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VIA ECF

Hon. Loretta A. Preska
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *L.V., et al. v. New York City Dep't of Educ., et al.*, Case No. 03-cv-9917

Dear Judge Preska:

We represent Plaintiffs in the above-captioned action. We write pursuant to the Stipulation and Agreement of Settlement dated as of December 11, 2007 (the "Stipulation"), to request, as remedy for the Defendants' violation of the Stipulation, that the Court (i) hold Defendants in civil contempt for the New York City Department of Education's (the "DOE") persistent failures to comply with the Stipulation and subsequent Orders of this Court and (ii) appoint a receiver to oversee the DOE's implementation of hearing orders. In accordance with your Honor's Individual Practices, we intend to file a motion seeking entry of an order setting forth the requested remedy, and we respectfully request a pre-motion conference with the parties and this Court. We anticipate that the matters to be raised in the proposed motion can be discussed at the status conference that your Honor has scheduled for September 18, 2025 (the "September 18 Conference").

Under the Stipulation, the DOE is required to meet and sustain certain performance benchmarks.¹ Plaintiffs' September 2019 memorandum of law in support of Plaintiffs' motion for the appointment of a Special Master (Dkt. No. 206) highlighted the DOE's failure to meet even the first and lowest performance benchmark, which requires timely implementation of either (i) 75% of total orders and 70% of total action items or (ii) 75% of total action items and 70% of total orders.² Not only has the DOE failed to improve in the almost six years since (and four years since the motion was granted), but its implementation rates have deteriorated to single digits. In the most recent quarterly audit report published by Guidehouse attached hereto as Exhibit A, for impartial hearing orders with a due date between October 10, 2023

¹ See Stipulation ¶¶ 4-8.

² See *id.* ¶ 4(a).

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and January 8, 2024, the DOE timely implemented *merely 4.3% of total orders and 4.9% of total action items*.³

These percentages translate to over 8,000 orders and 15,000 action items that the DOE had failed to timely implement in a quarter—numbers that are not just abstract statistics, but evidence of systemic and systematic failure. Behind every single one of these unimplemented orders is a student in New York City, whose right to educational services has been delayed or denied. The DOE appears oblivious to the real and dire consequences of its failures: the delay in implementation leaves thousands of students without the support or resources they are legally entitled to under the law and exacerbates the stress and burden on these students and their families, who already face significant challenges navigating an inherently complex system.

Since the entry of the Stipulation in 2007, Your Honor issued numerous Orders to try to bring the Defendants into compliance with the Stipulation, including the Order dated July 29, 2023, implementing the Special Master’s recommendations of measures the DOE must take to meet the Stipulation’s benchmarks (Dkt. No. 328, the “July 19, 2023 Order”). In our prior letters to the Court dated January 22, 2025 (Dkt. No. 374) and March 10, 2025 (Dkt. No. 378), we identified specific instances of the DOE’s unreasonable delays and failures to comply with its obligations under the July 19, 2023 Order and subsequent Orders, especially with respect to the specific mandates your Honor made at the status conference on December 5, 2024 (the “December 5 Conference”). In the spirit of cooperation, Plaintiffs have worked closely with the Special Master and continued to make clear that Plaintiffs are available for an open channel of communication with the DOE to assist in any way. Since the fall of 2023, the DOE has repeatedly refused to communicate with Plaintiffs’ counsel; even now, the Implementation Unit and representatives of the DOE’s Office of General Counsel refuse to communicate with Plaintiffs. Plaintiffs have only been able to provide feedback through the Special Master, which has been ignored by the DOE and, beginning in June 2025, the communications liaison consultant appointed pursuant to the Court’s Order, whose role is narrowly tailored to overseeing and approving public-facing content, specifically focusing on the DOE’s SupportHub for hearing orders related solely to payment (Dkt. No. 377), and not regarding the DOE’s hearing order implementation processes or systems.

³ In a limited-scope review previously agreed-upon by the parties and designed to assess the DOE’s current compliance using updated data, Guidehouse audited statistics from the month of March 2025 and found that the DOE timely implemented 14.7% of total orders and 14.4% of total action items. The March 2025 report is attached hereto as Exhibit B. Even with advance notice of this limited review and ample opportunity to prepare, the DOE’s implementation rates remain far below the first benchmark required by the Stipulation—falling short by nearly 60 percentage points, respectively.

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We hope that at the upcoming September 18 Conference, the DOE will engage in a full and honest discussion of the need for active change in order to reach compliance with the Stipulation (Dkt. No. 386). We hope that the DOE will begin to let us participate and provide feedback more fully as the Court intended and ordered at the December 5 Conference.

But we believe that the most recent Guidehouse audit makes clear that Defendants are not only not complying with this Court's Orders, but are in complete disregard of them. To put it in legal terms, they have demonstrated repeated and comprehensive breaches of their duties of good faith and fair dealing, and their perspective that the Court's Orders are just procedural recommendations to be followed—or not—at their whim. The DOE appears to view the Stipulation and July 19, 2023 Order in the same way it viewed the rights Plaintiffs sought to enforce when this action was filed: as optional. The DOE's uncorrected, ongoing failure to comply with its obligations perpetuates harm to thousands of students, undermining both the purpose of the Stipulation and the Court's clear directives. In short: the current system of trying to help the DOE comply is not working.

Accordingly, Plaintiffs respectfully request that the Court find Defendants in civil contempt. To remedy that contempt, and to ensure that the DOE comply with their obligations under the Stipulation and the Court's Orders, we also intend to respectfully seek the following relief:

First, the Court should install a receiver in the Implementation Unit with authority to identify and take all appropriate steps to bring the DOE into compliance with the Stipulation and related Orders—the specific structure of such receivership to be developed by the parties with input from the Court.

Second, the Court should impose a daily fine of an amount the Court deems just and proper for each day after December 1, 2025, that Defendants fail to come into compliance with the Stipulation and related Orders, with such fine to be deposited into a segregated fund held by the DOE under the supervision of the Court or the receiver, once appointed. The fund should be used exclusively to support the implementation of hearing orders, including compensation to parents for the loss or delay of ordered services, and the Defendants' obligations under the Stipulation, as directed or approved by the Court.

