

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

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Office of Dispute Resolution
May 01, 2025

PARENT, on behalf of	)	Date Issued: May 1, 2025
STUDENT, ¹	)	
	)	Hearing Officer: Peter B. Vaden
Petitioner,	)	
v.	)	Case No: 2025-0029
	)	
DISTRICT OF COLUMBIA	)	Online Videoconference Hearing
PUBLIC SCHOOLS,	)	
	)	Hearing Date: April 22 and 25, 2025
Respondent.	)	

HEARING OFFICER DETERMINATION

INTRODUCTION AND PROCEDURAL HISTORY

This matter came to be heard upon the Administrative Due Process Complaint Notice filed by the Petitioner parent (MOTHER) under the Individuals with Disabilities Education Act, as amended (the IDEA), 20 U.S.C. § 1400, *et seq.*, and Title 5-A, Chapter 5-A30 of the District of Columbia Municipal Regulations (DCMR). In this administrative due process proceeding, the Petitioner seeks compensatory education and other relief from Respondent District of Columbia Public Schools (DCPS) on the grounds that DCPS allegedly denied Student a free appropriate public education (FAPE) by not providing Student a services plan upon Student's interstate transfer from Maryland to the District of Columbia in the summer of 2023, by not comprehensively evaluating Student following his/her enrollment in the District and by failing to offer appropriate Individualized Education Programs (IEPs) for the 2023-2024 and 2024-2025 school years.

¹ Personal identification information is provided in Appendix A.

Petitioner's Due Process Complaint, filed on February 12, 2025, named DCPS as Respondent. The undersigned hearing officer was appointed on February 13, 2025. The parties met for a Resolution Session Meeting on February 28, 2025 and did not resolve the issues in dispute. The final decision in this case was originally due by April 28, 2025. By order issued April 27, 2025, I granted Petitioner's request to extend the due date to May 9, 2025. On March 2, 2025, I convened a telephone prehearing conference with counsel to discuss the issues to be determined, the hearing date and other matters.

With the parent's consent, the due process hearing was held online on April 22 and 25, 2025 and recorded by the hearing officer, using the Microsoft Teams videoconference platform. Mother appeared online for the hearing and was represented by PETITIONER'S COUNSEL and PETITIONER'S CO-COUNSEL. Respondent DCPS was represented by DCPS' COUNSEL. Petitioner's Counsel and DCPS' Counsel made opening statements.

Mother testified and called as additional witnesses, Student, OCCUPATIONAL THERAPIST, EDUCATIONAL ADVOCATE and EXECUTIVE FUNCTIONING COACH. DCPS called as witnesses CASE MANAGER 2 and CASE MANAGER 1. Petitioner's Exhibits P-1 through P-11 and P-13 through P-33, P-37 through P-44, and P-46 through P-55 were admitted into evidence, including Exhibits P-32 and P-47 admitted over DCPS' objections. Petitioner withdrew Exhibits P-12, P-32, P-34 through P-36 and P-45. DCPS' Exhibits R-1 through R-3, R-6, R-7, R-9, R-12, R-16 through R-22, R-24, R-26, R-28, R-32, R-34, and R-36 were admitted into evidence without objection. I

admitted Exhibit R-29 over Petitioner's objection. After the close of all of the evidence, Petitioner's Counsel and DCPS' Counsel made oral closing arguments. There was no request to file written closings.

JURISDICTION

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

ISSUES AND RELIEF SOUGHT

The issues raised by Petitioner against DCPS are as follows:

- A. Whether District of Columbia Public Schools (DCPS) denied the student a FAPE by failing to provide comparable services and/or timely make an IEP available to the student following his/her transition to DCPS from Maryland at the start of the 2023-2024 school year;
- B. Whether DCPS denied the student a FAPE by failing to comprehensively evaluate and/or timely evaluate and/or reevaluate the student after enrollment in DCPS and/or pursuant to the parent's written request on or about December 17, 2024;
- C. Whether DCPS denied the student a FAPE by failing to provide the student with an appropriate Individualized Education Program (IEP) during the 2023-2024 or 2024-2025 school years, in that (1) the IEPs were not based on comprehensive evaluations; (2) the IEPs should have considered assistive technology (AT) for this student based on the data in the Maryland IEP; (3) the IEPs did not contain appropriate or sufficient goals in mathematics in that the student was only given one goal in his/her January 2025 IEP which was not in alignment with his/her current functioning, and prior math goals from February 2024 did not align with the DC Curriculum according to the student's Case Manager; (4) the IEP did not contain goals or goals sections in Reading or Written Expression - even though these were areas that were addressed in the student's Maryland IEP; (5) the IEP did not contain goals or services to address the student's executive functioning needs and/or his/her ADHD; (6) the IEP did not contain a reasonable amount of specialized instruction and only provided for three hours of inclusion support, which was not sufficient to meet Student's needs; and (7) the transition plan included in the student's IEP was not adequate.

