as a disability under IDEA, whether it be other health impairment ("OHI") for alleged distractions or autism, the condition must adversely affect a child's educational performance. Petitioner introduced no evidence that any suspected disability was having an adverse impact on Student's academic performance. S/he earned straight A's for the school year, was on the Honor Roll and in the Honor Society, was reading at a level four years above grade level and was in the 43rd percentile in Math on the year-end i-Ready assessment.⁵⁶

When I asked Witness A, Petitioner's educational advocate, what evidence there was of an adverse effect on Student's educational performance during the 2023-24 school year, she opined that Student's first term grades were indicative of the adverse impact. Witness A was not credible for two reasons. First, Student's first term grades were A's in Math, English, and Exploratory Spanish, and B+ or B in all other courses. This is not indicative of an adverse academic impact. Moreover, by the time Petitioner requested evaluations in March 2024, Student's grades had improved to six A's and two B's. At year-end, s/he had earned all A's. Witness A refused to address the significance of Student's improved academic performance throughout the school year. When I asked Petitioner's counsel the same question during his closing argument, he grudgingly conceded that there was no evidence of an adverse educational impact during the school year. And contrary to the assertion in Petitioner's March 14, 2024 referral letter, there was no evidence adduced that Student presented with distractibility or behavioral concerns that had any effect on his/her academic performance.

Therefore, while DCPS committed a procedural violation of the requirement to provide Petitioner a PWN explaining its reasons for declining to initiate evaluations, its failure to do so did not impede Student's right to a FAPE, significantly impede Petitioner's opportunity to participate in the decision-making process regarding the provision of a FAPE to Student, or cause a deprivation of educational benefit. Therefore, I conclude that Petitioner has failed to meet her burden of proving that DCPS should have suspected that Student had a disability during the 2023-24 school year and that DCPS' procedural violation did not constitute a denial of FAPE.

School Year 2024-25

Petitioner asserts that the deterioration in Student's grades during the 2024-25 school year should have put School B on notice that Student had a disability. The record supports a finding

⁵⁶ In prior cases, expert witnesses have testified that the average range in percentiles ranges from the 25th percentile to the 75th percentile.

that Student performed markedly worse in Math and Science during the 2024-25 school year than s/he did in the previous year. Petitioner places primary reliance on the IEP team's statement in the AED report that Student could often be seen napping in class, appear to be disengaged, and need prompting from teachers to remain on-task. Although Witness C testified that Student would often be tired and have her/his head down in first period English class, Witness C testified that Student was easily redirected and would sit up and finish her/his work. Witness D also testified that Student would sometimes have her/his head down in Science class. However, neither teacher testified that these behaviors had any effect on Student's learning. Rather, both teachers testified that Student's grades were lowered due to his/her failure to turn in assignments. Student's relationship with Witness D became terminal when Witness D caught Student cheating on a test, resulting in a score of zero instead of 63, making it difficult to bring his/her average score up and leading Petitioner to request that Student be transferred out of Witness D's Science and Forensic Science classes. Witness C and Witness D both testified that Student's grades were lower due to his/her failure to turn in assignments, not due to off-task behavior or sleeping in class. Once Student was transferred to a different Science teacher, s/he the demonstrated grade level proficiency. In Math, the other course in which Student's grade was markedly lower than it was the previous year, the failure to turn in assignments was also the only reason her/his grade was lower; throughout the year in Math, s/he had a B average on tests and assessments and an A average in class participation, but term grades of C-, C-, F, and F for Practice and Application, which involved turning in assignments.

