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OSSE
Office of Dispute Resolution
June 12, 2026

Confidential

Parent on Behalf of Student, ¹	HEARING OFFICER'S DETERMINATION
Petitioner,	Hearing Dates:
v.	June 2, 2026 June 3, 2026 June 5, 2026
District of Columbia Public Schools "DCPS" (Local Education Agency "LEA")	Counsel for Each Party listed in Appendix A
Respondent.	
Case # 2026-0019	<u>Hearing Officer:</u>
Date Issued: June 12, 2026	<u>Coles B. Ruff, Esq.</u>

¹ Personally identifiable information is in the attached Appendices A & B.

JURISDICTION:

The hearing was conducted, and this decision was made in accordance with the Individuals with Disabilities Act (“IDEA”), P.L. 101-476, as amended by P.L. 105-17, the Individuals with Disabilities Education Improvement Act of 2004, the District of Columbia Code, Title 38 Subtitle VII, and the District of Columbia Municipal Regulations, Title 5 Chapter 5-A30.

BACKGROUND AND PROCEDURAL HISTORY:

The student who is the subject of this due process hearing ("the Student") has been found eligible for special education and related services under the IDEA, with a disability classification of autism, which the Student has had since October 2025. The Student’s previous disability classification was Other Health Impairment (“OHI”) due to Attention Deficit Hyperactivity Disorder (“ADHD”). The Student and the Student’s parent are residents of the District of Columbia. District of Columbia Public Schools (“DCPS”) is the Student's local education agency ("LEA”).

The Student attends a DCPS school (“School A”) and has attended since the start of the 2024-2025 school year (“SY”). Prior to attending School A, the Student attended another DCPS school (“School B”) during SY 2023-2024. School B convened an annual IEP review meeting for the Student on May 13, 2024. School A convened annual IEP reviews for the Student on March 19, 2025, and January 30, 2026.

On February 12, 2026, the Student’s father (“Petitioner”) filed the current due process complaint (“DPC”) against DCPS, alleging that DCPS denied the Student a free appropriate public education (“FAPE”) by, inter alia, failing to develop appropriate IEPs, failing to timely respond to Petitioner’s request for independent education evaluation(s) (“IEE”), and denying Petitioner meaningful participation in the IEP process.

Petitioner seeks the following relief: that DCPS be ordered to fund the requested IEE; that the Hearing Officer declare Petitioner the prevailing party; and that the Hearing Officer order DCPS to provide compensatory services.

LEA Response to the DPC:

DCPS filed a response to the complaint on February 24, 2026. In its response, DCPS stated, inter alia, the following:

Petitioner participated in the May 2023 IEP. No IEP team member expressed disagreement regarding evaluation, eligibility, or programming. The May 2024 IEP was also developed with Petitioner’s participation, and no disagreement was noted in the student record. An eligibility and/or 30-day review meeting was convened on October 22, 2024, with Petitioner in attendance. Petitioner also participated in developing the Student's current IEP, dated January 30, 2026. No disagreement was indicated for any of the IEPs contained in the current DPC.

The Student's parent agreed to and consented to the evaluation procedure proposed in April 2022 and signed the consent form. There was no response from either parent regarding the April 2022 IEP. DCPS convened the meeting in May 2022, when the parent was available, and the team agreed on the Student's eligibility and programming.

Petitioner alleges that an IEE request was made on or about August 21, 2024, for the following: psychological, educational, speech-language, occupational therapy, motor, autism, assistive technology, AAC evaluation, anxiety, mental health, adaptive behavior, behavior, and functional behavior assessment. Notably, by August 2024, DCPS had not completed its psychological report. Petitioner was not entitled under 34 CFR § 300.502(b)(1). Moreover, this alleged procedural violation has not been shown to have resulted in a denial of FAPE. The Student was evaluated and provided with programming in compliance with IDEA, thereby providing the Student with FAPE. DCPS's position is that the Student has not been denied FAPE.

Resolution Meeting and Pre-Hearing Conference:

Petitioner and DCPS attended a resolution meeting on March 2, 2026. The parties did not agree to shorten the 30-day resolution period. The due process complaint ("DPC") was filed on February 12, 2026. The 45-day period began on March 14, 2026, and ended on April 28, 2026, when the Hearing Officer's Determination ("HOD") was originally due. The parties were unavailable for the originally scheduled hearing dates. Petitioner filed a motion to continue the hearing and extend the HOD due date by 45 calendar days. With that motion granted, the HOD is now due on June 12, 2026.

The undersigned impartial hearing officer ("IHO") conducted pre-hearing conferences ("PHC") regarding Petitioner's DPC on March 19, 2026, and April 7, 2026, and issued a pre-hearing order ("PHO") and a revised PHO on April 15, 2026, outlining, inter alia, the issues to be adjudicated.

ISSUES:²

The issues to be adjudicated are:

1. Did DCPS deny the Student a FAPE by failing to develop appropriate IEPs on May 13, 2024; March 19, 2025; and January 30, 2026?
2. Did DCPS deny the Student a FAPE by failing to provide an IEE in response to Petitioner's April 21, 2024, request?
3. Did DCPS deny the Student a FAPE by denying the Petitioner the opportunity to meaningfully participate in the Student's IEP development?

² The IHO restated the issues from the PHO at the outset of the due process hearing, and the parties agreed that these were the issues to be adjudicated. On April 20, 2026, Petitioner's counsel sent an email to the IHO and opposing counsel requesting that the issues to be adjudicated be modified and that several claims listed in the April 15, 2026, PHO be withdrawn. In addition, during the May 6, 2026, pre-hearing conference, Petitioner's counsel stated that no issues were being alleged prior to two calendar years from the date the DPC was filed, and therefore, there are no issues that involve or under which Petitioner seeks to invoke an exception to the IDEA statute of limitation. Consequently, the three issues above are the only issues adjudicated.

DUE PROCESS HEARING:

The Due Process Hearing was held on June 2, 2026, June 3, 2026, and June 5, 2006, via Microsoft Teams videoconference.

RELEVANT EVIDENCE CONSIDERED:

The IHO considered witness testimony³ and the documents submitted in each party's disclosures (Petitioners' Exhibits 1 through 121 and Respondent's Exhibits 1 through 43), which were admitted into the record and listed in Appendix 2.

SUMMARY OF DECISION:

After Petitioner presented a prima facie case, DCPS bore the burden of persuasion on issue #1. Petitioner bore the burden of persuasion on the remaining issues. DCPS did not sustain its burden of persuasion on issue #1 by a preponderance of the evidence. Petitioner met its burden of persuasion on issue #2 by a preponderance of the evidence, but not on issue #3. The IHO ordered DCPS to grant Petitioner authorization to obtain independent evaluations and compensatory education.

FINDINGS OF FACT:⁴

1. The Student has been found eligible for special education and related services under the IDEA, with a disability classification of autism, which the Student has had since October 2025. The Student's previous disability classification was OHI due to ADHD. The Student and Petitioner are residents of the District of Columbia, and DCPS is the Student's LEA. The Student has attended School A since the start of SY 2024-2025. The Student lives with Petitioner 3 to 4 days per week and with the Student's mother the remainder of the time. (Father's testimony, Respondent's Exhibit 27, Petitioner's Exhibit 34)
2. Prior to attending School A, the Student attended School B during SY 2023-2024. On March 13, 2024, DCPS obtained the Student's mother's consent to conduct evaluations of the Student. On March 28, 2024, DCPS conducted a psychological evaluation, and in April

³ Petitioner presented three witnesses: (1) a special education consultant, (2) another special education consultant. (both consultants testified as expert witnesses), and (3) the Student's father, Petitioner. DCPS presented two witnesses, both who testified as expert witnesses: (1) the Student's School A special education teacher and case manager, (2) a DCPS School A social worker. The IHO found the witnesses credible unless noted otherwise in the conclusions of law. Any material inconsistencies in the testimony of witnesses identified by the IHO are discussed in the conclusions of law.

⁴ The evidence (documentary and/or testimony) that is the source of the Findings of Fact ("FOF") is noted within parentheses following the finding. A document is noted by the exhibit number. If there is a second number following the exhibit number, that number denotes the page of the exhibit from which the fact was obtained or the PDF page number of the entire disclosure document. When citing an exhibit that has been submitted by more than one party separately, the Hearing Officer may only cite one party's exhibit.