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

Order DCPS to immediately revise the student's IEP to provide for an increase in specialized instruction both inside and outside the general education setting, Behavioral Support Services, AT, and additional goals in the areas of Mathematics, Written Expression and Reading, supplement the student's transition plan, and address his/her executive function needs that result from his/her ADHD; Order DCPS to provide the student with compensatory education for denials of FAPE that are alleged and the parent's right to request additional compensatory education upon completion of outstanding evaluations shall be reserved; Order DCPS to provide the parent with transportation services, as needed, to secure compensatory education; Order DCPS to ensure that independent providers secured by the parent are timely compensated for their services; Order DCPS to conduct or fund a Comprehensive Psychological Evaluation, Occupational Therapy (OT) Evaluation, Assistive Technology (AT) Assessment and a Functional Behavioral Assessment (FBA), provide copies to parents and timely review the evaluations, revise the student's IEP as warranted and develop a BIP.

FINDINGS OF FACT

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

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

Testimony of Mother.

2. Student is eligible for special education as a student having an Other Health Impairment (OHI). Exhibit P-11.

3. Student moved from Montgomery County, Maryland to the District of Columbia in August 2024. Testimony of Student.

4. In Montgomery County, Maryland, Student had an IEP, dated April 13, 2023 (the Maryland IEP).

5. According to the Maryland IEP, Student was initially determined eligible for special education by the Montgomery County LEA on February 16, 2022. Student was reported to have a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD) Predominantly Inattentive Type. It was determined by the Montgomery County team members that Student qualified for special education services, his/her ADHD directly impacted his/her ability to access learning and he/she required special education services. Exhibit P-7.

6. The Maryland IEP indicated that Student had been assessed in January 2022 with the Woodcock-Johnson achievement test. Student scored in the Average range for written language. In January 2023, Student took the Maryland Measures of Academic Progress (MAP-M) test, which measures academic achievement in math as compared to grade-level peers. Student scored 212, which fell in the 33rd percentile for achievement. In winter 2023, Student took the MAP-R, a computerized reading assessment which measures independent skills in the areas of Literature, Vocabulary Acquisition and Use, and Informational Text. On the MAP-R assessment, Student scored 210, placing him/her in the 37th percentile for Growth and the 41st percentile for Achievement. This placed Student in the Low Growth, Low Achievement quadrant when compared to same-grade peers nationally. Exhibit P-7.

7. The Maryland IEP stated that the areas of Reading Comprehension, Written Language Expression and Written Language Content did not impact the student's academic achievement and/or functional performance. Exhibit P-7.

8. The Maryland IEP identified Math Problem Solving (Academic) and Executive Functioning/Organization (Behavioral) as areas that affected Student's academic achievement and/or functional performance. The Maryland IEP stated that Student's disability impacted his/her attention, task completion, and math problem solving. For Special Education, the Maryland IEP provided for Student to receive 4 hours and 10 minutes per week of Classroom Instruction in the General Education location. The Maryland IEP team decided that Student did not qualify of Assistive Technology (AT) services, but that Student would benefit from the use of a standard, basic calculator, as well as calculation charts, to support the math problem solving area of concern during times of instruction, independent learning activities, and during the classroom, county, state, and national assessments. Exhibit P-7.

9. For Executive Functioning/Organizational support, the Maryland IEP states in the Special Considerations and Accommodations section that Student may need, *inter alia*, assistance with generating ideas, editing, or redirection when it comes to extended writing projects; an editing checklist to keep in his/her binder and to use during all academic activities requiring writing; sentence-level responses, to check for punctuation, capitalization errors, and more; repetition of directions; frequent eye contact/proximity control; frequent changes in activities or opportunities for movement prior to extended group activities and to keep attention to tasks across settings and throughout the day; manipulatives/sensory activities provided as fidgets to often keep the student engaged in the lesson and to keep movement to a minimum during

instruction, across settings, and throughout the day; stay away from distractions, as well as less distracting to peers (peers there are negative interactions with); allowed to sit in an alternative chair (ball, reading area, desk with chair attached, etc.) or when he/she is unable to remain still while sitting, across settings, and throughout the day. Exhibit P-7.

10. In August 2023, Mother enrolled Student in City School 1, a DCPS public school, for the 2023-2024 school year. Mother provided City School 1 staff all of Student's IEP information from his/her Montgomery County, Maryland school.

Testimony of Mother.

11. On October 26, 2023, City School 1 issued a Prior Written Notice to Mother giving notice that on September 12, 2023, DCPS had held an online "Comparable service meeting" to discuss services and programs that would be made available to Student during the school year. Exhibit P-25.

12. From the start of the 2023-2024 school year, Special Education Teacher provided Student 5 hours per week of special education in the inclusion setting at City School 1. Testimony of Special Education Teacher.

13. On December 14, 2023, DCPS convened an multidisciplinary team (MDT) meeting to determine Student's eligibility for special education and related services. Mother participated by telephone. The MDT team determined that Student was eligibility for special education as a student with an Other Health Impairment (OHI) based upon his/her Attention-Deficit/Hyperactivity Disorder (ADHD) impairment and that the disability impacted Student in Mathematics and Executive Functioning/

Organization. Exhibit R-16. DCPS' December 14, 2023 evaluation of Student was based upon review/consideration of Student's results on the Maryland Comprehensive Academic Assessment (MCAP) taken in the 2021-2022 school year, Student's results from the Conners Comprehensive Behavior Rating Scales (Conners CBRS) conducted in January 2021, Student's September 2023 scores on the Lexile Reading Inventory and the i-Ready Diagnostic for math and December 2023 Student work samples for writing. For this evaluation, DCPS did not conduct any formal assessments of Student's cognitive abilities or academic achievement. Exhibit R-15.