The proposed remedy falls well within this Court's wide discretion in fashioning a remedy for civil contempt that will coerce compliance with its Orders. This Court has ongoing jurisdiction to implement and enforce the Stipulation and the subsequent Orders entered to

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enforce the terms of the Stipulation, including the July 19, 2023 Order.⁴ Accordingly, Plaintiffs respectfully request that the Court find Defendants in civil contempt. To do so, “the court need only (1) have entered a clear and unambiguous order, (2) find it established by clear and convincing evidence that that order was not complied with, and (3) find that the alleged contemnor has not clearly established his inability to comply with the terms of the order.” *Huber v. Marine Midland Bank*, 51 F.3d 5, 10 (2d Cir. 1995).

These requirements are easily satisfied here. Courts in this District have imposed contempt on governmental entities for comparable failures of “substantial performance and due diligence,” even when such deficiencies persisted for significantly less time than in this action. *Aspira of New York, Inc. v. Bd. of Ed. of City of New York*, 423 F. Supp. 647, 651 (S.D.N.Y. 1976) (finding contempt against Defendant Board of Education because Defendant “failed steadily and repeatedly to exercise their power and authority so that those they controlled would proceed promptly and in good faith to accomplish the tasks commanded by the consent decree,” despite the consent decree having been in place for two years); *see also Nunez v. New York City Dep’t of Correction*, 758 F. Supp. 3d 190, 223 (S.D.N.Y. 2024) (finding contempt against Defendant Department of Correction based on Defendant’s “ongoing failure to comply with nine years of Court orders”).

First, there is no dispute regarding Defendants’ obligations under the Court’s Orders, including the Stipulation and the July 19, 2023 Order. In 2008, the Court approved the Stipulation, which was voluntarily entered into by Defendants and established clear implementation benchmarks. Since that time, in every filing, communication and hearing before the Court, the DOE has affirmed its understanding that it must meet and maintain the agreed-upon benchmarks in order to exit the Stipulation, and that the obligations under the July 19, 2023 Order are necessary to meeting the implementation benchmarks.

Second, there is clear and convincing evidence that Defendants have failed to fulfill their obligations under the Stipulation (and many of the subsequent Orders seeking to enforce the Stipulation, including the July 19, 2023 Order and the Court’s Order at the December 5 Conference). **In the 18 years since the Stipulation was entered, Defendants have never, at any point, been in compliance.** Notably, in April 2021, the Court appointed the Special Master in recognition of the DOE’s long-running failures and intended his appointment to reverse the entrenched pattern of non-compliance (Dkt. 270). Yet, the involvement of the Special Master has not led to significant improvement in the rates of timely implementation of hearing orders.⁵ As for the July 19, 2023 Order, which was designed to refresh the DOE’s

⁴ See Stipulation ¶ 47.

⁵ In the first quarter since the Special Master’s appointment between April 13, 2021 and July 12, 2021, the DOE timely implemented 6.8% of total orders and 6.3% of total action items. Between then and the quarter ending in January 8, 2024, the DOE has never been able to implement either more than 10% of total orders or more

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technological, process, and system capabilities in order to meet the implementation benchmarks, Defendants have fulfilled 41% of its obligations thereunder as of July 8, 2025. Defendants' unfulfilled obligations as detailed in the Special Master's July 2025 report (the "July 2025 Report") are so numerous that they cannot be fully set forth in this letter (Dkt. Nos. 383). Despite all of the unfulfilled obligations being past due since at least January 2025, the DOE only fulfilled *two* such overdue obligations during the four months between March and July 2025. In addition, although the Court ordered and the DOE committed to steps that would further its compliance with the July 19, 2023 Order at the December 5 Conference, the Special Master's most recent letter to your Honor dated April 1, 2025 also listed several such action items that the DOE has not performed to this day (Dkt. No. 382).

Finally, Defendants have made no effort to demonstrate an inability to comply with the terms of the Stipulation, which were, again, the product of the DOE's voluntary settlement. Respectfully, this is not rocket science. As recently as during the December 5 Conference, the Court encouraged representatives of the DOE to raise any compliance concerns with its obligations under the July 19, 2023 Order and request assistance from the Court, if needed. The DOE did not do so, during the conference or afterward. The DOE has continued to fail to comply with many of the July 23, 2023 Orders and the Order issued at the December conference—including the simple obligation of seeking input from Plaintiffs' counsel before launching its SupportHub platform—without justification. Accordingly, Defendants should be held in civil contempt.

Despite the Special Master's investigation into the causes of the DOE's delays in hearing order implementation and recommendations on the steps the DOE needs to take to address those delays, the DOE has not adopted those recommendations. Indeed, in the July 2025 Report that the Special Master filed with the Court, the Special Master noted that in connection with at least four of the obligations in the July 19, 2023 Order, the DOE has not responded to the Special Master's inquiries and requests *for more than one year*.⁶ These include, among others, obligations to draft a Standard Operating Procedures Manual for the LV Payment and Service Guidelines for Implementation Unit staff, design a professional development series on order implementation for DOE staff, establish policy regarding the provision of ordered nursing services and update training materials to reflect the changed policies and business rules that were ordered—key process changes that are not dependent

than 8% of total action items on a quarterly basis. In fact, with the exception of a single quarter between April 11, 2023 and July 10, 2023, the DOE has not implemented more than **6%** of either total orders or total action items in *any* quarter.

⁶ See July 2025 Report at 20 (Obl. #20), 22 (Obl. #30), 32 (Obl. #19), 38 (Obl. #37).

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upon technology upgrades.⁷ The Special Master also has expressed the belief that he does not have the authority to require the DOE to take any actions.

It is well-established in this Circuit that the “primary purpose” of a finding of civil contempt, and the “imposition of related remedies,” is “to coerce the contemnor into future compliance and to remedy past non-compliance.” *Nunez*, 758 F. Supp. 3d at 222 (collecting cases). The DOE’s ongoing and persistent failure to comply with the Stipulation and related Orders in the past eighteen years “requires a streamlined remedy that is narrowly tailored” to achieve compliance. *Id.* at 223; see *Paramedics Electromedicina Comercial, Ltda. v. GE Med. Sys. Info. Techs., Inc.*, 369 F.3d 645, 657 (2d Cir. 2004) (“To the extent that a contempt sanction is coercive, the court has ‘broad discretion to design a remedy that will bring about compliance.’”) (quoting *Perfect Fit Indus. v. Acme Quilting Co.*, 673 F.2d 53, 57 (2d Cir. 1982)). Given the DOE’s lack of incentive to act upon the Special Master’s recommendations, Plaintiffs believe that the imposition of a court-appointed receiver over the implementation system, combined with financial sanctions, as we describe above, is necessary and the only remedy that will effect timely improvement.