2024, DCPS conducted occupational therapy ("OT") and speech-language evaluations. (Respondent's Exhibits 4, 6, 12)

3. School B held an annual IEP review meeting for the Student on May 13, 2024. Both of the Student's parents attended. The Student's father (Petitioner) was accompanied by his caregiver, who assisted him during the meeting. The Student's disability classification remained OHI. The IEP prescribed 4 hours per week of specialized instruction in the general education setting and 4 hours per week outside the general education setting; 1 hour per month of speech-language pathology ("SLP") and behavioral support services ("BSS"); and 30 minutes per month of OT consultation. The IEP included academic goals in reading, math, and written expression, as well as related services goals for SLP, BSS, and OT.⁵ (Respondent's Exhibit 8)
4. The IEP included the following classroom and testing accommodations: clarification of directions, extended time and flexibility in scheduling, frequent breaks, preferential

⁵ The May 13, 2024, IEP included the following goals:

Reading: By May 2024, after independently reading an independent-level literary text, given a written thematic statement (e.g., "The theme is friendship."), Student will underline (2) details in the text that support the theme, for (2 out of 2) details, on (3 out of 4) progress monitoring assessments.

Reading: By May 2024, after reading a chunked independent-level informational text, when given (1) written prompt to answer a question about explicit information in a shortened section of the text, Student will write (1) explicit detail that answers the question, for (3 out of 4) questions, on (3 out of 4) progress monitoring assessments.

Written Expression: By May 2025, given an argument or opinion writing prompt and a graphic organizer with sentence starters, Student will write a two-paragraph argument/opinion text about the prompt by completing each section of the graphic organizer for (5 out of 6) rubric points on (3 out of 4) progress monitoring assessments.

Mathematics: By the end of the IEP cycle, when given (5) comparisons of two quantities, Student will correctly describe the ratio between the two quantities by writing (e.g., for every, there are) for (4 out of 5) problems.

Mathematics: By the end of the IEP cycle, when given (5) comparisons of two quantities, Student will correctly solve for the missing variable in a one-step algebraic equation for (4 out of 5) problems.

SLP: Communication/Speech and Language: Provided visual and verbal cues, Student will utilize previously instructed fluency-inducing strategies to modify real and pseudo stuttering incidents with 85% accuracy. Mastery will be over 3 consecutive sessions.

OT: Motor Skills/Physical Development: Given consultation with classroom staff and teacher as applicable, Student will demonstrate use of established sensory strategies (ex: visual schedule, sit disc, movement breaks, chair bands, etc.) to help with attention and focus in the classroom in 3/4, 20-30 minutes assignments over a 2 week period.

BSS: Emotional, Social and Behavioral Development: By May 2025, Student will demonstrate improved attention and focus by remaining on task for a least 5 minutes with minimal Prompts from staff in 4 out of 5 opportunities.

BSS: Emotional, Social and Behavioral Development: Student will decrease inappropriate verbal comments/distractions to by responding appropriately when s/he is frustrated (use words, talk to a teacher, walk away, stay calm) and seeking attention in appropriate ways (asking a friend to play, initiating conversation, giving a compliment) in 4 out of 5 trials.

seating, a location with minimal distractions, individual and small-group testing, a chair that allows movement while completing work, read-aloud, a human scribe, speech-to-text, redirection, and the use of a calculator. The IEP did not include ESY services. (Respondent's Exhibits 8, 12)

5. The Student's fourth-quarter IEP progress report for SY 2023-2024 indicated that the Student was making progress on all academic and SLP goals, but the Student had just begun BSS and OT services, which had either just been introduced or not yet introduced. (Respondent's Exhibit 10)
6. The Student's end-of-year report card for SY 2023-2024 indicated that the Student earned passing grades in all but one class and that the Student's reading scores showed the Student was operating three grade levels behind. (Petitioner's Exhibit 59)
7. On August 21, 2024, Petitioner emailed School B requesting that DCPS fund IEEs. Petitioner requested the following IEEs: psychological, educational, speech-language, occupational therapy, motor, autism, assistive technology, AAC evaluation, anxiety, mental health, adaptive behavior, behavior, and functional behavior assessment. On August 22, 2024, School B's principal acknowledged receipt of Petitioner's email regarding the IEEs. On August 28, 2024, School B's principal emailed Petitioner stating that DCPS was considering his request for the IEEs and would let him know in a few weeks whether DCPS would agree to fund them. However, DCPS never responded to Petitioner's IEE request and did not authorize the requested evaluations. (Petitioner's Exhibit 103)
8. The Student began attending School A at the start of SY 2024-2025. The evaluation report for the psychological evaluation administered on March 28, 2024, was finally completed on September 25, 2024. The DCPS psychologist at School B assessed the Student's cognitive, social-emotional, and behavioral functioning, as well as academic achievement. The psychologist noted the following in her evaluation report: the Student's multidisciplinary IEP team met to discuss his/her current performance in the educational setting. Per the IEP team consultation, the Student's lack of attention and focus significantly impacts her/his day-to-day life and overall success in school. The team also shared academic concerns, including difficulty recalling information and occasional fixation on matters irrelevant to assignments. Based on information gathered during the Student's triennial re-evaluation meeting, the multidisciplinary IEP team at School B requested updated assessments. The psychologist noted that the completed Autism Rating Scales were not received before the conclusion of the psychologist's written evaluation report. (Respondent's Exhibit 12)
9. On October 22, 2024, School A convened a 30-day review meeting during which the IEP team reviewed the psychological evaluation. Petitioner and his caregiver attended the meeting, and the Student's mother also attended. School A did not provide Petitioner with a copy of the psychological evaluation report before the meeting. The team noted that the ASRS had not been completed, and School A staff indicated that School A teachers would complete them. (Respondent's Exhibit 14, Petitioner's Exhibits 48, 49)

10. The Student's first and second-quarter IEP progress reports for SY 2024-2025 indicated that the Student was making progress toward, but had not yet mastered, all academic and related services IEP goals. (Respondent's Exhibits 11, 15, Petitioner's Exhibit 19)
11. The Student's third-quarter IEP progress report for SY 2024-2025 indicated that the Student was making progress toward some academic and related services IEP goals; some had just been introduced. The Student had mastered one BSS goal. (Respondent's Exhibits 11, 15, Petitioner's Exhibit 19)
12. The Student's end-of-year report card for SY 2024-2025 indicated that the Student earned passing grades in all subjects and an above-average grade in all subjects except one. (Petitioner's Exhibit 68)
13. School A held an annual IEP review for the Student on March 19, 2025. Petitioner attended the meeting, as did the Student's mother. The IEP reflected the Student's OHI disability classification. School A reduced the Student's specialized instruction to 3.5 hours per week each in the general education setting and 2.2 hours per week outside general education, reduced SLP from 1 hour per month to 30 minutes per month, and reduced OT consultation to 15 minutes per month. The IEP did not include BSS services, even though it contained a BSS goal. The IEP included academic goals in reading, math, and written expression, as well as related services goals for SLP, BSS, and OT.⁶ The IEP included the following

⁶ The March 19, 2025, IEP included the following goals:

Mathematics: By March 2026, given a word problem that involves a whole number divided by a unit fraction (e.g., $6 \div \frac{1}{3}$), and a visual representation (e.g., 6 wholes, each divided into 3 equal parts), Student will determine the quotient by counting the number of unit fractions needed to make the whole, with teacher prompting (e.g., "This is $\frac{1}{3}$. How many copies of $\frac{1}{3}$ do we need to make 6?"), for (4 out of 5) problems, on (3 out of 4) progress monitoring assessments.

Mathematics: By March, 2026, given a rational number (e.g. $\frac{13}{2}$; $5\frac{6}{7}$), Student will use long division to convert the rational number into decimal form with (80%) accuracy (i.e, 4 out of 5 correct conversions).

Reading By March 2026, after independently reading an independent-level informational excerpt with highlighted details related to author's point of view, given a point of view anchor chart and a multiple choice question related to author's point of view, Student will select the author's point of view from a list of (3) options, for (3 out of 4) questions, on (3 out of 4) progress monitoring assessments.

Reading: By March 2026, given a 3-4 sentence independent-level paragraph describing a person, place or thing and a written inferential claim about the text, s/he will underline (1) detail in the text to support the inference, for (4 out of 5) paragraphs, on (3 out of 4) progress monitoring assessments.

SLP: Communication/Speech and Language: Given a set of speech fluency strategies from which to choose, Student will trial 4 out of 5 strategies, determine the strategy that is most helpful, and utilize it in 4 out of 5 opportunities given verbal prompts as needed.

OT: Motor Skills/Physical Development: Per teacher report, Student will bring appropriate materials to class (pencil, laptop, etc.), initiate a task within 5 mins of request, and demonstrate improved executive functioning skills as it pertains to attention and focus in the classroom for 30 minutes, in 3/4 check-ins.