14. The December 14, 2023 Evaluation Summary Report stated that in the English Language Arts (ELA) class, Student took time to settle and do his/her assignments. He/she often required prompting and redirection before he/she could focus. He/she benefitted from the use of graphic organizers, sentence starters and outlines to assist with Reading comprehension and essay writing. Student was administered the Beginning of Year (BOY) Lexile Reading Inventory on September 11, 2023. His/her score was 1106 and his/her performance level was Proficient. It was reported for ELA that Student was easily distracted and needed frequent reminders and redirection. He/she also required extra time to complete his/her classwork. He/she benefitted from receiving one-on one instruction and preferential sitting. Student was administered the Math i-Ready Diagnostic I assessment in September 2023. His/her score was 457 (Grade 4). Test results indicated that Student would benefit from instruction to develop a deeper understanding of computation with multi-digit

numbers, fractions and decimals. He/she would also benefit from intensive intervention focused on skills and concepts related to quantitative reasoning and representation. For written expression, based on current teacher writing samples, Student was not demonstrating comprehension of materials through written work. His/her responses were limited in length and in detail. It was reported that Student would benefit from additional supports and a goal to measure written materials. The Evaluation Summary Report stated that parent and teacher continued to agree that inattention was a significant area of concern for Student. His/her work completion was inconsistent in the classroom. When motivated, Student was able to demonstrate his/her ability consistently. Student was able to read material. However his/her comprehension at times was not conveyed. It was reported that Student could benefit from improving comprehension skills particularly when asked to convey this comprehension through written assignments. Student would also continue to benefit from math supports and assignment completion. The Evaluation Summary Report states that Mother indicated that Student was adjusting well to City School 1 and that Mother did not have concerns about Student as it related to anxiety or depression.

Exhibit P-6.

15. On December 14, 2023, Mother signed a DCPS evaluation consent form giving her consent to have Student evaluated to determine if he/she was eligible or continued to be eligible for special education and to determine educational needs.

Exhibit P-5. After receiving Mother's consent, DCPS never contacted Mother to

evaluate Student. Testimony of Mother.

16. On February 2, 2024, City School 1 convened an “annual review” meeting to review Student’s Maryland IEP. The IEP states that the last eligibility meeting date for Student was December 14, 2023. The IEP Assistive Technology box is checked “No” for whether Student needed assistive technology devices and services. The IEP recites information for math from the December 14, 2024 Evaluation Summary Report and provides annual goals for Mathematics only. The IEP present levels of performance for math state, *inter alia*, that Student benefits from the use of graphic organizers, outlines and calculators to assist with math problem solving and calculations and that he/she often receives one-on-one instruction and preferential seating. For special education, the IEP provides that Student would receive 5 hours per week of “Academic” services in math from the general education teacher and 1 hour per week of Specialized Instruction from a special education teacher. All services were to be in the general education setting. For other classroom aids and services, it was noted that Student benefitted from the use of graphic organizers and outlines to enable him/her to succeed in the general education classroom; that Student received frequent check-ins and redirection by teachers; that Student benefitted from extended time to complete assignments; that Student required frequent check-ins to monitor work completion and that he/she turned in all assignments; and that Student required constant redirection and verbal prompts to remain focused and on task to ensure he/she can access his/her instruction. Exhibit P-8.

17. Student's final grades in core classes for the 2023-2024 school year were ELA: B-, Science: C, Spanish C-, Math: B- and World History: C-. Exhibit P-17.

18. For the 2024-2025 school year, Student remained at City School 2 where he/she is in GRADE. Case Manager 2 has provided Student his/her special education hours in the general education setting. From the beginning of the 2024-2025 school year to the middle of the year, Student's i-Ready math score increased by two grade levels, with Student then testing one year behind grade level. Testimony of Case Manager 2.

19. On January 3, 2025, City School 1 convened Student's annual IEP review meeting. Mother attended the meeting by telephone. The January 3, 2025 IEP states that Student struggles with executive functioning skills, organization, and following classroom routines and expectations, and, as such, Student's behavior impedes his/her learning or that of other children. The IEP Assistive Technology box is checked "No" for whether Student needed assistive technology devices and services. The IEP identifies only Mathematics as a goal area for Student and provides a single Mathematics annual goal, namely,

When give a single variable, multi-stop linear equation with rational coefficients, Student will solve for the variable by using properties of operations, (*e.g.*, distributive property, inverse properties) and show all steps as requested by the teacher for 4 out of 5 equations, on (3 our of 4) progress monitoring sessions.