To be clear, we welcome the opportunity to fully participate in the discussion that the Court has ordered for the September 18 Conference, and hope that the conference will motivate Defendants to expeditiously perform the already past-due ordered obligations. We will do everything we can to help the DOE come into compliance if they let us, all with the goal of ensuring students receive their ordered services more timely. But the Stipulation was entered almost 18 years ago, and the DOE’s rates for hearing order implementation have decreased from then. At this point, the DOE requires additional incentive to come into compliance with the Court’s Orders. We hope the relief we intend to seek will focus the DOE on the need to devote the resources and effort to comply prior to December of this year.

We are available to discuss the anticipated motion at the Court’s convenience, including at a time prior to the September 18 Conference if the Court believes that is appropriate.

[Signature page follows]

⁷ See *id.*; July 19, 2023 Order ¶¶ 19, 20, 30, 37.

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Dated: August 11, 2025

Respectfully,

/s/ Jessica Kaufman

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Exhibit A



L.V. v. D.O.E.

03 Civ. 9917 (RJH)

Stipulation and Agreement of Settlement

Independent Auditor's Post Corrective Action

Fifty-Eighth Quarterly Report

July 29, 2025



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- A. List of Post Corrective Action Fifty-Eighth Quarter Unimplemented Orders
- B. List of Post Corrective Action Fifty-Eighth Quarter Timely Implemented Orders
- C. List of Post Corrective Action Fifty-Eighth Quarter Uncounted Orders
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- F. List of Post Corrective Action Fifty-Eighth Quarter Timely Implemented Action Items
- G. List of Post Corrective Action Fifty-Eighth Quarter Uncounted Action Items



I. Introduction

On December 12, 2003, Advocates for Children of New York (“AFC”) and Milbank, Tweed, Hadley & McCloy LLP (“Milbank”) filed a class action, *L.V. v. D.O.E.* 03 Civ. 9917 (RJH). The class was comprised of parents of special needs children who alleged that while they had obtained a favorable order from an Impartial Hearing Officer against the New York City Department of Education (“DOE”) or stipulation of settlement placed on the record at an impartial hearing with the DOE, the DOE failed to obtain full and timely implementation of such order or settlement.

On December 11, 2007, the Corporation Counsel of the City of New York on behalf of the DOE and AFC and Milbank on behalf of Lead Plaintiffs and Class¹ (“Plaintiffs”), referred to collectively herein as (“the Parties”), signed a Stipulation and Agreement of Settlement (“Stipulation”) in connection with *L.V. v. D.O.E.* 03 Civ. 9917 (RJH). Pursuant to the terms of the Stipulation, Daylight Forensic & Advisory LLC (“Daylight”) was appointed as Independent Auditor on March 27, 2008. On May 9, 2008, the DOE formally engaged Daylight to commence the independent audit.

The Stipulation requires the Independent Auditor to generate reports concerning the DOE’s implementation of Orders and Action Items for all Quarterly Measurement Periods (each a “Quarterly Report”) and Benchmark Measurement Periods (each a “Benchmark Report”).

Guidehouse² issued the following reports in conjunction with the Injunctive Relief Subclass: (1) Gap Period Report (dated August 6, 2008); (2) Eighth Quarterly Report (dated January 9, 2009); (3) Eighth Quarterly Report and Eighth Benchmark Report (dated June 11, 2009); and (4) Post Corrective Action³ Eighth Quarterly Report (dated April 9, 2010).⁴

Guidehouse issued reports in conjunction with the Injunctive Relief Subclass, including the Post Corrective Action (“PCA”) First Benchmark Report dated August 13, 2010, as well as reports for the PCA Third Quarter through the PCA Fifty-Seventh Quarter. Guidehouse issued the final PCA quarterly reports during the time period of August 13, 2010 through February 7, 2025.

¹ Pursuant to Section I.1.f. of the Stipulation, “Class” is defined as the Compensatory Relief Subclass and the Injunctive Relief Subclass.

² On October 11, 2019, Guidehouse LLP completed its acquisition of Navigant. We refer to Navigant and Daylight as ‘Guidehouse’ for consistency purposes under the terms of this engagement. Guidehouse continues to perform according to the terms of the Engagement Letter, using the same analysis and methods and without changes to the schedule, price, or level of effort.

³ Pursuant to Section III.10.a. of the Stipulation, “If the DOE fails to meet the Eighth Benchmark or Eighth Benchmark at the required date...the DOE must, within three months of issuance of the final Benchmark Report notifying the parties of the missed benchmark, formulate and implement a Corrective Action Plan designed to correct the problems that caused the DOE to miss the benchmark at issue.”

⁴ Pursuant to Sections I.1.r. and I.1.h of the Stipulation, “Injunctive Relief Subclass” is defined as the class of all persons who, on or subsequent to the Commencement Date of December 12, 2003, (1) obtain or obtained a favorable Order by an Impartial Hearing Officer against the DOE or stipulation of settlement placed on the record at an impartial hearing with the DOE and (2) fail or failed to obtain full and timely implementation of such Order or settlement.



The current report focuses on Guidehouse's review of Injunctive Relief Subclass Orders and summarizes our analysis of the Total Orders and Total Action Items that were part of the post corrective action Fifty-Eighth Quarterly Measurement Period ("PCA Fifty-Eighth Quarter") and includes Orders issued between October 10, 2023 through January 8, 2024 with Action Item final due dates between November 14, 2023 through February 12, 2024.

The terms defined in Section I. Definitions of the Stipulation apply to the present report.

II. Executive Summary and Statistical Overview

During the PCA Fifty-Eighth Quarter, Guidehouse determined that the DOE Timely Implemented⁵ 9.5% of Service Orders;⁶ 9.0% of Service Action Items; 1.0% of Payment Orders;⁷ and 1.8% of Payment Action Items during this timeframe.

The following table summarizes the counted PCA Fifty-Eighth Quarter Orders and Action Items by type of relief:

	Service Orders	Payment Orders	Service Action Items	Payment Action Items
Timely Implemented	322 (9.5%)	54 (1.0%)	663 (9.0%)	165 (1.8%)
Unimplemented⁸	3,054 (90.5%)	5,228 (99.0%)	6,678 (91.0%)	9,245 (98.2%)
Total	3,376	5,282	7,341	9,410

⁵ "Timely Implemented" is defined as an Order or Action Item that was implemented within the length of time specified in the Order or, if no such time is specified in the Order, within 35 days of issuance (of the Order itself or of the Order containing the Action Item), except that particular Orders or Action Items will also be considered to have been timely implemented for measurement purposes pursuant to the additional requirements included in Section I.1.ii. of the Stipulation.