BSS: Emotional, Social and Behavioral Development: By the designated goal completion date, Student will communicate the steps of problem- solving that lead to decision-making (e.g., state the problem, brainstorm solutions,

classroom and testing accommodations: clarification of directions, extended time and scheduling flexibility, frequent breaks, redirection to test materials, small-group testing, a homework list, and the use of a calculator. The IEP did not include ESY services. (Respondent's Exhibit 16)

14. The Student's September 2025 iReady data indicated that the Student was operating two to three grade levels behind in math. (Petitioner's Exhibit 60)
15. On September 26, 2025, the DCPS psychologist for School A, after receiving the Autism Rating Scales from the Student's parent and teachers, prepared an addendum to the psychological evaluation report. The School A psychologist noted that the Student met eligibility criteria for special education services due to OHI on September 25, 2024, at School B, but the IEP team wanted to consider the autism disability classification. Autism characteristics must be present in multiple environments (school and home). The psychologist noted that the teacher's comments focused more on attention deficits than on autism. The Student's ASRS scores were inconsistent. The Student's math teacher noted high levels of peer socialization, atypical language, social-emotional reciprocity, and social communication. The English teacher also rated the Student highly in those areas, except for peer socialization. One teacher rated the Student high in social communication, social/emotional reciprocity, sensory sensitivity, and attention. The science teacher rated the Student high in peer socialization. The Student's father rated the Student highly in all areas except behavioral rigidity. The psychologist concluded that, based on observations by the Student's teachers and parent, the Student appears to meet eligibility criteria for special education services under the category of autism. The psychologist noted that the Student's ratings were elevated across multiple environments in the areas of peer socialization, social/emotional reciprocity, and social communication. The raters also noted that the Student was at least slightly elevated in unusual behaviors. (Respondent's Exhibit 21)

choose and implement a solution) to make responsible, constructive choices in daily academic and social settings in 3 out of 4 observed opportunities.

The March 19, 2025, IEP included the following regarding Post-Secondary Transition:

After high school, Student will participate in the appropriate educational institute or training program that aligns with the career or job s/he seeks.

Annual Transition Goals:

By March 2026, given a pre-highlighted written description of a field in a career interest area (e.g., education - learning coach), and guiding questions, Student will write (3) characteristics of the given career field (e.g., academic requirements, difficulty to find a job in the field, etc.), scoring (2 out of 2) rubric points, as measured by (4 out of 5) progress monitoring assessments. After graduating from high school, Student will be employed or will be on the necessary pathway leading to hers/his preferred career or job.

Annual Transition Goals:

By March 2026, given a read-aloud scenario in which an employee demonstrates a specific employability skill (e.g., creative problem solving, meeting timelines, etc.), and an illustrated list of employability skills, Student will identify the employability skill described, in writing, scoring (1 out of 1) rubric points, as measured by (4 out of 5) progress monitoring assessments.

16. On September 26, 2025, DCPS completed eligibility reports and convened an eligibility meeting, which was resumed and completed on October 3, 2025. On October 3, 2025, School A concluded that the Student's disability classification changed from OHI to Autism. (Respondent's Exhibits 22, 22-B, 24)
17. The Student's first-quarter progress reports for SY 2025-2026 indicated that the Student was making progress toward academic and related services IEP goals, and the SLP goal had just been introduced. (Respondent's Exhibit 26)
18. The Student's second-quarter progress reports for SY 2025-2026 indicated that the Student had mastered one math goal and was making progress toward the other. The Student made no progress toward the reading goals but made progress on the related services goals. (Respondent's Exhibit 28)
19. The Student's third-quarter report card for SY 2025-2026 indicates the Student is earning at least average grades in all classes and above-average grades in Civics, Reading Workshop, and Health/Physical Education. (Petitioner's Exhibit 69)
20. School A held an annual IEP review for the Student on January 30, 2026. Petitioner attended the meeting, as did the Student's mother. The IEP reflected the Student's autism disability classification. School A increased the Student's specialized instruction to 2 hours per week each in math and reading in the general education setting, 2 hours per week in reading outside the general education setting, 30 minutes per month of group SLP in the general education setting, 1 hour per month of group BSS in the general education setting, and OT consultation of 15 minutes per month. The IEP included academic goals in reading, math, and written expression, as well as related services goals for SLP, BSS, and OT. ⁷

⁷ The January 30, 2026, IEP included the following goals:

Mathematics: By March 2026, given a word problem that involves a whole number divided by a unit fraction (e.g., $6 \div \frac{1}{3}$), and a visual representation (e.g., 6 wholes, each divided into 3 equal parts), Student will determine the quotient by counting the number of unit fractions needed to make the whole, with teacher prompting (e.g., "This is $\frac{1}{3}$. How many copies of $\frac{1}{3}$ do we need to make 6?"), for (4 out of 5) problems, on (3 out of 4) progress monitoring assessments.

Mathematics: By March, 2026, given a rational number (e.g., $\frac{13}{2}$; $5\frac{6}{7}$), Student will use long division to convert the rational number into decimal form with (80%) accuracy (i.e., 4 out of 5 correct conversions).

Reading: By March 2026, after independently reading an independent level informational excerpt with highlighted details related to author's point of view, given a point of view anchor chart and a multiple choice question related to author's point of view, Student will select the author's point of view from a list of (3) options, for (3 out of 4) questions, on (3 out of 4) progress monitoring assessments.

Reading: By March 2026, given a 3-4 sentence independent-level paragraph describing a person, place, or thing and a written inferential claim about the text, Student will underline (1) detail in the text to support the inference for (4 out of 5) paragraphs, on (3 out of 4) progress monitoring assessments.

SLP: Communication/Speech and Language: Given a set of speech fluency strategies from which to choose, Student will trial 4 out of 5 strategies, determine the strategy that is most helpful, and utilize it in 4 out of 5 opportunities given verbal prompts as needed.

The IEP included the following classroom and testing accommodations: clarification of directions, read-aloud for assessments, extended time and frequent breaks, preferential seating, a location with minimal distractions, redirection to test materials, small-group testing, a desktop list of tasks, and the use of a calculator. The IEP did not include ESY services. (Respondent's Exhibit 27)

21. Petitioner has been diagnosed with multiple sclerosis and partial blindness. He requires a personal assistant and caregiver who provides 14 hours of assistance per day, including reading accommodations. Petitioner can no longer read independently and requires text to be magnified. His blindness occurred in stages, though he does not recall the specific date he informed DCPS of his full blindness. (Father's testimony)
22. Petitioner attended all IEP meetings during the 2024-2025 and 2025-2026 school years. DCPS provided him with documents to review, but because they were read to him by his caregiver, he cannot fully recall their contents. The caregiver has no training or understanding of special education services. (Father's testimony)
23. The Student's special education math teacher/case manager provides math instruction in the general education setting for 2 hours per week and participates in weekly meetings with the Student's general education teacher. In her opinion, the Student's current IEP is appropriate, and the Student is making progress toward grade-level performance. She did not recommend ESY services because the Student did not meet the criteria for likelihood of regression, and she did not observe any regression during the school year. No IEP goals addressed the Student's ability to identify unsafe interactions or to address conflict with peers. The reading goal was developed in consultation with the school's reading specialist. All IEP goals were set at grade level to allow the Student to target grade-level standards. In the most recent iReady assessment, the Student scored one grade level behind in math. The Student met his/her stretch iReady goal, which is set at the beginning of the year and targets approaching grade-level performance. (Witness 3's testimony, Respondent's Exhibit 26)

OT: Motor Skills/Physical Development: Per teacher report, Student will bring appropriate materials to class (pencil, laptop, etc.), initiate a task within 5 mins of request, and demonstrate improved executive functioning skills as it pertains to attention and focus in the classroom for 30 minutes, in 3/4 check ins.

BSS: Emotional, Social and Behavioral Development By the designated goal completion date, Student will communicate the steps of problem-solving that lead to decision-making (e.g., state the problem, brainstorm solutions, choose and implement a solution) to make responsible, constructive choices in daily academic and social settings in 3 out of 4 observed opportunities.

The January 30, 2026, IEP included the following regarding post-secondary transition:

Upon graduating from high school, Student will attend a four-year college and pursue a degree aligned with hers/his career goals.

Annual Transition Goal: By the end of this IEP, Student will identify three college majors that interest her/him and explain how each relates to Student's future career goals. The district will provide college counseling.