For Special Education Services, the IEP provides for Student to receive 3 hours per week of services, in math, in the general education setting. The January 3, 2025 IEP provides

as Accommodations/Modifications: Clarification/Repetition of Directions, Redirect Student to Test/Materials, Extended Time, Tests Administered over Several Days, Frequent Breaks, Preferential Seating, Location with Minimal Distractions, Student Tracker, Small Group Testing and Reminders to submit assignments. Exhibit P-11.

20. The Secondary Transition plan for Student in the January 3, 2025 IEP identifies attending college/university as Student's post-secondary goal and, for the transition goal, states that Student will research and identify at least 3 possible 4-year colleges that match his/her needs. For transition service, Student was to receive 1 hour per year of college counseling. As an employment goal, the IEP states that Student will be employed in the area of "coding" after graduation and provides for Student to receive 1 hour per year of career counseling. For Independent Living Skills, the IEP identifies Student's goal after graduation from high school to live in a dorm or housing at or near his/her chosen college or university and provides for Student to meet with his/her case manager to research dorms in two colleges or universities in Student's area of choice. For this goal, Student would receive 1 hour per year of college counseling. Exhibit P-11.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact and argument of counsel, as well as this hearing officer's own legal research, my Conclusions of Law are as follows:

Burden of Proof

As provided in the D.C. Special Education Student Rights Act of 2014, the party who filed for the due process hearing, the parent in this case, shall bear the burden of production and the burden of persuasion, except that where there is a dispute about the appropriateness of the child's IEP or placement, or of the program or placement proposed by the public agency, the public agency shall hold the burden of persuasion on the appropriateness of the existing or proposed program or placement; provided, that the party requesting the due process hearing shall retain the burden of production and shall establish a *prima facie* case before the burden of persuasion falls on the public agency. The burden of persuasion must be met by a preponderance of the evidence. *See* D.C. Code § 38-2571.03(6).

ANALYSIS

A. Did DCPS deny Student a FAPE by failing to provide comparable services and/or timely make an IEP available to Student following his/her transfer to DCPS from Montgomery County, Maryland at the start of the 2023-2024 school year?

Student moved to the District of Columbia from Montgomery County, Maryland during the summer of 2023. Mother enrolled Student in City School 1 and provided the school Student's special education records from the Montgomery County LEA. Mother contends that DCPS denied Student a FAPE because City School 1 allegedly did not timely make an IEP available to Student or provide services comparable to those in the Maryland IEP. DCPS maintains that it provided comparable services until a new IEP

was developed for Student on February 2, 2024. For the reasons explained below, the IDEA's interstate transferee provision was not applicable in this case.

The federal IDEA regulations provide for children who transfer to a new state from another state (interstate transferees):

If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency—

(1) Conducts an evaluation pursuant to §§ 300.304 through 300.306 (if determined to be necessary by the new public agency); and

(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§ 300.320 through 300.324.

34 C.F.R. § 300.323(f). This interstate transferee provision was not applicable to Student because he/she transferred from Maryland to the District of Columbia during the 2023 summer break, that is, not within the same school year. *See, e.g., Maynard v. Dist. of Columbia*, 701 F. Supp. 2d 116, 123 (D.D.C. 2010) (Section inapposite because child transferred schools during the summer, not “within the same school year.”) Notwithstanding, DCPS did provide services to Student comparable to those in the Maryland IEP, that is, 5 hours per week of inclusion special education services, from at least September 12, 2023. Petitioner has not met her burden of persuasion on this issue.

B. Did DCPS deny Student a FAPE by failing to comprehensively evaluate and/or timely evaluate and/or reevaluate the student after enrollment in DCPS and/or pursuant to the parent's written request on or about December 17, 2024?

Timeliness of Initial Evaluation

After Student enrolled in DCPS in August 2023, DCPS was required to conduct an initial eligibility evaluation under its child-find obligation. As U.S. District Judge Boasberg explained in *Davis v. District of Columbia*, 244 F. Supp. 3d 27 (D.D.C. 2017),

A school district must “evaluate a student who may have a disability and who may require special education services.” D.C. Code § 38–2561.02(a)(2) (emphases added). This duty applies to any “child suspected of having a disability who may need special education.” 5–E D.C. Mun. Regs. § 3004.1(a) (emphases added); see 34 C.F.R. § 300.111(c)(1) (extending duty to “[c]hildren who are suspected of being a child with a disability . . . and in need of special education, even though they are advancing from grade to grade”). Courts in this Circuit have thus repeatedly held that school districts are required to complete an evaluation process “as soon as a student is identified as a potential candidate for special education services.”

Davis, supra, 244 F. Supp. 3d at 49, *citing N.G. v. District of Columbia*, 556 F.Supp.2d 11, 25 (D.D.C. 2008) (emphasis in original). Once a potential candidate for special education services is identified, the District must conduct an initial evaluation and make an eligibility determination within [60 days from receipt of parental consent].” *See DL v. District of Columbia*, 109 F. Supp. 3d 12, 16-17 (D.D.C. 2015); D.C. Code § 38–2561.02(a); 5A DCMR § 3005.4(b).