⁶ Pursuant to Section I.1.dd. of the Stipulation, "Service Order" is defined as an Order, or all Action Items within an Order that requires the DOE to take any action other than make a payment directly to a parent, private service provider, or private school.

⁷ Pursuant to Section I.1.v. of the Stipulation, "Payment Order" is defined as an Order, or all Action Items within an Order, requiring the DOE to make a direct payment to a parent, private service provider, or private school.

⁸ Pursuant to Section I.1. mm of the Stipulation, "Unimplemented" or "Unimplemented Order" is defined as an Order or Action Item that is found by the Independent Auditor to have not been Timely Implemented. Guidehouse assessed Action Items as Unimplemented when 1) there was no indication that implementation occurred or 2) the analysis determined that implementation occurred after the due date. Orders were deemed Unimplemented when one or more of the Action Items associated with the Order was determined to be Unimplemented.



In addition, Guidehouse determined that 31 Orders and 104 Action Items issued during the PCA Fifty-Eighth Quarter were Uncounted.⁹ There were 1,486 Orders issued during the PCA Fifty-Eighth Quarter that did not include Action Items, such as Orders of Dismissal and Orders where the parent's relief was denied.

Further, Guidehouse identified 1,913 Orders (comprising 3,273 Action Items) and 173 additional Action Items where the DOE was not required to implement the Action Items because they were beyond the scope of review. These Action Items were beyond our scope of review for multiple reasons, including but not limited to:

- Situations where the parent refused an ordered service;
- Implementation performed pursuant to a prior Order; and
- Payment was made in conjunction with a previously analyzed Action Item.¹⁰

⁹ Pursuant to Section I.1. II. of the Stipulation, Orders or Action Items are deemed "Uncounted Orders" or "Uncounted Action Items," respectively, when an Order or Action item could not be Timely Implemented because:

- i. It required the DOE to take action that would either violate applicable law or is factually impossible;
- ii. The DOE had made a substantial showing of attempts to reach the parent and attempts to obtain compliance with the parent's obligations under the Order;
- iii. It required the provision of a DOE designated shortage area service which includes, inter alia, occupational, physical and speech therapy and where the DOE made a substantial showing that it offered the parent an appropriate substitute service within 35 calendar days of the issuance of the relevant Order or Action Item; and
- iv. The Order or Action item was timely appealed by the DOE.

¹⁰ A complete list of these Orders and Action Items will be provided to the Parties.



III. Implementation of Service Action Items by Category

Guidehouse reviewed the 7,341 counted Service Action Items and noted that the top three most frequently identified categories were Speech and Language Therapy (2,500 Action Items or 34.0%), followed by Occupational Therapy (1,790 Action Items or 24.3%) and Counseling (1,063 Action Items or 14.5%).

The categories with the highest percentage of Unimplemented Action Items with respect to the total number of counted Service Action Items within the category were Correspondence (99.2%), followed by Offer Placement (98.9%) and CSE Evaluation (97.4%).

The following table sets forth the top 10 Service Action Item categories based on the number of counted Action Items:

Action Item Category		Total Counted Service Action Items	% Total Counted Service Action Items	# Timely Implemented by Category	% Timely Implemented by Category	# Unimplemented by Category	% Unimplemented by Category
1	Speech and Language Therapy	2,500	34.0%	211	8.4%	2,289	91.6%
2	Occupational Therapy	1,790	24.3%	155	8.7%	1,635	91.3%
3	Counseling	1,063	14.5%	74	7.0%	989	93.0%
4	Physical Therapy	461	6.3%	38	8.2%	423	91.8%
5	Transportation	391	5.3%	149	38.1%	242	61.9%
6	Reconvene Hearing or Meeting	320	4.4%	11	3.4%	309	96.6%
7	CSE Evaluation	156	2.1%	4	2.6%	152	97.4%
8	Paraprofessional	153	2.1%	7	4.6%	146	95.4%
9	Correspondence	130	1.8%	1	0.8%	129	99.2%
10	Offer Placement	87	1.2%	1	1.1%	86	98.9%
	Remaining Categories with 85 or Less Action Items	290	4.0%	12	4.1%	278	95.9%
	TOTAL	7,341	100.0%	663	9.0%	6,678	91.0%



IV. Implementation of Payment Action Items by Category

Guidehouse reviewed the 9,410 counted Payment Action Items and noted 7,746 Action Items categorized as prospective payments and 1,664 Action Items categorized as reimbursements. The top three most frequently identified categories of prospective Payment Action Items were Special Education Teacher Support Services (2,889 Action Items or 37.3%), followed by Tuition (1,288 Action Items or 16.6%), and Speech and Language Therapy (672 Action Items or 8.7%).

The categories with the highest percentage of Unimplemented Action Items with respect to the total number of counted prospective Payment Action Items within the category were Compensatory Services (100.0%), followed by Private Evaluations Ordered (99.7%) and Speech and Language Therapy (99.3%).

The following table sets forth the top 10 prospective Payment Action Item categories based on the number of counted Action Items:

Action Item Category		Total Counted Payment Action Items	% Total Counted Payment Action Items	# Timely Implemented by Category	% Timely Implemented by Category	# Unimplemented by Category	% Unimplemented by Category
1	Special Education Teacher Support Services	2,889	37.3%	25	0.9%	2,864	99.1%
2	Tuition	1,288	16.6%	31	2.4%	1,257	97.6%
3	Speech and Language Therapy	672	8.7%	5	0.7%	667	99.3%
4	Compensatory Services	652	8.4%	0	0.0%	652	100.0%
5	Occupational Therapy	506	6.5%	11	2.2%	495	97.8%
6	SEIT Services	487	6.3%	11	2.3%	476	97.7%
7	Private Evaluations Ordered	318	4.1%	1	0.3%	317	99.7%
8	ABA Therapy	177	2.3%	8	4.5%	169	95.5%
9	Counseling	171	2.2%	2	1.2%	169	98.8%
10	Physical Therapy	116	1.5%	2	1.7%	114	98.3%
	Remaining Categories with 96 or Less Action Items	470	6.1%	12	2.6%	458	97.4%
	TOTAL	7,746	100.0%	108	1.4%	7,638	98.6%



The top three most frequently identified categories of reimbursement Action Items were Tuition (1,121 Action Items or 67.4%), followed by Special Education Teacher Support Services (85 Action Items or 5.1%) and Transportation (82 Action Items or 4.9%).