24. The Student's special education math teacher/case manager opined that the IEP goals were and remain adequately challenging to help the Student achieve grade-level standards. The Student was making adequate progress on both goals, as shown by observational data. (Witness 3's testimony; Respondent's Exhibits 16, 27)
25. The Student's special education math teacher/case manager describes the Student as friendly and respectful toward adults, as demonstrating creative thinking, and as having strong technology skills. However, the Student is easily distracted in the classroom, but when prompted to refocus, is able to do so and is respectful to adults. The Student's special education teacher believes that the Student's classroom behaviors do not impede his/her access to the academic curriculum. She disagrees with the statement that the Student has problems leaving her/his seat and respecting others' personal space. She has not noticed a significant change in the Student's receptive communication skills, though she acknowledges the Student is better able to communicate during the year when he/she has established trust with an adult. (Witness 3's testimony)
26. The Student's special education case manager acknowledged, based on teacher reports and available documentation, that the Student reads below grade level and has difficulty staying focused and studying. She confirmed that the Student is below grade level in reading, writing, and math. The Student's special education case manager communicated with Petitioner by email and phone during the current school year, and Petitioner expressed no concerns about those communications. She was unaware that Petitioner was legally blind, and there was no indication at the meetings she attended that he was. She does not recall the caregiver reading documents to Petitioner during the IEP meetings. (Witness 3's testimony)
27. School A's social worker provides the Student with BSS services. She reviewed the May 2024 IEP, drafted while the Student was at School B, including the Strengths and Difficulties Questionnaire ("SDQ"), the behavior goals, and the amount of service. In her opinion, the Student's BSS goals were and are appropriate. She drafted the behavior goals in the most recent IEP. The Student's self-advocacy goal was based on her observation that the Student did not self-advocate in the classroom and sometimes daydreamed. She provided the prescribed services of 60 minutes per month, which she believes is appropriate to minimize the Student's time out of class. She typically meets with the Student individually for 30 minutes per session and maintains monthly notes and service trackers. School A's social worker is aware of at least one incident in which the Student was bullied by another student, which she addressed through crisis intervention; however, no specific IEP goal was developed for the Student to address bullying. She believes that, although bullying is episodic, it can have lingering effects and can be addressed during the Student's BSS sessions. (Witness 4's testimony; Petitioner's Exhibit 10)
28. Petitioner engaged an educational consultant who reviewed the Student's evaluations and educational records. Based on the alleged denials of FAPE that Petitioner asserted, the consultant developed a compensatory education proposal with the following recommendations: 240 hours of academic instruction, consisting of 100 hours in reading, 80 hours in math, and 60 hours in writing; 120 hours of individual behavior supports,

including social work or ABA services in the afternoon to address homework, organizational skills, and home task strategies, provided in 2 to 3 sessions per week of 30 to 45 minutes each; 75 hours of compensatory speech-language services; 60 hours of BCBA consultation and staff coaching for teachers and the school team over two consecutive school years; 40 hours of compensatory occupational therapy services; 60 hours of counseling or social-emotional intervention; and 20 hours of parent and caregiver training. The consultant also recommended the Student's use of sensory items, such as fidgets, and additional OT goals to teach their use. The consultant also recommended that the Student's OT pull-out and push-in services be increased to 60 minutes per month and that SLP services be increased to 1 hour per week, or 4 hours per month, to address the Student's social-communication needs. (Witness 2's testimony; Petitioner's Exhibit 119)

CONCLUSIONS OF LAW:

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

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

34 C.F.R. § 300.17 provides:

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

Pursuant to 5A DCMR 3053.6, the burden of proof is the responsibility of the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528 (2005). The burden of persuasion shall be met by a preponderance of the evidence. See, e.g., *N.G. V. District of Columbia* 556 f. Sup. 2d (D.D.C. 2008) see also 20 U.S.C. §1451 (i)(2)(C)(iii). Petitioner presented a prima facie case on issue #1 as to each of the three IEPs at issue. Thus, DCPS bore the burden of persuasion on issue #1. Petitioner bore the burden of persuasion on the remaining issues that were adjudicated. 8

⁸ DC Code § 38-2571.03 (6) provides:

(A) In special education due process hearings occurring pursuant to IDEA (20 U.S.C. § 1415(f) and 20 U.S.C. § 1439(a)(1)), the party who filed for the due process hearing shall bear the burden of production and the burden of persuasion; except, that:

(i) 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

ISSUE 1: Did DCPS deny the Student a FAPE by failing to develop appropriate IEPs on May 13, 2024; March 19, 2025; and January 30, 2026?

Conclusion: DCPS did not sustain the burden of persuasion by a preponderance of the evidence that the Student's March 19, 2025, and January 30, 2026, IEPs were reasonably calculated to enable the Student to make progress appropriate in light of the Student's circumstances.

The Individuals with Disabilities Education Act ("IDEA") was enacted to ensure that all disabled students receive a "free appropriate public education." 20 U.S.C. § 1400(d)(1)(A). "Commonly referred to by its acronym 'FAPE,' a free appropriate public education is defined as 'special education and related services that' are 'provided at public expense, under public supervision ...;' and that 'meet the standards of the State educational agency;' as well as 'conform[] with [each disabled student's] individualized education program.'" *Charles H. v. District of Columbia*, 2021 WL 2946127 (D.D.C. June 16, 2021) (quoting 20 U.S.C. § 1401(9)) (alterations in original). "Special education" is defined as "specially designed instruction, at no cost to parents, [that] meet[s] the unique needs of a child with a disability." 20 U.S.C. § 1401(29). "Related services," on the other hand, are defined as "such developmental, corrective, and other supportive services ... as may be required to assist a child with a disability to benefit from special education." *Id.* § 1401(26)(A).

"Under [the] IDEA and its implementing regulations, students with disabilities ... are entitled to receive [a] FAPE through an Individualized Education Program (or IEP)." *Charles H.*, 2021 WL 2946127 (quoting 20 U.S.C. § 1401(9)(D)). An IEP is a written document that lays out how the student will obtain measurable annual goals and that mandates specific special education and related services that the student must receive. 20 U.S.C. § 1414(d)(1)(A)(i). It is created for each student by a special "IEP Team," consisting of the child's parents, at least one regular-education teacher, at least one special-education teacher, and other specified educational experts. *Id.* § 1414(d)(1)(B). An IEP is the main tool for ensuring that a student is provided a FAPE. See *Charles H.*, 2021 WL 2946127 (quoting *Lofton v. District of Columbia*, 7 F. Supp. 3d 117, 123 (D.D.C. 2013)). " (*Robles v. District of Columbia* 81 IDELR 183 D.D.C. August 26, 2022

In *Board of Education v. Rowley*, the United States Supreme Court set forth a two-part inquiry for determining whether a school district has satisfied the FAPE requirement. First, the state must have "complied with the procedures set forth in the Act." *Rowley*, 458 U.S. at 206. Second, the IEP that is developed must be "reasonably calculated to enable the child to receive educational benefits." *Rowley*, 458 U.S. at 206-07. To be appropriate under 34 C.F.R. § 300.324, the IEP must

the burden of persuasion falls on the public agency. The burden of persuasion shall be met by a preponderance of the evidence.

(ii) Where a party seeks tuition reimbursement for unilateral placement, the party seeking reimbursement shall bear the burden of production and the burden of persuasion on the appropriateness of the unilateral placement, provided, that the hearing officer shall have the authority to bifurcate a hearing regarding a unilateral placement; provided further, that if the hearing officer determines that the program offered by the public agency is appropriate, it is not necessary to inquire into the appropriateness of the unilateral placement.

(B) This paragraph shall apply to special education due process hearings resulting from complaints filed after July 1, 2016.

consider the (i) strengths of the child; (ii) concerns of the parents; (iii) results of the initial or most recent evaluation; and (iv) academic, developmental, and functional needs of the child.

The second substantive prong of the *Rowley* inquiry is whether the IEP developed was reasonably calculated to enable Student to make progress appropriate in light of Student's individual circumstances. In *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist.* RE-1, 137 S. Ct. 988 (2017), the U.S. Supreme Court elaborated on the "educational benefits" requirement pronounced in *Rowley*: To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. . . . Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal. . . . When a child is fully integrated in the regular classroom, as the Act prefers, what that typically means is providing a level of instruction reasonably calculated to permit advancement through the general curriculum. . . . If that is not a reasonable prospect for a child, his IEP need not aim for grade-level advancement. But his educational program must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives. *Endrew F.*, supra, 137 S. Ct. at 999–1000 (citations omitted).

Pursuant to *Schaefer v. Weast*, 554 F.3d 470 (U.S. App. 2009), the Hearing Officer must "focus on the adequacy of the IEP at the time it was created, and ask if it was reasonably calculated at that time to enable the student to receive educational benefits."

The key inquiry regarding an IEP's substantive adequacy is whether, taking account of what the school knew or reasonably should have known of a student's needs at the time, the IEP offered was reasonably calculated to enable the specific student's progress.... "Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal." *Z.B. v. District of Columbia*, 888 F.3d 515 (D.C. Cir. 2018) citing *Endrew F.*, supra, 137 S. Ct. 988.