When Mother enrolled Student in City School 1 in August 2023, she provided school officials Student’s IEP records from Montgomery County, Maryland. Therefore DCPS was on notice from the beginning of the 2023-2024 school year that Student was a potential candidate for special education services and the District was obliged to conduct an initial eligibility evaluation. City School 1 completed its initial evaluation of Student on December 14, 2023 and obtained parental consent for the evaluation the

same day. I find that this evaluation was not conducted “as soon as a student [was] identified [in August 2023] as a potential candidate for special education services,” and DCPS’ delay of over 100 days from the start of the school year to complete Student’s initial evaluation made the evaluation untimely.

The failure to timely conduct an eligibility evaluation is a procedural violation of the IDEA. *See, e.g., I.T. ex rel. Renee T. v. Department of Educ.*, 2012 WL 3985686, 16 (D.Haw., Sept. 11, 2012); *D.K. v. Abington Sch. Dist.*, 696 F.3d 233, 249 (3d Cir. 2012). Procedural violations may only be deemed a denial of FAPE 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.

34 C.F.R. § 300.513(a)(2). In this case, from at least September 12, 2023, City School 1, in consultation with Mother, elected to provide Student with services comparable to those in the April 13, 2023 Maryland IEP, which continued until the initial DCPS eligibility evaluation was completed on December 14, 2023. Considering that beginning in September 2023, Student received the special education services prescribed in the Maryland IEP, I find that DCPS’ failure to complete its initial evaluation earlier in the school year did not impede Student’s right to a FAPE, cause a deprivation of educational benefit or impede the parent’s opportunity to participate in decision-making for Student. I conclude that DCPS’ procedural violation of not completing the initial

evaluation before December 14, 2023 did not result in a denial of FAPE to Student.

Comprehensiveness of December 14, 2023 Evaluation

The federal IDEA regulations provide that as part of an initial evaluation, the IEP Team and other qualified professionals, as appropriate, must administer such assessments and other evaluation measures as may be needed to determine whether the child is a child with a disability and the educational needs of the child. *See* 34 C.F.R. § 300.305(a), (c). In conducting the evaluation, the LEA must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child; Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. The LEA must ensure that the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs. *See* 34 C.F.R. § 300.304(b), (c)(6).

Petitioner's expert, Educational Advocate, opined that DCPS' December 14, 2023 evaluation of Student was not sufficiently comprehensive. Specifically, she opined that the evaluation was inadequate because it lacked a comprehensive evaluation of Student's math, writing and reading skills, a functional behavioral assessment, an Assistive Technology (AT) assessment and an Occupational Therapy (OT) assessment. Parent's OT expert, Occupational Therapist, likewise opined that Student would benefit

from AT and OT evaluations.

I found persuasive Educational Advocate’s opinion that the December 14, 2023 evaluation should have included a formal assessment of Student’s achievement in math, writing and written expression. Instead of conducting a standardized, norm-referenced educational achievement test, it appears that the City School 1 MDT team relied on Student’s scores on the Maryland Comprehensive Academic Program (MCAP) assessment, reported on the Maryland IEP. Student took the MCAP test two school years earlier – in the 2021-2022 school year – and it does not appear that the MCAP scores provided comprehensive information about Student’s academic achievement levels at the time of the December 14, 2023 evaluation. Also, DCPS did not do any formal cognitive testing to assess the relative contribution of cognitive and behavioral factors in Student’s performance. For these reasons, I find that for the December 14, 2023 initial evaluation, DCPS did not use “a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information” about Student. I conclude that Petitioner established that DCPS’ December 14, 2023 initial evaluation of Student was not sufficiently comprehensive to identify Student’s special education and related services needs.

Petitioner’s evidence was not persuasive that Student required an AT assessment or an OT evaluation. Decisions regarding the areas to be assessed are determined by the “suspected needs of the child.” *See* Department of Education, *Assistance to States for the Education of Children with Disabilities*, 71 Fed. Reg. 46540, 46643. (August 14,

2006). While both Educational Advocate and Occupational Therapist opined that Student could benefit from an AT assessment and an OT evaluation, neither expert had evaluated Student, observed him/her in the classroom or spoken to his/her teachers. Aside from brief conversations by telephone or online, neither Educational Advocate nor OT had interviewed with Student. With regard to Student's assistive technology needs, both the Maryland IEP and the February 2, 2024 DCPS IEP reported that aside from the use of a basic calculator and calculation charts for math, Student did not have special AT needs. I found the testimony of Petitioner's experts highly speculative that Student may have needs for assistive technology or OT challenges evolving motor skills, visual perception and sensory processing, and I conclude that the parent did not establish that the AT and OT areas were suspected needs of Student.

C. Did DCPS deny Student a FAPE by failing to provide the student with an appropriate IEP during the 2023-2024 or 2024-2025 school years, in that (1) the IEPs were not based on comprehensive evaluations; (2) the IEPs should have considered assistive technology (AT) for this student based on the data in the Maryland IEP; (3) the IEPs did not contain appropriate or sufficient goals in mathematics in that the student was only given one goal in his/her January 2025 IEP which was not in alignment with his/her current functioning, and prior math goals from February 2024 did not align with the DC Curriculum according to Student's case manager; (4) the IEP did not contain goals or goals sections in Reading or Written Expression - even though these were areas that were addressed in Student's Maryland IEP; (5) the IEP did not contain goals or services to address Student's executive functioning needs and/or his/her ADHD; (6) the IEP did not contain a reasonable amount of specialized instruction and only provided for three hours of inclusion support, which was not sufficient to meet Student's needs and (7) the transition plan included in Student's IEP was not adequate.