The categories with the highest percentage of Unimplemented Action Items with respect to the total number of counted reimbursement Action Items within the category were Special Education Teacher Support Services (100.0%) and Transportation (96.3%).

The following table sets forth the top three reimbursement Action Item categories based on the number of counted Action Items:

Action Item Category		Total Counted Payment Action Items	% Total Counted Payment Action Items	# Timely Implemented by Category	% Timely Implemented by Category	# Unimplemented by Category	% Unimplemented by Category
1	Tuition	1,121	67.4%	50	4.5%	1,071	95.5%
2	Special Education Teacher Support Services	85	5.1%	0	0.0%	85	100.0%
3	Transportation	82	4.9%	3	3.7%	79	96.3%
	Remaining Categories with 79 or Less Action Items	376	22.6%	4	1.1%	372	98.9%
	TOTAL	1,664	100.0%	57	3.4%	1,607	96.6%

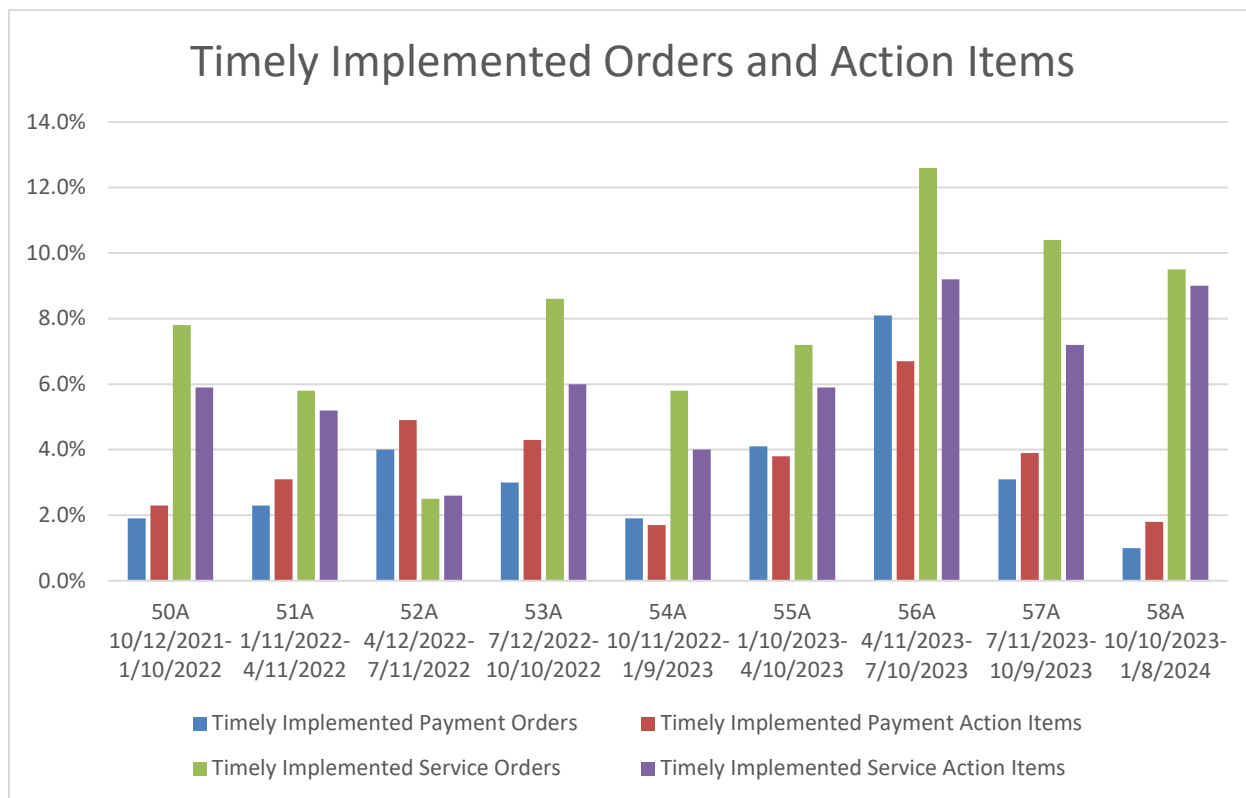


V. Comparison of Timely Implemented Orders and Action Items

Guidehouse identified a decrease in the percentage of Timely Implemented Orders and Timely Implemented Action Items in the PCA Fifty-Eighth Quarter. Guidehouse analyzed the statistics from the final PCA Fiftieth through the PCA Fifty-Seventh Quarterly Reports and determined that the DOE timely implemented, on average, 3.6% of Payment Orders, 3.8% of Payment Actions, 7.6% of Service Orders and 5.8% of Service Action Items. In the PCA Fifty-Eighth Quarter, Guidehouse determined that the DOE timely implemented 1.0% of Payment Orders, 1.8% of Payment Action Items, 9.5% of Service Orders, and 9.0% of Service Action Items.

It is worth noting that the percentage of Timely Implemented Payment Orders and Timely Implemented Payment Action Items fell below 2% and Timely Implemented Service Orders and Timely Implemented Service Action Items fell below 10% in the final PCA Fifty-Eighth Quarterly report. The table below and the graph on the following page depict the Timely Implemented percentages in the final reports from Q50A through Q58A.

Final Quarterly Reports	50A 10/12/2021- 1/10/2022	51A 1/11/2022- 4/11/2022	52A 4/12/2022- 7/11/2022	53A 7/12/2022- 10/10/2022	54A 10/11/2022- 1/9/2023	55A 1/10/2023- 4/10/2023	56A 4/11/2023- 7/10/2023	57A 7/11/2023- 10/9/2023	58A 10/10/2023- 1/8/2024
Timely Implemented Payment Orders	1.9%	2.3%	4.0%	3.0%	1.9%	4.1%	8.1%	3.1%	1.0%
Timely Implemented Payment Action Items	2.3%	3.1%	4.9%	4.3%	1.7%	3.8%	6.7%	3.9%	1.8%
Timely Implemented Service Orders	7.8%	5.8%	2.5%	8.6%	5.8%	7.2%	12.6%	10.4%	9.5%
Timely Implemented Service Action Items	5.9%	5.2%	2.6%	6.0%	4.0%	5.9%	9.2%	7.2%	9.0%



VI. Limitations

The conclusions, observations and assessments detailed in this report are based on Guidehouse's methodology and the procedures performed. Had Guidehouse performed additional procedures or testing, it is possible that our conclusions, observations and assessments could be different. Guidehouse also relied on information provided by the DOE and AFC during its work.