Removing a child with disabilities "from the regular education environment occurs only when the nature or severity of the disability is such that education in regular classes cannot be achieved satisfactorily." 34 C.F.R. § 300.550; 34 C.F.R. §300.114 see also 20 U.S.C. § (a)(5)(A) (a disabled child is to participate in the same activities as non-disabled children to the "maximum extent appropriate"); *Roark ex rel. Roark v. District of Columbia*, 460 F.Supp.2d 32, 43 (D.D.C. 2006)

"The IDEA requires that children with disabilities receive education in the regular classroom whenever possible" *Z.B. v. District of Columbia*, 888 F.3d 515 (D.C. Cir. 2018) citing *Endrew F.*, supra, 137 S. Ct. at 999 (quoting *Rowley*, 458 U.S. at 202)

Petitioner asserted that all academic, functional, social-emotional, executive functioning, and behavioral goals in the IEPs at issue were not timely, attainable, relevant, specific, or measurable in meeting the Student's academic, functional, and behavioral needs. Petitioner also alleged that both the level (hours per week) of specialized instruction and related services were insufficient to address the Student's academic, functional, and behavioral needs. Petitioner further alleged that

the IEPs did not include ESY. Lastly, Petitioner asserted that for the 2023-24, 2024-25, and 2025-26 school years, the DCPS failed to appropriately address deficits directly related to Autism.

Goals

With respect to Petitioner's broad assertion that the academic, functional, social-emotional, executive functioning, and behavioral goals across all three IEPs failed to meet the standard of being timely, attainable, relevant, specific, or measurable to address the Student's needs, the IHO does not find this assertion persuasive. The IEPs at issue contained specific, measurable goals across reading, mathematics, written expression, SLP, OT, and BSS, each with defined criteria for mastery and a method of progress monitoring. (FOF 3, 13, 20) The Student's progress reports throughout the period at issue reflect that the Student was making progress toward, and in several instances mastering, these goals. The fourth-quarter progress report for SY 2023-2024 indicated progress on all academic and SLP goals (FOF 5); the first- and second-quarter reports for SY 2024-2025 indicated progress toward all academic and related services goals (FOF 10); the third-quarter report for that year reflected mastery of one BSS goal (FOF 11); the first-quarter report for SY 2025-2026 reflected progress, with the SLP goal newly introduced (FOF 17); and the second-quarter report for that year reflected mastery of one math goal and progress toward the other, along with progress on related services goals (FOF 18). This pattern of demonstrated progress is corroborated by the Student's report cards, which reflect passing grades in all but one subject in SY 2023-2024 (FOF 6), passing grades in all subjects with above-average performance in all but one subject in SY 2024-2025 (FOF 12), and at-least-average grades in all subjects, with above-average performance in three subjects, through the third quarter of SY 2025-2026 (FOF 19).

Critically, the record contains no evidence that Petitioner, the Student's mother, or any other member of the IEP teams raised disagreement with the specific content of these goals at the time any of the three IEPs were developed, nor does the record reflect that Petitioner requested revisions to the goals as they were being implemented during the school years that followed. Petitioner attended all four of the relevant IEP meetings (FOF 3, 9, 13, 20), yet the evidence does not show that he, at the time, identified the goals themselves—as opposed to the amount of services discussed below—as inadequate. The first time the specific content of these goals was challenged as inappropriate was during this due process proceeding, well after each IEP had been implemented for some period of time and, in several instances, after the Student had already made measurable progress toward them.

The IHO's assessment of an IEP's adequacy must focus on "the adequacy of the IEP at the time it was created" and ask whether it was "reasonably calculated at that time to enable the student to receive educational benefit." *Schaefer v. Weast*, 554 F.3d 470 (U.S. App. 2009); *Z.B. v. District of Columbia*, 888 F.3d 515 (D.C. Cir. 2018). Petitioner's expert witnesses' testimony critiquing the goals—offered more than a year after the May 2024 IEP was developed, and months after the March 2025 and January 2026 IEPs were developed, with the benefit of hindsight, subsequent evaluations, and the Student's autism diagnosis—is precisely the kind of retrospective, "Monday morning quarterbacking" that the substantive adequacy standard does not permit. Neither Witness 1 nor Witness 2 had observed the Student in a classroom setting, had reviewed the Student's actual classroom performance data contemporaneously with the development of these IEPs, or had participated in the development of any of the three IEPs at issue, save Witness 1's attendance at

the October 22, 2024, thirty-day review—which itself was not an IEP development meeting for any of the three IEPs at issue.

The IEP teams that developed the May 2024, March 2025, and January 2026 IEPs, by contrast, did so based on the information reasonably available to them at the time, including the Student's then-current PLOPs, iReady data, teacher input, and—at least for the January 2026 IEP's reading and written expression goals—direct consultation with the School A reading specialist given the Student's lack of an assigned reading special education teacher for the year. This contemporaneous, classroom-grounded process is precisely what *Andrew F.* and its progeny require the IHO to credit, rather than the hindsight-driven critiques of witnesses who were not present in the room, had not observed the Student in school, and were not involved in the IEP development process for any of the three IEPs.

The IHO further notes that the Student's autism diagnosis, formalized on October 3, 2025 (FOF 16), does not retroactively render the May 2024 and March 2025 IEPs—developed before that diagnosis—substantively inadequate. As evidence reflects, a disability classification does not dictate the content of an IEP; what matters is whether the IEP, at the time it was developed, addressed the Student's known and suspected needs based on the information then available to the team.

The October 22, 2024, meeting at which the team discussed the not-yet-completed Autism Rating Scales (FOF 9), and the September 2025 addendum documenting the basis for the autism reclassification (FOF 15), reflect that DCPS was actively engaged in the process of identifying and addressing the Student's needs related to social communication and behavior throughout the period at issue—culminating in the reclassification and, as discussed below, in IEEs that the IHO is ordering DCPS to fund, which will allow the IEP team to revisit and revise the Student's goals going forward as appropriate. To the extent any of the Student's goals require refinement in light of the IEEs ordered herein, that is the function of the IEP team's ongoing review process, not a basis for finding the IEPs as developed were substantively inappropriate at the time. Accordingly, the IHO concludes that the evidence did not sustain a finding that the goals contained in the May 13, 2024; March 19, 2025; and January 30, 2026, IEPs were inappropriate, untimely, unattainable, irrelevant, nonspecific, or unmeasurable.

Specialized Instruction and Related Services

While the IHO does not find that the goals contained in the IEPs at issue were substantively inappropriate, the IHO reaches a different conclusion with respect to the amount of specialized instruction and related services prescribed, particularly the reductions reflected in the March 19, 2025, and January 30, 2026, IEPs.

The May 13, 2024, IEP prescribed 4 hours per week of specialized instruction in the general education setting and 4 hours per week outside the general education setting, 1 hour per month of SLP, 1 hour per month of BSS, and 30 minutes per month of OT consultation. (FOF 3) At the March 19, 2025, annual review, DCPS reduced the Student's specialized instruction to 3.5 hours per week in the general education setting and 2.2 hours per week outside the general education setting, reduced SLP from 1 hour per month to 30 minutes per month, and reduced OT consultation

to 15 minutes per month. Notably, although the March 2025 IEP contained a BSS goal, it did not include any prescribed BSS services—a reduction from 1 hour per month to zero. Although there was evidence that BSS was still provided to the Student despite this omission. (FOF 13)

By the January 30, 2026, IEP, DCPS increased specialized instruction to 2 hours per week each in math and reading in the general education setting and 2 hours per week in reading outside the general education setting, restored group BSS at 1 hour per month, maintained SLP at 30 minutes per month (now in a group setting), and maintained OT consultation at 15 minutes per month. (FOF 20)

Even accounting for the partial restoration of services in January 2026, the overall trajectory across the three IEPs at issue reflects a substantial net reduction in both specialized instruction and related services from the level prescribed in May 2024, at a time when the evidence does not support a conclusion that the Student's needs had correspondingly diminished. To the contrary, the record reflects that the Student remained significantly academically delayed throughout the period at issue. The Student's September 2025 iReady data showed the Student operating two to three grade levels behind in math (FOF 14)—this notwithstanding, by this point, the Student had been receiving DCPS special education services, including the reduced level of specialized instruction implemented under the March 2025 IEP, for over a year.

The Student's case manager acknowledged that the Student reads below grade level and is operating below grade level in writing and math (FOF 26), and even under the January 2026 IEP—which increased instructional hours relative to the March 2025 IEP—the Student's most recent iReady score still reflected performance one grade level behind in math (FOF 23).

The reduction in OT consultation from 30 minutes per month to 15 minutes per month, implemented in March 2025 and maintained in January 2026, and the elimination and subsequent restoration of BSS services are not adequately explained by any corresponding evidence of the Student's diminished need in these areas. To the contrary, the Student's October 2025 reclassification to autism (FOF 16), based on an addendum evaluation reflecting elevated ratings across multiple environments in peer socialization, social/emotional reciprocity, social communication, and unusual behaviors (FOF 15), suggests that the Student's needs in the areas addressed by BSS and OT were, if anything, more significant than the March 2025 IEP team appreciated at the time—a point underscored by the fact that the March 2025 IEP, despite eliminating BSS services altogether, nonetheless retained a BSS goal, an internal inconsistency that itself calls into question whether the March 2025 IEP's service levels were the product of a considered, needs-based determination. (FOF 13)

The IDEA requires that an IEP be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F.*, 137 S. Ct. at 999. Where, as here, a student remains substantially behind grade level academically—operating, by the team's own data, two to three grade levels behind in math even after more than a year of services—a reduction in the very instructional and related services hours designed to close that gap is difficult to reconcile with the substantive standard *Endrew F.* requires. The Student's continued, significant delay, persisting across all three IEPs at issue, is itself evidence that the level of services provided was not reasonably calculated to enable the Student to make the kind of progress contemplated by the

IDEA, particularly where that level of service was reduced rather than increased in the face of demonstrated, persistent need.