Before moving from Maryland to the District of Columbia in the summer of 2023, Student had a Montgomery County, Maryland IEP issued on April 13, 2023. After Student moved to the District in August 2023, City School 1 developed Student's first

DCPS IEP on February 2, 2024. An annual IEP revision was completed on January 3, 2025. Petitioner contends that both the February 2, 2024 IEP and the January 3, 2025 IEP were inappropriate for Student for a host of reasons. Through her expert witnesses, Petitioner made a *prima facie* showing of the respective IEPs' inappropriateness. Therefore, DCPS must carry the burden of persuasion on the appropriateness of the IEPs. I consider each of the alleged IEP deficiencies in turn.

Comprehensiveness of Evaluations

In the preceding section, I found that DCPS' December 14, 2023 initial eligibility evaluation of Student was inadequate. DCPS has not formally reevaluated Student since that date. I find that DCPS has not established that the February 2, 2024 initial IEP or the January 3, 2025 annual IEP had sufficient, updated, evaluation data to determine Student's educational needs. I will order DCPS to conduct a comprehensive reevaluation of Student and ensure that Student's IEP team revises the IEP, as appropriate.

Should the IEPs have Considered Assistive Technology?

Petitioner contends that the IEPs should have "considered" Assistive Technology (AT) for Student based on the data in the Maryland IEP. As explained above in this decision, the Maryland IEP team determined that, aside from needing a simple calculator and calculation charts for math, Student did not need AT services. The City School 1 IEP teams reached the same decision. I find that DCPS met its burden of

persuasion that the Maryland IEP did not support Student's need for AT devices or services, aside from the use of a calculator for math as provided in the DCPS IEPs.

IEP Math Goals

Petitioner's expert, Educational Advocate, opined that the three math goals in the February 2, 2024 IEP were not specific enough and not observable. The IDEA requires that each student's IEP must include a statement of measurable annual goals, including academic and functional goals, designed to,

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability

and a statement of the special education and other services to be provided to enable the child to advance toward attaining the goals. *See* 34 C.F.R. § 300.320(a)(2)(i), (a)(4).

The three annual goals, all in math, in the February 2, 2024 IEP are:

- Given direct instruction, repeated practice and a calculator, Student will demonstrate the process of mathematics by making connections and applying reasoning to solve problems and communicate their findings with 75% accuracy, by 4/12/2024.
- Student will be able to analyze real world situations involving proportional relationships including percentages and scale factor, to determine solutions with 80% accuracy in 4 out of 5 trials.
- Student will add and subtract fractions and mixed numbers with unlike denominators with 80% accuracy in 4 out of 5 trials.

The first goal was carried over from the Maryland IEP and the remaining math goals were new with the DCPS IEP. These three goals are, on their face, measurable and

specific. However, Case Manager 2, Student's special education teacher for the 2024-2025 school year, agreed in her testimony that the February 2, 2024 IEP math goals were not appropriate for Student because they did not align with the DCPS math curriculum.

For the January 3, 2025 IEP, the City School 1 IEP team included a single math goal:

When give a single variable, multi-stop linear equation with rational coefficients, Student will solve for the variable by using properties of operations, (*e.g.*, distributive property, inverse properties) and show all steps as requested by the teacher for 4 out of 5 equations, on (3 out of 4) progress monitoring sessions.

Case Manager 2 explained that the math goal in the January 3, 2025 IEP was changed to align to the DCPS math curriculum. She testified that by the middle of the 2024-2025 school year, Student was testing two grade levels higher on the i-Ready math diagnostic than at the beginning of the school year.

Educational Advocate also opined that the February 2, 2024 IEP provision that the goals would be evaluated each nine weeks was not sufficiently frequent. However, DCPS schools operate on 9-week terms and it was appropriate to set 9-week evaluation periods in the IEP.

In summary as to mathematics goals, I find that DCPS has established the appropriateness of the math goal in the January 3, 2025 IEP. However, DCPS' witness, Case Manager 2, agreed that the three math goals in the February 2, 2024 IEP were inappropriate for Student because they were not based on the DCPS math curriculum.

Providing inappropriate IEP goals, not based on the DCPS curriculum, is a procedural violation of the IDEA. *See, e.g., Edward M.-R. by & through T.R.-M. v. District of Columbia*, 660 F. Supp. 3d 82, 157 (D.D.C. 2023), *aff'd sub nom. Edward M.R. v. D.C.*, 128 F.4th 290 (D.C. Cir. 2025). As noted above, procedural violations may only be deemed a denial of FAPE if the 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.