VII. Conclusion

Guidehouse has continued with its analysis of the Injunctive Relief Subclass Orders and Action Items relating to subsequent reporting periods.

[Appendices Omitted]

Exhibit B



L.V. v. D.O.E.

03 Civ. 9917 (RJH)

Stipulation and Agreement of Settlement

Independent Auditor's Post Corrective Action

March 2025 Limited Review

August 8, 2025



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Appendices

- A. List of March 2025 Limited Review Unimplemented Orders
- B. List of March 2025 Limited Review Timely Implemented Orders
- C. List of March 2025 Limited Review Uncounted Orders
- D. March 2025 Limited Review Orders Grouped with Related Action Items
- E. List of March 2025 Limited Review Unimplemented Action Items
- F. List of March 2025 Limited Review Timely Implemented Action Items
- G. List of March 2025 Limited Review Uncounted Action Items



I. Introduction

On December 12, 2003, Advocates for Children of New York (“AFC”) and Milbank, Tweed, Hadley & McCloy LLP (“Milbank”) filed a class action, *L.V. v. D.O.E.* 03 Civ. 9917 (RJH). The class was comprised of parents of special needs children who alleged that while they had obtained a favorable order from an Impartial Hearing Officer against the New York City Department of Education (“DOE”) or stipulation of settlement placed on the record at an impartial hearing with the DOE, the DOE failed to obtain full and timely implementation of such order or settlement.

On December 11, 2007, the Corporation Counsel of the City of New York on behalf of the DOE and AFC and Milbank on behalf of Lead Plaintiffs and Class¹ (“Plaintiffs”), referred to collectively herein as (“the Parties”), signed a Stipulation and Agreement of Settlement (“Stipulation”) in connection with *L.V. v. D.O.E.* 03 Civ. 9917 (RJH). Pursuant to the terms of the Stipulation, Daylight Forensic & Advisory LLC (“Daylight”) was appointed as Independent Auditor on March 27, 2008. On May 9, 2008, the DOE formally engaged Daylight to commence the independent audit.

The Stipulation requires the Independent Auditor to generate reports concerning the DOE’s implementation of Orders and Action Items for all Quarterly Measurement Periods (each a “Quarterly Report”) and Benchmark Measurement Periods (each a “Benchmark Report”).

Guidehouse² issued the following reports in conjunction with the Injunctive Relief Subclass: (1) Gap Period Report (dated August 6, 2008); (2) Eighth Quarterly Report (dated January 9, 2009); (3) Eighth Quarterly Report and Eighth Benchmark Report (dated June 11, 2009); and (4) Post Corrective Action³ Eighth Quarterly Report (dated April 9, 2010).⁴

Guidehouse issued reports in conjunction with the Injunctive Relief Subclass, including the Post Corrective Action (“PCA”) First Benchmark Report dated August 13, 2010, as well as reports for the PCA Third Quarter through the PCA Fifty-Eighth Quarter. Guidehouse issued the final PCA quarterly reports during the time period of August 13, 2010 through July 29, 2025.

¹ Pursuant to Section I.1.f. of the Stipulation, “Class” is defined as the Compensatory Relief Subclass and the Injunctive Relief Subclass.

² On October 11, 2019, Guidehouse LLP completed its acquisition of Navigant. We refer to Navigant and Daylight as ‘Guidehouse’ for consistency purposes under the terms of this engagement. Guidehouse continues to perform according to the terms of the Engagement Letter, using the same analysis and methods and without changes to the schedule, price, or level of effort.

³ Pursuant to Section III.10.a. of the Stipulation, “If the DOE fails to meet the Eighth Benchmark or Eighth Benchmark at the required date...the DOE must, within three months of issuance of the final Benchmark Report notifying the parties of the missed benchmark, formulate and implement a Corrective Action Plan designed to correct the problems that caused the DOE to miss the benchmark at issue.”

⁴ Pursuant to Sections I.1.r. and I.1.h of the Stipulation, “Injunctive Relief Subclass” is defined as the class of all persons who, on or subsequent to the Commencement Date of December 12, 2003, (1) obtain or obtained a favorable Order by an Impartial Hearing Officer against the DOE or stipulation of settlement placed on the record at an impartial hearing with the DOE and (2) fail or failed to obtain full and timely implementation of such Order or settlement.



The current report focuses on Guidehouse's review of Injunctive Relief Subclass Orders and summarizes our analysis of the Total Orders and Total Action Items that were part of the March 2025 Limited Review and includes Orders issued between January 25, 2025 and February 24, 2025 with Action Item final due dates between March 1, 2025 and March 31, 2025.

The terms defined in Section I. Definitions of the Stipulation apply to the present report.

II. Executive Summary and Statistical Overview

During the March 2025 Limited Review, Guidehouse determined that the DOE Timely Implemented⁵ 28.1% of Service Orders;⁶ 24.4% of Service Action Items; 7.0% of Payment Orders;⁷ and 9.3% of Payment Action Items during this timeframe.

The following table summarizes the counted March 2025 Limited Review Orders and Action Items by type of relief:

	Service Orders	Payment Orders	Service Action Items	Payment Action Items
Timely Implemented	74 (28.1%)	32 (7.0%)	136 (24.4%)	100 (9.3%)
Unimplemented⁸	189 (71.9%)	427 (93.0%)	421 (75.6%)	979 (90.7%)
Total	263	459	557	1,079

⁵ "Timely Implemented" is defined as an Order or Action Item that was implemented within the length of time specified in the Order or, if no such time is specified in the Order, within 35 days of issuance (of the Order itself or of the Order containing the Action Item), except that particular Orders or Action Items will also be considered to have been timely implemented for measurement purposes pursuant to the additional requirements included in Section I.1.ii. of the Stipulation.

⁶ Pursuant to Section I.1.dd. of the Stipulation, "Service Order" is defined as an Order, or all Action Items within an Order that requires the DOE to take any action other than make a payment directly to a parent, private service provider, or private school.