The IHO recognizes that the Student's case manager testified that all goals in the most recent IEP were set at grade level to encourage the Student to meet grade-level standards, that the Student met his/her stretch iReady goal, and that the case manager did not believe the Student required ESY because she observed no regression (FOF 23, 24). The IHO finds this testimony credible regarding the appropriateness of the goals themselves, consistent with the IHO's conclusion above. However, the appropriateness of a goal's content is a distinct inquiry from whether the amount of service prescribed to help the Student reach that goal is sufficient. A goal that is appropriately ambitious, see *Endrew F.*, 137 S. Ct. at 1000, cannot compensate for a level of specialized instruction and related services that has been reduced despite the Student's persistent, significant academic delay.

Accordingly, the IHO concludes that DCPS did not sustain the burden of persuasion that the levels of specialized instruction and related services prescribed in the March 19, 2025, and January 30, 2026, IEPs—representing, on net, a reduction from the level prescribed in the May 13, 2024, IEP—were reasonably calculated to enable the Student to make progress appropriate in light of the Student's circumstances, given the Student's continued and significant academic delays documented throughout the period at issue.

Extended School Year Services

Petitioner further asserted that the IEPs at issue were inappropriate because they did not include Extended School Year ("ESY") services. ESY services are required under the IDEA where a student's IEP team determines, on an individual basis, that the services are necessary to provide FAPE—typically where a student would experience significant regression over an extended break, such as the summer, and would be unable to recoup the lost skills within a reasonable time after the break ends. 34 C.F.R. § 300.106.

The May 13, 2024; March 19, 2025; and January 30, 2026, IEPs did not include ESY services. (FOF 4, 13, 20) Petitioner's expert witnesses testified that the Student's regression, as reflected in standardized testing midyear, warranted ESY services. The Student's case manager, however, credibly testified that she did not recommend ESY services because the Student did not meet the criteria for likelihood of regression and because she did not observe any regression during the school year indicative of the type of regression-recoupment concern ESY is intended to address. (FOF 23)

The IHO finds the case manager's testimony on this point more persuasive than that of Petitioner's expert witnesses. ESY eligibility turns on a student's demonstrated pattern of regression following extended breaks from instruction—typically the summer recess—and the student's resulting inability to recoup lost skills within a reasonable period thereafter. The record does not establish that the Student exhibited this pattern. To the extent the Student's iReady scores reflected a decline at some point during a school year, as Petitioner's witnesses testified, such a decline, occurring during a period when the Student was actively receiving instruction, does not establish the kind of summer-break regression and recoupment failure that ESY services are designed to address. The

case manager, who has worked directly with the Student and observed her/his performance over the course of the school year, was better positioned than Petitioner's experts—neither of whom had observed the Student in the classroom—to assess whether the Student's pattern of progress and any intermittent dips in performance were consistent with, or distinguishable from, the regression that would warrant ESY.

Accordingly, the IHO concludes that the evidence does not support a finding that the Student required ESY services, and that the absence of ESY in the May 2024, March 2025, and January 2026 IEPs does not render those IEPs inappropriate.

Alleged Failure to Address Autism-Related Deficits

Finally, Petitioner asserted that DCPS failed to appropriately address deficits directly related to the Student's autism during the 2023-2024, 2024-2025, and 2025-2026 school years. As an initial matter, the IHO notes that a disability classification does not, in itself, dictate the content of a student's IEP; rather, the IEP must address the student's actual, identified needs, regardless of the label attached to those needs. The record contains insufficient evidence to support a claim that the Student's eventual reclassification from OHI due to ADHD to Autism in October 2025 (FOF 16) would have necessitated any significant change to the Student's educational programming beyond what was already being provided.

This conclusion is supported by the September 2025 psychological addendum itself, which formed the basis for the autism reclassification. The addendum reflected that, in the classroom environment, the Student's teachers' primary concern was the Student's attention—a concern that the May 2024, March 2025, and January 2026 IEPs each addressed through accommodations already incorporated into the Student's IEPs, including redirection, prompting, preferential seating, locations with minimal distractions, frequent breaks, and similar supports. (FOF 4, 13, 20)

While the addendum noted elevated ratings across multiple environments in peer socialization, social/emotional reciprocity, social communication, and unusual behaviors as the basis for the autism classification (FOF 15), it did not identify the specific classroom-based deficits, beyond attention, that were not already being addressed by the accommodations and BSS goals and services in place. The IHO has already concluded above that the level of BSS and OT services warrants adjustment given the Student's continued needs; that conclusion adequately addresses the substantive concern underlying Petitioner's autism-related argument. Petitioner did not separately demonstrate that the autism classification itself revealed any additional category of need that the IEPs at issue failed to address, distinct from the service-level deficiencies the IHO has already identified above.

Accordingly, for all the reasons set forth above, the IHO concludes that DCPS did not sustain the burden of persuasion that March 19, 2025, and January 30, 2026, IEPs, were reasonably calculated to enable the Student to make progress appropriate in light of the Student's circumstances, due specifically to the deficiencies identified in the level of specialized instruction and related services prescribed in the March 19, 2025, and January 30, 2026, IEPs. Consequently, the order below the IHO directs DCPS to immediately increase the Student's specialized instruction and related services to the levels specified in the Student's May 13, 2024, IEP.

ISSUE 2: Did DCPS deny the Student a FAPE by failing to provide an IEE in response to Petitioner's April 21, 2024, request?

Conclusion: Petitioner sustained the burden of persuasion that the DCPS denied the Student a FAPE by failing to grant Petitioner's August 21, 2024, request for IEEs.

Pursuant to 34 C.F.R. § 300.304 (c), a school district must ensure that a student has been appropriately evaluated in all areas of suspected disability. D.C. law requires that "a full and individual evaluation is conducted for each child being considered for special education and related services."

The evaluators shall utilize "a variety of assessment tools and strategies [to] gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum ... that may assist in determining whether the child is a child with a disability." D.C. Mun. Regs. Title 5A § 3006.7(a).

All areas "related to the suspected disability" should be assessed, including academic performance, health, vision, hearing, social and emotional status, general intelligence (including cognitive ability and adaptive behavior), communicative status, and motor abilities. D.C. Mun. Regs. Title. 5E § 3005.9(g). The evaluations must be "sufficiently comprehensive to identify all of the child's special education and services needs." D.C. Mun. Regs. Title 5A § 3006.7(f).

Generally, when a child has been evaluated for special education eligibility and the appropriateness of the agency's evaluation is at issue, the hearing officer must consider whether the agency adequately gathered functional, developmental and academic information about the child's needs to determine the content of the IEP in all areas of suspected disability and that the evaluation was sufficiently comprehensive to identify all of the child's needs. 20 U.S.C. §§ 1412(a)(6)(B), 1414(b)(1-3); 34 C.F.R. §300.304(b)(1-3), (c)(4, 6).

In fact, the IDEA lacks specific parameters for the content of psychological evaluations, or, for that matter, of other evaluations. It merely requires that such evaluations "use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors." 20 U.S.C. § 1414(b)(2)(C). Its implementing regulations provide only that students be "assessed in all areas related to the suspected disability" and that such evaluations use "[a] variety of assessment tools and strategies ... to gather relevant functional and developmental information about the child [...] that may assist in determining -- [t]he content of the child's IEP." 34 C.F.R. § 300.304(b)(1), (c)(4). *Sylvia HILL et al., v. District of Columbia*, August 26, 2016 68 IDELR 133, citing *D.K. v. Abington Sch. Dist.*, 696 F.3d 233, 250 (3d Cir. 2012) (finding that evaluations "should be tailored to the specific problems a potentially disabled student is having" but not "designed to identify and diagnose every possible disability").

The IDEA regulations provide parents with a limited right to obtain an independent educational evaluation at public expense. An independent evaluation is one "conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in

question.” The limited right arises only after the agency has procured an evaluation with which the parent “disagrees.” 34 C.F.R. § 300.502(b).

The regulations limit the parent to one independent evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. *Id.* Once the parent expresses her disagreement, she may request an independent reevaluation at public expense, which the agency must either provide or, as DCPS has done in this case, file a due process complaint to establish that its evaluation is “appropriate.” See 34 CFR § 300.502(b)(2). If the agency’s evaluation is found to be appropriate, the parent may still obtain an independent evaluation at her own expense. 34 C.F.R. § 300.502(b)(3). See *South Kingstown School Committee v. Joanna S.*, 2014 WL 197859 (D.R.I. 2014).