Witness A, Petitioner's educational advocate, opined that Student internalizes his/her feelings and emotions, shuts down when s/he is overwhelmed, her/his executive functioning is very chaotic, has difficulty initiating tasks, has difficulty with multistep tasks, and s/he will quit tasks because s/he gets lost in the steps. This testimony was not persuasive for two reasons. First, Witness A testified that she met Student for the first time on August 28th, two weeks before the hearing, and had never observed Student in class, indicating that she has also never met any of Student's teachers. Since there are no school records substantiating the deficits she attributed to Student, her opinions are unpersuasive. Second, there is nothing in Student's educational record to corroborate the assertions that Student ever shuts down, becomes overwhelmed, has deficits of any kind in executive functioning, has difficulty with multistep tasks, or gets lost during tasks and quits working. The only problem s/he exhibited during the 2024-25 school year was an aversion to turning in assignments.

Petitioner relies on *G.D. ex rel. G.D. v. Wissahickon School District*⁵⁷ for the proposition that a very high IQ does not necessarily preclude entitlement to special education services. *G.D.* does not stand for the principle asserted by counsel. In fact, the school district there was found to have denied G.D. a FAPE because it failed to recognize that his behaviors deteriorated near the end of the 2008-09 school year. Unlike Student, G.D. entered the school district with a history of aggressive behavior and had been diagnosed with a sensory/processing disorder and ADHD. His Verbal IQ was 143 and performance IQ was 103. In July 2008, the school district received permission to evaluate G.D. and completed an Evaluation Report in which it concluded that he did not qualify for physical therapy services. The school district developed a Section 504 plan⁵⁸ which provided G.D. with OT, alternative seating, and postural accommodations. However, G.D.'s behavior deteriorated during the school year. In December, his report card indicated that his

⁵⁷ 832 F.Supp.2d 455 (E.D.Pa. 2011).

⁵⁸ Rehabilitation Act of 1973, 29 U.S.C. § 794.

behaviors were interfering with his learning, he was easily distracted, and he had trouble with organization. Later that month, he spat in a friend's face. In March, Student admittedly "strangled" a classmate, while the teacher characterized it only as "pushing." His April 3, 2009 report card indicated that he was "easily distracted, Behavior interferes with learning. Behavior causes distraction to classmates." The district conducted further evaluations; G.D.'s scores on the Woodcock-Johnson were above his age and grade equivalency and his academic skills fell within or above age and grade level in all assessed areas. The district concluded that he was not eligible for services even though he did "appear to be experiencing some significant additional concerns in the classroom and adaptations to his program should be implemented." A school official testified that the district does not "do IEPs for kids who have good skills to have better skills. We don't do an IEP for kids that have high average to superior skills. We don't do that." On April 16, 2009, G.D. hit another student in the face. Throughout April and May, the severity of G.D.'s behaviors increased, including aggression towards other students and episodes of wailing and screaming.

Finally, on June 19, 2009, the district found G.D. eligible for services. A hearing officer concluded that there had been no denial of FAPE until April 3, 2009. The court upheld the hearing officer's award of compensatory education services from April 3, 2009, by which time it was apparent that G.D.'s behaviors had escalated, until June 19, 2009, when the district found him eligible for services. G.D. was ultimately provided services because it was determined that his behavior was having an adverse impact on his performance and was disruptive to the classroom. Thus, *G.D.* is distinguishable on a number of grounds: (1) Student did not have a history of aggression, ADHD, or any other behavioral concern, (2) at no time has School A or School B indicated that Student's behavior impaired her/his learning or that of her/his classmates. Rather, s/he was consistently described as a pleasure to have in class, DCPS's witnesses testified that s/he did not present behavioral concerns and that s/he was easily redirected when s/he briefly veered off-task, and (3) at no time has Student engaged in verbal or physical aggression towards staff members or peers.

Petitioner also relies on *West Chester Area School District v. Bruce C.*⁵⁹ There, the Pennsylvania Special Education Appeals Panel overruled a hearing officer who had found a student eligible for services despite always having earned passing grades. In seventh grade, the student finished with A's, B's, and C's, including C's in English, Math, and Reading. In the eighth grade, his grades in several major subjects dropped significantly over the course of the academic year. The District Court reversed, holding that the Appeals Panel gave insufficient consideration to evidence of the student's underperformance.