⁷ Pursuant to Section I.1.v. of the Stipulation, "Payment Order" is defined as an Order, or all Action Items within an Order, requiring the DOE to make a direct payment to a parent, private service provider, or private school.

⁸ Pursuant to Section I.1. mm of the Stipulation, "Unimplemented" or "Unimplemented Order" is defined as an Order or Action Item that is found by the Independent Auditor to have not been Timely Implemented. Guidehouse assessed Action Items as Unimplemented when 1) there was no indication that implementation occurred or 2) the analysis determined that implementation occurred after the due date. Orders were deemed Unimplemented when one or more of the Action Items associated with the Order was determined to be Unimplemented.



In addition, Guidehouse determined that 3 Orders and 16 Action Items issued during the March 2025 Limited Review were Uncounted.⁹ There were 91 Orders issued during the March 2025 Limited Review that did not include Action Items, such as Orders of Dismissal and Orders where the parent's relief was denied.

Further, Guidehouse identified 61 Orders (comprising 129 Action Items) and 36 additional Action Items where the DOE was not required to implement the Action Items because they were beyond the scope of review. These Action Items were beyond our scope of review for multiple reasons, including but not limited to:

- Situations where the parent refused an ordered service;
- Implementation performed pursuant to a prior Order; and
- Payment was made in conjunction with a previously analyzed Action Item.¹⁰

⁹ Pursuant to Section I.1. II. of the Stipulation, Orders or Action Items are deemed "Uncounted Orders" or "Uncounted Action Items," respectively, when an Order or Action item could not be Timely Implemented because:

- i. It required the DOE to take action that would either violate applicable law or is factually impossible;
- ii. The DOE had made a substantial showing of attempts to reach the parent and attempts to obtain compliance with the parent's obligations under the Order;
- iii. It required the provision of a DOE designated shortage area service which includes, inter alia, occupational, physical and speech therapy and where the DOE made a substantial showing that it offered the parent an appropriate substitute service within 35 calendar days of the issuance of the relevant Order or Action Item; and
- iv. The Order or Action item was timely appealed by the DOE.

¹⁰ A complete list of these Orders and Action Items will be provided to the Parties.



III. Implementation of Service Action Items by Category

Guidehouse reviewed the 557 counted Service Action Items and noted that the top three most frequently identified categories were Speech and Language Therapy (103 Action Items or 18.5%), followed by Occupational Therapy (90 Action Items or 16.2%) and Transportation (86 Action Items or 15.3%).

The categories with the highest percentage of Unimplemented Action Items with respect to the total number of counted Service Action Items within the category were CSE Evaluation (100.0%), followed by Assistive Technology Services (92.9%) and Reconvene Hearing or Meeting (91.1%).

The following table sets forth the top 10 Service Action Item categories based on the number of counted Action Items:

Action Item Category		Total Counted Service Action Items	% Total Counted Service Action Items	# Timely Implemented by Category	% Timely Implemented by Category	# Unimplemented by Category	% Unimplemented by Category
1	Speech and Language Therapy	103	18.5%	30	29.1%	73	70.9%
2	Occupational Therapy	90	16.2%	33	36.7%	57	63.3%
3	Transportation	86	15.3%	37	43.0%	49	57.0%
4	Reconvene Hearing or Meeting	56	10.1%	5	8.9%	51	91.1%
5	CSE Evaluation	41	7.4%	0	0.0%	41	100.0%
6	Counseling	34	6.1%	12	35.3%	22	64.7%
7	Physical Therapy	33	5.9%	7	21.2%	26	78.8%
8	Paraprofessional	22	3.9%	4	18.2%	18	81.8%
9	Comp Services	17	3.1%	3	17.6%	14	82.4%
10	Assistive Technology Services	14	2.5%	1	7.1%	13	92.9%
	Remaining Categories with 12 or Less Action Items	61	11.0%	4	6.6%	57	93.4%
	TOTAL	557	100.0%	136	24.4%	421	75.6%



IV. Implementation of Payment Action Items by Category

Guidehouse reviewed the 1,079 counted Payment Action Items and noted 872 Action Items categorized as prospective payments and 207 Action Items categorized as reimbursements. The top three most frequently identified categories of prospective Payment Action Items were Special Education Teacher Support Services (201 Action Items or 23.1%), followed by Tuition (158 Action Items or 18.1%), and Compensatory Services (141 Action Items or 16.2%).

The categories with the highest percentage of Unimplemented Action Items with respect to the total number of counted prospective Payment Action Items within the category were Compensatory Services (100.0%), followed by Special Education Teacher Support (96.0%) and Private Evaluations Ordered (95.1%).

The following table sets forth the top 10 prospective Payment Action Item categories based on the number of counted Action Items:

Action Item Category		Total Counted Payment Action Items	% Total Counted Payment Action Items	# Timely Implemented by Category	% Timely Implemented by Category	# Unimplemented by Category	% Unimplemented by Category
1	Special Education Teacher Support Services	201	23.1%	8	4.0%	193	96.0%
2	Tuition	158	18.1%	26	16.5%	132	83.5%
3	Compensatory Services	141	16.2%	0	0.0%	141	100.0%
4	Speech and Language Therapy	93	10.7%	5	5.4%	88	94.6%
5	Occupational Therapy	64	7.3%	5	7.8%	59	92.2%
6	Private Evaluations Ordered	41	4.7%	2	4.9%	39	95.1%
7	SEIT Services	36	4.1%	2	5.6%	34	94.4%
8	ABA Therapy	31	3.6%	7	22.6%	24	77.4%
9	Parent Training	23	2.6%	3	13.0%	20	87.0%
10	Physical Therapy	17	1.9%	2	11.8%	15	88.2%
	Remaining Categories with 16 or Less Action Items	67	7.7%	5	7.5%	62	92.5%
	TOTAL	872	100.0%	65	7.5%	807	92.5%



The top three most frequently identified categories of reimbursement Action Items were Tuition (131 Action Items or 63.3%), followed by Special Education Teacher Support Services (18 Action Items or 8.7%) and Transportation (17 Action Items or 8.2%).

The categories with the highest percentage of Unimplemented Action Items with respect to the total number of counted reimbursement Action Items within the category were Special Education Teacher Support Services (94.4%) and Transportation (88.2%).