Generally, when a child has been evaluated for special education eligibility and the appropriateness of the agency’s evaluation is at issue, the hearing officer must consider whether the agency adequately gathered functional, developmental and academic information about the child’s needs to determine the content of the IEP in all areas of suspected disability and that the evaluation was sufficiently comprehensive to identify all of the child’s needs. 20 U.S.C. §§ 1412(a)(6)(B), 1414(b)(1–3); 34 C.F.R. §300.304(b)(1–3), (c)(4, 6).

If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason for objecting to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation. 34 C.F.R. § 300.502(b)(4). Once a parent requests an IEE, the law requires the school to act "without unnecessary delay" to either fund the IEE or demonstrate that its evaluation was appropriate. 34 C.F.R. § 300.502(b)(1)-(3).

Petitioner asserted that DCPS failed to grant Petitioner’s request for the IEE(s) in a timely manner or to file a due process complaint to defend its evaluation. On March 13, 2024, DCPS obtained the Student's mother's consent to conduct evaluations of the Student. On March 28, 2024, DCPS conducted a psychological evaluation, and in April 2024, DCPS conducted occupational therapy and speech-language evaluations.

On August 21, 2024, Petitioner emailed School B requesting that DCPS fund IEEs. Petitioner requested the following IEEs: psychological, educational, speech-language, occupational therapy, motor, autism, assistive technology, AAC evaluation, anxiety, mental health, adaptive behavior, behavior, and functional behavior assessment.

On August 22, 2024, School B's principal acknowledged receipt of Petitioner's email regarding the IEEs. On August 28, 2024, the principal emailed Petitioner stating that DCPS was considering his request for the IEEs and would inform him in a few weeks whether DCPS would agree to fund them. However, DCPS never responded to Petitioner's IEE request and did not authorize public funding for the requested evaluations.

Although the psychological evaluation was conducted on March 28, 2024, the evaluation report was not completed until September 25, 2024. It was neither provided to the parents nor reviewed

by the IEP team until October 22, 2024, when School A convened a 30-day review meeting. DCPS asserts that Petitioner is not entitled to the IEE(s) because DCPS did not conduct all the evaluations Petitioner requested, including the psychological evaluation, which was not completed when Petitioner made the request. The IHO is not convinced by DCPS's assertion regarding the psychological evaluation but agrees with DCPS that Petitioner is entitled only to IEEs for evaluations conducted by DCPS.

Although Petitioner requested a broad array of IEEs—including psychological, educational, speech-language, occupational therapy, motor, autism, assistive technology, AAC, anxiety, mental health, adaptive behavior, behavior, and functional behavior assessments—the record reflects that DCPS had, by the time of Petitioner's request, conducted only three evaluations of the Student: the psychological evaluation administered on March 28, 2024, and the occupational therapy and speech-language evaluations conducted in April 2024. (FOF 2) Petitioner is therefore entitled to seek independent evaluations only in those three areas, as the regulatory right to an IEE is triggered by parental disagreement with an evaluation the public agency has actually "conducted." 34 C.F.R. § 300.502(b). DCPS cannot be compelled to fund independent evaluations in areas it has not yet assessed, as no agency evaluation exists with which Petitioner could "disagree" within the meaning of the regulation.

With respect to the psychological evaluation, however, DCPS's argument that Petitioner was not entitled to an IEE because the evaluation had not yet been "completed" at the time of the August 21, 2024, request is unpersuasive. The evaluation itself—the administration of testing—was conducted on March 28, 2024, nearly five months before Petitioner's IEE request. (FOF 2) DCPS cannot rely on its own delay in finalizing the written evaluation report, which was not completed until September 25, 2024 (FOF 8), as a shield against Petitioner's timely-exercised right to request an independent evaluation. To hold otherwise would allow a public agency to indefinitely insulate its evaluations from independent review simply by delaying the issuance of the written report. Accordingly, the psychological evaluation, along with the OT and speech-language evaluations conducted in April 2024, are evaluations "conducted by" DCPS for purposes of 34 C.F.R. § 300.502(b), and Petitioner's August 21, 2024, request for independent evaluations in these three areas triggered DCPS's obligation under 34 C.F.R. § 300.502(b)(1)-(3) to act "without unnecessary delay."

The record establishes that DCPS failed to meet this obligation. On August 22, 2024, School B's principal acknowledged receipt of Petitioner's request, and on August 28, 2024, the principal represented to Petitioner that DCPS was considering the request and would respond within a few weeks. (FOF 7) DCPS never did. DCPS neither funded the requested independent evaluations nor filed a due process complaint to defend the appropriateness of its own evaluations, as it was entitled to do under 34 C.F.R. § 300.502(b)(2). See *South Kingstown School Committee v. Joanna S.*, 2014 WL 197859 (D.R.I. 2014). Instead, DCPS simply did not respond at all. (FOF 7) This silence, persisting for the duration of the time period at issue in this proceeding—well over a year—is the paradigm of the "unnecessary delay" that 34 C.F.R. § 300.502(b)(4) prohibits.

The significance of DCPS's inaction is compounded by the circumstances surrounding the psychological evaluation itself. Even setting aside the IEE request, DCPS did not complete its own evaluation report until September 25, 2024—six months after the evaluation was administered—

and did not share that report with Petitioner or convene the IEP team to review it until the October 22, 2024, thirty-day review meeting. (FOF 8, 9) At that meeting, School A did not provide Petitioner with a copy of the psychological evaluation report in advance, and the team acknowledged that the Autism Rating Scales referenced in the evaluation had not yet been completed. (FOF 9) These facts demonstrate that DCPS's own evaluative process was substantially delayed and incomplete at the very time Petitioner's IEE request was pending, further undermining any claim by DCPS that it was acting with appropriate diligence regarding the Student's evaluations.

For these reasons, the IHO concludes that Petitioner sustained the burden of persuasion by a preponderance of the evidence that DCPS denied the Student a FAPE by failing to respond without unnecessary delay to Petitioner's August 21, 2024, request for independent educational evaluations in the areas of psychological, occupational therapy, and speech-language assessment, evaluations that DCPS had conducted and with which Petitioner expressed disagreement. Petitioner did not, however, sustain the burden of persuasion with respect to the remaining evaluations requested—educational, motor, autism, assistive technology, AAC, anxiety, mental health, adaptive behavior, behavior, and functional behavior assessment—as DCPS had not conducted evaluations in these areas at the time of the request, and 34 C.F.R. § 300.502(b) does not obligate a public agency to fund an independent evaluation where it has not first conducted its own.

ISSUE 3: Did DCPS deny the Student a FAPE by denying the Petitioner the opportunity to meaningfully participate in the Student's IEP development?

Conclusion: Petitioner failed to meet the burden of persuasion by a preponderance of the evidence that DCPS failed to provide Petitioner with an opportunity to meaningfully participate in the Student's IEP development.

Pursuant to 34 CFR § 300.324, a child's IEP Team must consider the strengths of the child, the concerns of the parents of the child, the results of the most recent evaluation of the child, and the needs of the child when developing and revising a child's IEP. Pursuant to 34 CFR § 300.501, a public agency must ensure that the parents of a child with a disability are afforded an opportunity to participate in meetings with respect to the identification, evaluation, and education placement of the child and the provision of free appropriate public education (FAPE).

The IDEA requires school districts to provide for meaningful parental participation in IEP meetings. This participation should include considering parents' suggestions and, to the extent appropriate, incorporating them into the IEP. *Deal v. Hamilton Cty. Bd. of Educ.*, 392 F.3d 840, 854 (6th Cir. 2004).

In *Pavelko v. Dist. of Columbia*, 288 F. Supp. 3d 301, 306 (D.D.C. 2018), the Court explained that "plaintiffs' disagreement with the output of the IEP process does not mean that they were denied the chance to provide meaningful input into that process" (emphasis in original). See also *Hawkins v. Dist. of Columbia*, 692 F. Supp. 2d 81, 84 (D.D.C. 2010) (right conferred by the IDEA on parents to participate does not constitute a veto power over the IEP team's decisions).

Petitioner asserted that DCPS failed to provide consistent, accurate, and relevant data regarding the Student's academic, functional, and social-emotional skills; failed to provide Petitioner's accommodation for his disability; and failed to provide assistance in understanding the data, including the terms used and presented during the Student's IEP meetings.