34 C.F.R. § 300.513(a)(2). In this case, there was no evidence that the inclusion of goals for mathematics in the February 2, 2024 IEP, which did not align with the DCPS curriculum, resulted in substantive harm to the student. *See Leggett v. District of Columbia*, 793 F.3d 59, 66-67 (D.C. Cir. 2015). I conclude that on these facts, the City School 1 IEP team's adoption of math goals in the February 2, 2024 IEP, which did not align with the DCPS math curriculum, did not rise to a denial of FAPE.

IEP goals or goals sections in Reading or Written Expression

Petitioner alleges that the DCPS IEPs should have included annual goals for reading and written expression, because these were goal areas addressed in the Maryland IEP. Petitioner is mistaken. For academics, the Maryland IEP provided goals only for math problem solving. The Maryland IEP stated expressly that the areas of Reading Comprehension, Written Language Expression and Written Language Content did not impact Student's academic achievement and/or functional performance. The

Maryland IEP did not include academic goals for Reading or Written Expression. Further, at City School 1, Student scored “Proficient” on the Beginning of Year (BOY) Lexile Reading Inventory in September 2023. I find that DCPS offered a cogent and responsive explanation for the IEP teams’ decisions not to provide Reading or Written Expression goals in Student’s IEPs. *See Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 1002 (2017).

Goals and services to address Student’s executive functioning needs and/or his/her ADHD

Petitioner’s expert, Educational Advocate, testified that except for mention of a graphic organizer, the DCPS IEPs do not mention supports for Student’s executive functioning needs associated with his/her ADHD diagnosis. However, the February 2, 2024 IEP included classroom aids and services to address Student’s executive functioning. These included, graphic organizers and outlines, frequent check-ins and redirection by teachers, extended time to complete assignments, frequent check-ins to monitor work completion and turning in all assignments, and constant redirection and verbal prompts to remain focused and on task to ensure he/she can access instruction. Case Manager 1 testified that in the 2023-2024 school year in ELA and math classes, it was her role to redirect Student and get him/her to focus. The January 3, 2025 IEP provides as Accommodations/Modifications: Clarification/Repetition of Directions, Redirect Student to Test/Materials, Extended Time, Tests Administered over Several Days, Frequent Breaks, Preferential Seating, Location with Minimal Distractions, Student Tracker, Small Group Testing and Reminders to submit assignments. Case

Manager 2 testified that Student is receiving those accommodation in the 2024-2025 school year. Considering these accommodations and modifications in the respective IEPs, Educational Advocate's assertion that the DCPS IEPs do not address Student's executive functioning needs was unconvincing. I find that DCPS established that the February 2, 2024 and January 3, 2025 IEPs adequately addressed Student's executive functioning needs.

Specialized Instruction in January 3, 2025 IEP

In a January 24, 2025 dissent letter to City School 1, Educational Advocate opined that 3 hours of inclusion services for math in the January 3, 2025 IEP was not sufficient to meet Student's needs. That IEP provides for Student to receive 3 hours per week of special education services, all for mathematics, in the general education setting. This was a reduction from 6 hours per week of special education in the February 2, 2024 IEP. Case Manager 2, who prepared the January 3, 2025 IEP draft, explained that Student's math class is an inclusion class co-taught by her and the general education teacher and she is in the class every day. She testified that she was available if Student required help more help than the 3 hours per week of Specialized Instruction provided in the January 3, 2025 IEP. She further noted that Student's i-Ready math diagnostic score in January 2023 had increased by two grade levels from the start of the 2024-2025 school year and Student was only one year below grade level in math. Student's math grade as of November 25, 2024 was C+. I found Case Manager 2's explanation about the special education services for Student in the January 3, 2025 IEP credible and

conclude that DCPS met its burden of persuasion as to the appropriateness of the special education services provision in the IEP.

Transition Plan

The DCMR requires that the first IEP in effect after a child with a disability reaches fourteen (14) years of age, which shall be updated annually thereafter, shall include transition assessments and services, including:

- (a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills and the transition services needed to assist the child in reaching those goals;
- (b) For children with disabilities covered by this section and attending middle school, at least one (1) goal shall address readiness for and transition to high school;
- (c) A statement of inter-agency responsibilities or any needed linkages before the child leaves the school setting; and
- (d) If the IEP team determines that transition services are not needed, the IEP shall include a statement to that effect and the basis upon which the determination was made.

5A DCMR § 3026.1. (The age 14 start for transition planning adopted in the District of Columbia is earlier the age 16 start mandated by the federal IEA regulations. *See* 34 C.F.R. § 300.320(b).) That means for a resident of the District of Columbia who will reach age 14 in an IEP year, the IEP developed when the child is 13 must include transition planning.

Both the February 2, 2024 IEP and the January 3, 2025 IEP developed by City School 1 for Student included Secondary Transition Plans. Educational Advocate opined

that both transition plans were inappropriate. Accounting for Student's date of birth, a transition plan was not required for the February 2, 2024 IEP. Therefore, I will only consider the transition plan in the January 3, 2025 IEP.