... [t]he Appeals Panel incorrectly gave short shrift to Chad's potential. In particular, the Appeals Panel gave no justification for disregarding the significant discrepancies, as found by the District, between Chad's high verbal IQ and lower performance IQ, and between his verbal IQ and basic reading skills, spelling, and math reasoning...In so doing, the Appeals Panel disregarded the Third Circuit's mandate that a student's entitlement to IDEA services "must be gauged in relation to the child's potential." ...Thus, as a matter of law the Appeals Panel erred in focusing on Chad's grades while disregarding Chad's potential. Furthermore, in light of the totality of the evidence, including the extensive amount of time Chad

⁵⁹ 194 F.Supp.2d 417 (E.D.Pa. 2002).

spent out of class receiving remedial and supplement assistance from his mother and Chad's potential as evinced by the District's testing, I conclude Chad is entitled to an IEP.⁶⁰

Here, there was no evidence adduced to suggest that a disability may have contributed to Student failing to reach her/his potential. During the 2023-24 school year, Student earned straight A's, and there was no evidence adduced that a disability had any effect on Student's performance. During the 2024-25 school year, Student's performance in Math and Science dropped. However, in Math, the record reveals that Student had a B average on tests, indicating mastery of the content, and an A average in class participation, dispelling any notion that off-task behavior had any effect on his/her grade. Rather, Student had term grades of C-, C, F, and F in Practice and Application simply for failing to turn in assignments. At the AED meeting on May 29, 2025, Student's Math teacher reported that s/he was approaching mastery of grade level concepts. Similarly in Science, Witness D testified that Student failed to turn in assignments. Other than the classes in Math and with Witness D, Student's grades ranged from A's American Studies, Middle School Literacy Enrichment, Orchestra, and Middle School Advisry to B+ in English, and B in U.S. History. Thus, in every subject except those taught by Witness D, Student demonstrated mastery of the grade level course content. When s/he was transferred to a different Science teacher, Student demonstrated grade level mastery in Science.⁶¹

I afforded no weight to Examiner A's evaluation for several reasons. First, the evaluation was conducted in June 2025, and was not provided to DCPS until July 31, 2025, three months after Attorney A's referral, two months after the AED meeting, and a month after the *Complaint* was filed. An evaluation conducted after a disputed LEA determination is relevant only if it reveals information as to which the LEA should have been aware at the time the determination was made.⁶² Examiner A diagnosed Student with autism, ADHD, anxiety, and depression. However, Petitioner had already expressed concerns about autism and distractibility, so the mere clinical diagnoses would have provided School B with no more information than it had at the time of the AED meeting in May. Examiner A's evaluation did not include interviews of any of Student's teachers, a review of Student's academic record, or achievement testing such as a Woodcock-Johnson Tests of Achievement. Thus, Examiner A's evaluation provided no data for an analysis as to whether Student's clinical diagnoses of disabilities also qualified as disabilities under IDEA, which requires a showing of an adverse academic impact of the disability.

Second, Witness B offered credible testimony that Examiner A used the wrong instruments to reach her diagnosis of autism and should have interviewed Student's teachers. Third, in my experience, autistic students who require services normally evince significant deficits in social communication. Student exhibited no such deficits; s/he was characterized as a pleasure to have in class, did not present with behavioral concerns, was socially interactive with classmates, and earned high marks for classroom participation. Fourth, Examiner A's diagnosis of autism was based primarily on rating scales submitted by Petitioner, which yielded elevated T-scores. But

⁶⁰ *Id.* at 421-22.

⁶¹ P7:50.

⁶² See *Z.B. v. District of Columbia*, 888 F.3d 515, 524 (D.C. Cir. 2018); *Edward M.-R. ex rel. T.R.-M. v. District of Columbia*, 660 F.Supp.3d 82, 101-102 (D.D.C. 2023); *H.S. v. District of Columbia*, Civil Action No. 1:23-cv-2982, 2025 WL 1019300 at 8 (D.D.C. Apr. 4, 2025).

without rating scales from Student's teachers, the diagnosis has little validity in the domain most relevant herein, the classroom.