The record reflects that Petitioner attended every relevant IEP meeting at issue in this proceeding—the May 13, 2024, annual review at School B, the October 22, 2024, thirty-day review, the March 19, 2025, annual review, and the January 30, 2026, annual review—and that the Student's mother also attended each of these meetings. (FOF 3, 9, 13, 20, 22) Mere attendance does not, of course, establish meaningful participation, but it is the starting point from which the IHO must evaluate whether DCPS afforded Petitioner a genuine opportunity to provide input that the IEP team would consider. See *Deal v. Hamilton Cty. Bd. of Educ.*, 392 F.3d 840, 854 (6th Cir. 2004).

Petitioner's claim rests substantially on his visual impairment and the assertion that DCPS failed to accommodate it. The evidence establishes that Petitioner has multiple sclerosis and partial blindness, that his blindness progressed in stages, and that he requires a caregiver who provides 14 hours of assistance per day, including reading documents aloud to him. (FOF 21) Petitioner was accompanied by this caregiver at the May 13, 2024, and October 22, 2024, meetings. (FOF 3, 9) However, Petitioner could not identify the date on which he informed DCPS of his full blindness (FOF 21), and the evidence does not establish that DCPS was on notice, at the relevant times, of the full extent of Petitioner's visual impairment or of his need for accommodations such as enlarged print. Significantly, Petitioner never requested that documents be provided to him in large print, and he never asked that an IEP meeting be postponed on account of his disability. While Petitioner testified that he believes he requested accommodations such as rescheduling or recording of meetings, and that his caregiver communicated such requests to DCPS, Petitioner could not recall the specifics or timing of those requests.

The IDEA's participation requirement does not impose an open-ended obligation on a school district to anticipate and accommodate disabilities that a parent has not clearly identified or for which the parent has not requested specific accommodations. Here, Petitioner had the means available to him—his caregiver—to access the content of the documents provided at each meeting, even if, as Petitioner testified, he "cannot fully recall their contents" because they were read to him rather than read independently. (FOF 22) The presence of a caregiver who read materials to Petitioner during meetings, combined with the Student's mother's presence at every meeting, undermines the assertion that Petitioner was excluded from the substance of the discussions or unable to provide input.

Moreover, Petitioner's broader complaint—that DCPS failed to provide "consistent, accurate, and relevant data" regarding the Student's academic, functional, and social-emotional skills, and failed to ensure Petitioner understood the terminology used during IEP meetings—is, at its core, a disagreement with the substantive content and outcome of the IEP process rather than a procedural denial of the opportunity to participate in that process. As the court explained in *Pavelko v. District of Columbia*, 288 F. Supp. 3d 301, 306 (D.D.C. 2018), "plaintiffs' disagreement with the output of the IEP process does not mean that they were denied the chance to provide meaningful input into that process" (emphasis in original).

Petitioner's evident dissatisfaction with the goals, services, and present levels of performance reflected in the May 2024, March 2025, and January 2026 IEPs (FOF 3, 13, 20) does not, without more, establish that he was denied the opportunity to participate. Nor does the IDEA confer upon a parent the right to dictate the substantive content of the IEP. See *Hawkins v. District of Columbia*, 692 F. Supp. 2d 81, 84 (D.D.C. 2010) (the right to participate "does not constitute a veto power over the IEP team's decisions").

The IHO is mindful of the genuine challenges Petitioner's disabilities present and does not minimize them. However, on this record, Petitioner has not demonstrated that he requested—and was denied—specific, identifiable accommodations necessary for his meaningful participation, nor has he demonstrated that the substance of his concerns was excluded from consideration by the IEP teams that convened on May 13, 2024, October 22, 2024, March 19, 2025, and January 30, 2026. Accordingly, the IHO concludes that Petitioner did not sustain the burden of persuasion by a preponderance of the evidence that DCPS denied Petitioner the opportunity to meaningfully participate in the development of the Student's IEPs, and this claim is dismissed.

Remedy:

"When a hearing officer ... concludes that a school district has failed to provide a student with a FAPE, it has 'broad discretion to fashion an appropriate remedy,' which ... can include compensatory education." *B.D. v. District of Columbia*, 817 F.3d 792, 797-98 (D.C. Cir. 2016) (quoting *Boose v. District of Columbia*, 786 F.3d 1054, 1056 (D.C. Cir. 2015)). An award of compensatory education "aims to put a student ... in the position he would be in absent the FAPE denial," *id.* at 798, and it accordingly "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," *id.* (quoting *Reid*, 401 F.3d at 524).

The D.C. Circuit has thus "explicitly disavowed" compensatory education in the form of "cookie-cutter" lump-sum awards when the hearing officer does not explain how the remedy is tailored to provide the services the student was denied. *Branham*, 427 F.3d at 11 (quoting *Reid*, 401 F.3d at 523). The D.C. Circuit has further emphasized that "[i]n carrying out the complicated work of fashioning such a remedy, the ... Hearing Officer should pay close attention to the question of assessment," including ordering new assessments where necessary to determine how best to provide the educational services the student was denied. *B.D.*, 817 F.3d at 800.

The IHO has concluded that DCPS denied the Student a FAPE by failing to timely respond to Petitioner's August 21, 2024, request for independent educational evaluations, and by developing IEPs on March 19, 2025, and January 30, 2026, that prescribed insufficient levels of specialized instruction and related services relative to the level prescribed in the May 13, 2024, IEP. For these two denials of FAPE, compensatory education and independent evaluations are appropriate remedies.

Petitioner presented a compensatory education proposal prepared by his educational consultant, who opined that the proposal was designed to place the Student in the position he/she would have occupied had she/he received appropriate evaluations, specialized instruction, behavior supports, and related services in a timely manner during SY 2024-2025 and SY 2025-2026. In formulating the proposal, however, the consultant presumed that all of the independent evaluations Petitioner

requested were warranted—a presumption the IHO has not adopted, having found Petitioner entitled only to independent evaluations in the areas DCPS had actually evaluated (psychological, OT, and speech-language). The consultant also opined on the appropriateness of related services—SLP, OT, and BSS—that fall outside her area of expertise as an educational consultant.

The consultant's recommendation of 240 hours of academic instruction (100 hours in reading, 80 hours in math, and 60 hours in writing) falls within her area of expertise, and the IHO finds this recommendation to be a reasonable approximation of the position the Student would have occupied had DCPS provided the appropriate level of specialized instruction under the March 2025 and January 2026 IEPs. The IHO therefore credits this portion of the proposal.

The consultant's remaining recommendations—120 hours of individual behavior support, 75 hours of compensatory speech-language services, 60 hours of BCBA consultation and staff coaching, 40 hours of compensatory OT, 60 hours of counseling or social-emotional intervention, and 20 hours of parent/caregiver training—were not adequately supported by the record. As discussed above, the IHO found Petitioner's expert witnesses' testimony regarding the Student's needs in these related-service areas less credible than the testimony of DCPS's social worker and case manager, who are directly familiar with the Student's BSS, SLP, and OT services. Accordingly, the IHO declines to adopt these recommendations in the proposed amounts. Nonetheless, because the IHO has found that DCPS inappropriately reduced SLP, OT, and BSS services in the March 2025 and January 2026 IEPs, the Student is entitled to a nominal amount of independent compensatory services in each of these three areas to address that reduction.

Finally, the consultant's recommendation that the Student's IEP services be increased prospectively is not a request for compensatory education but a request to revise the Student's current IEP. The IHO addresses this request directly in the Order below by directing DCPS to restore the Student's specialized instruction and related services to the levels prescribed in the May 13, 2024, IEP, which the IHO has found to be the last IEP at issue and not inappropriate in the level of services provided.

ORDER:

Based upon the foregoing, it is hereby ordered that:

1. Within ten (10) business days of the issuance of this Order, DCPS shall convene the Student's IEP team to amend the Student's IEP to increase the Student's specialized instruction and related services to the following levels: 4 hours per week of specialized instruction in the general education setting and 4 hours per week of specialized instruction outside the general education setting; 1 hour per month of speech-language pathology services; 1 hour per month of behavioral support services; and 30 minutes per month of occupational therapy consultation.
2. Within ten (10) business days of the issuance of this Order, DCPS shall provide Petitioner with authorization to obtain, at OSSE-prescribed rates, independent comprehensive psychological, occupational therapy, and speech-language evaluations.

3. Within ten (10) business days of the issuance of this Order, DCPS shall provide Petitioner with authorization to obtain, at OSSE-prescribed rates, 240 hours of independent academic tutoring and 10 hours each of independent speech-language services, occupational therapy services, and behavior support services or counseling.
4. Upon completion of the independent evaluations authorized in Paragraph 2, DCPS shall, within ten (10) business days of receipt of the completed evaluation reports, convene the Student's IEP team to review the evaluations and revise the Student's IEP as appropriate.
5. All other relief requested by Petitioner is denied.

APPEAL PROCESS:

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

/S/ Coles B. Ruff

Coles B. Ruff, Esq.
Impartial Hearing Officer
Date: June 12, 2026

Copies to: Counsel for Petitioner
 Counsel for LEA
 Office of Dispute Resolution