The Secondary Transition plan for Student in the January 3, 2025 IEP identifies attending college/university as Student's post-secondary goal and, for the transition goal, states that Student will research and identify at least 3 possible 4-year colleges that match his/her needs. For transition services, Student was to receive 1 hour per year of college counseling. As an employment goal, the IEP states that Student will be employed in the area of "coding" after graduation and provides for Student to receive 1 hour per year of career counseling. For Independent Living Skills, the IEP identifies Student's goal after graduation from high school to live in a dorm or housing at or near his/her chosen college or university and provides for Student to meet with his/her case manager to research dorms in two colleges or universities in Student's area of choice. For this goal, Student would receive 1 hour per year of college counseling.

Petitioner's expert, Educational Advocate, appeared to opine that the Independent Living Skills goal for Student to research university dorms to live in – should he/she attend college – was inappropriate. However, the DCMR only requires that the transition plan include independent living skills "where appropriate". Taking account of Student's current age and grade level in school and his/her higher education plans, I find that including independent living skills goals in Student's January 3, 2025 IEP was premature and not appropriate – but did not rise to a denial of FAPE. The

transition plan lacks a goal to address Student's readiness for and transition to high school. *See* 5A DCMR § 3026.1. Educational Advocate did not cite this omission as a concern. Notwithstanding, I will direct DCPS to ensure that a transition to high school goal is added when the IEP team revises Student's IEP.

Relief

In this decision, I have concluded that DCPS denied Student a FAPE by not conducting a comprehensive special education evaluation of Student following his/her enrollment in DCPS for the 2023-2024 school year. For relief in this case, Mother seeks, *inter alia*, an order for DCPS to conduct or fund a Comprehensive Psychological Evaluation, Occupational Therapy (OT) Evaluation, Assistive Technology (AT) Assessment and a Functional Behavioral Assessment (FBA). Parent did not meet her burden of persuasion that Student requires an OT evaluation, an AT assessment or an FBA. In my discretion as the hearing officer for this case, I will order DCPS to reevaluate Student with a comprehensive psychoeducational evaluation to evaluate, at minimum, Student's cognitive abilities, academic skills, and social-emotional functioning. Upon completion of the reevaluation, DCPS shall convene Student's IEP team to review the reevaluation and other data and revise Student's IEP as appropriate, to include providing a transition to high school goal.

The parent also requested a compensatory education award for Student. Petitioner's expert, Educational Advocate, proposed a compensatory education plan including 189 hours of special education tutoring and 63 hours of executive functioning

instruction. Educational Advocate's proposal was grounded in incorrect information. For example, she wrote in her proposal, Exhibit P-37, that the student did not begin receiving special education services in the District until after the February 2, 2024 IEP was developed, when the evidence established that DCPS began providing Student services based on the Maryland IEP in September 2023. She also asserted, mistakenly that the Maryland IEP addressed reading and written expression, when, for academics, that IEP only provided services for mathematics. She also stated mistakenly that the DCPS IEPs did not include services to address Student's executive functioning needs, when the IEPs provided a number of modifications and accommodations targeted at Student's executive functioning challenges. Moreover, when questioned by the hearing officer at the due process hearing, Educational Advocate was not able to satisfactorily explain the basis for her proposed compensatory education award – 189 hours of special education tutoring and 63 hours of executive functioning instruction. (She testified that she multiplied 6.5 hours in a school day times 218 days when Student had allegedly been denied a FAPE to reach her proposed award.) In *Reid v. District of Columbia*, 401 F.3d 516, 524 (D.C. Cir. 2005), the D.C. Circuit barred "mechanical hour-counting" to calculate compensatory education awards. I found Educational Advocate's compensatory education proposal for Student not creditable.

In *J.T. v. District of Columbia*, No. CV 21-3002 (RBW), 2023 WL 8369938, (D.D.C. Dec. 4, 2023), U.S. District Judge Reggie B. Walton pronounced that to comply with the D.C. Circuit's standard for compensatory education in *Reid, supra*, a parent

must propose a well-articulated compensatory education plan that reflects the student's current educational abilities and needs and is supported by the record. *J.T.*, 2023 WL 8369938, at *13–14. Petitioner's compensatory education proposal in this case was neither well-articulated nor supported by the record. Therefore, I deny the parent's request for a compensatory education award for Student. *See J.T., supra* at *15 (“[B]ecause the plaintiff has failed to demonstrate what compensatory education should be provided to [Student] to remedy what she contends he has been denied, the Court therefore denies the plaintiff's motion for summary judgment on this issue.” *Id.*)

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby

ORDERED:

1. Within 20 school days of the date of this order, subject to obtaining parental consent, DCPS, shall conduct a comprehensive special education reevaluation of Student to include, at minimum, formal cognitive, educational and social-emotional functioning assessments. Upon completion of the assessments, DCPS shall promptly convene Student's IEP team to review the reevaluation and other relevant data and revise, as appropriate, Student's IEP. The IEP team shall also provide an appropriate IEP goal for Student's transition to high school.
2. All other relief requested by the Petitioner herein is denied.

Date: May 1, 2025

s/ Peter B. Vaden
Peter B. Vaden, Hearing Officer

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within ninety (90) days from the date of the Hearing Officer Determination in accordance with 20 U.S.C. § 1415(i).

cc: Counsel of Record
Office of Dispute Resolution