Fifth, as for Student's purported distractibility, it is true that the record indicates that Student exhibited off-task behavior during the 2024-25 school year. However, Witness C, Student's English teacher, testified that while Student would sometimes have her/his head on her/his desk during first period, s/he responded well to redirection and would pick up her/his head and finish her/his work. At the time of Attorney A's referral in April 2025, Student had earned a B+ in Witness C's class, which Witness B interpreted to mean that Student had mastered the grade level content. Witness C testified further that the difference between the B+ and an A was not distracted behavior, but Student's failure to turn in assignments. There is nothing in the record to indicate that Student ever exhibited symptoms at school indicative of autism. There is also nothing in the record to indicate that off-task behavior had a negative impact on Student's learning. On the May 2025 SDQ, Witness D, the Science teacher in whose class Student had the most difficulty, rated Student's Hyperactivity and Concentration Difficulties in the Close to Average range, as did Witness E, the School's Manager of Special Education. There is nothing in the record to indicate that there was any negative impact on Student's grades other than her/his failure to turn in assignments.

Petitioner relied on Petitioner's Exhibit 20 to prove regression in Student's academic performance during the 2024-25 school year. A more thorough analysis of that document reveals that in Math, Student's tests and assessments throughout the year revealed B-level work, i.e., mastery of grade level content. It also reveals A-level "Engagement" or class participation, which belies a problem with off-task behavior indicative of ADHD symptoms, or any deficit in social communication indicative of autism. The evidence supports a finding that Student was able to achieve mastery of grade level content in Math. Had s/he consistently turned in his/her assignments, s/he would have earned an A- or B+ based on his/her grades on tests and class participation.

Finally, at the AED meeting in May and during Examiner A's evaluation, Petitioner's attorney and Student's parents alleged incidents of self-harm, bullying, and suicidal ideation. There is no evidence in the record that any such behaviors were ever observed by school staff at School A or School B.

For all of these reasons, I conclude that Petitioner has failed to meet her burden of proving that DCPS should have suspected that Student had a disability during the 2024-25 school year.

RELIEF

For relief, Petitioner requests, *inter alia*, (1) an order requiring DCPS to conduct psychoeducational, speech and language ("S/L"), occupational therapy ("OT"), and a functional behavioral assessment ("FBA"), and/or any other evaluations necessary to assess the student for possible autism, executive functioning, and/or ADHD, or, alternatively, fund independent evaluations in these areas, (2) an order requiring DCPS to convene an Individualized Education Program ("IEP") team meeting upon the completion of the evaluations to determine eligibility and t.r.-M/develop an IEP, (3) compensatory education services, (4) the reservation of the right to

request additional compensatory education upon completion of the requested evaluations, and (5) attorney fees and costs”⁶³


ORDER

Upon consideration of the *Complaint*, the *Response*, the *Amended Prehearing Order*, the exhibits that were admitted into evidence, the testimony presented during the hearing, and the closing arguments of counsel for the parties, it is hereby

ORDERED, that the *Complaint* is **DISMISSED** with prejudice.

APPEAL RIGHTS

This decision is final except that either party aggrieved by the decision of the Impartial Hearing Officer shall have ninety (90) days from the date this decision is issued to file a civil action, with respect to the issues presented in the due process hearing, in a district court of the United States or the Superior Court of the District of Columbia as provided in 34 C.F.R. §303.448 (b).



Terry Michael Banks
Hearing Officer

Date: September 19, 2025

Copies to: Attorney A, Esquire
Attorney B, Esquire
OSSE Office of Dispute Resolution

⁶³ In the *Amended Prehearing Order*, I noted that hearing officers have no authority to grant monetary damages and no role in the awarding of attorneys’ fees in this jurisdiction. Additionally, expert witness fees are not allowable costs under IDEA. *Arlington Central School District Board of Education*, 586 U.S. 291, 303,304 (2006).