The following table sets forth the top three reimbursement Action Item categories based on the number of counted Action Items:

Action Item Category		Total Counted Payment Action Items	% Total Counted Payment Action Items	# Timely Implemented by Category	% Timely Implemented by Category	# Unimplemented by Category	% Unimplemented by Category
1	Tuition	131	63.3%	29	22.1%	102	77.9%
2	Special Education Teacher Support Services	18	8.7%	1	5.6%	17	94.4%
3	Transportation	17	8.2%	2	11.8%	15	88.2%
	Remaining Categories with 11 or Less Action Items	41	19.8%	3	7.3%	38	92.7%
	TOTAL	207	100.0%	35	16.9%	172	83.1%



V. Comparison of Timely Implemented Orders and Action Items

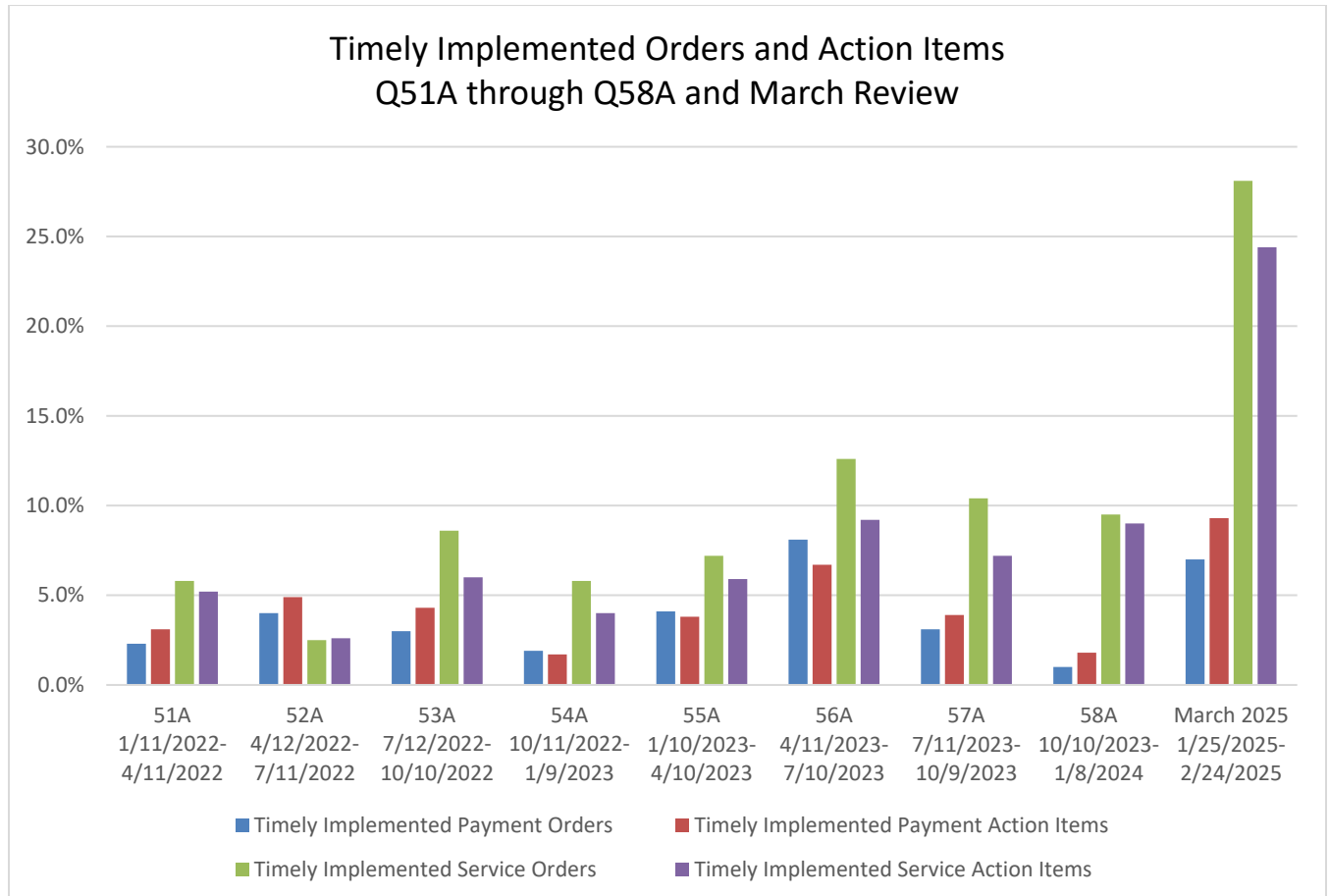
Guidehouse identified an increase in the percentage of Timely Implemented Orders and Timely Implemented Action Items in the March 2025 Limited Review. Guidehouse analyzed the statistics from the final PCA Fifty-First through the PCA Fifty-Eighth Quarterly Reports and determined that the DOE timely implemented, on average, 3.4% of Payment Orders, 3.8% of Payment Actions, 7.8% of Service Orders and 6.1% of Service Action Items. In the March 2025 Limited Review, Guidehouse determined that the DOE timely implemented 7.0% of Payment Orders, 9.3% of Payment Action Items, 28.1% of Service Orders, and 24.4% of Service Action Items.

It is worth noting that the percentage of Timely Implemented Payment Orders and Timely Implemented Payment Action Items remain below 10% and Timely Implemented Service Orders and Timely Implemented Service Action Items remain below 30% in the final March 2025 Limited Review report. The tables below indicate the percentages of Timely Implemented Payment and Service Orders and Action Items from Guidehouse's PCA Q51A through Q58A reports as well as the March 2025 Limited Review.

Final Quarterly Reports/March Limited Review	51A 1/11/2022- 4/11/2022	52A 4/12/2022- 7/11/2022	53A 7/12/2022- 10/10/2022	54A 10/11/2022- 1/9/2023	55A 1/10/2023- 4/10/2023	56A 4/11/2023- 7/10/2023	57A 7/11/2023- 10/9/2023	58A 10/10/2023- 1/8/2024	March 2025 1/25/2025- 2/24/2025
Timely Implemented Payment Orders	2.3%	4.0%	3.0%	1.9%	4.1%	8.1%	3.1%	1.0%	7.0%
Timely Implemented Payment Action Items	3.1%	4.9%	4.3%	1.7%	3.8%	6.7%	3.9%	1.8%	9.3%
Timely Implemented Service Orders	5.8%	2.5%	8.6%	5.8%	7.2%	12.6%	10.4%	9.5%	28.1%
Timely Implemented Service Action Items	5.2%	2.6%	6.0%	4.0%	5.9%	9.2%	7.2%	9.0%	24.4%

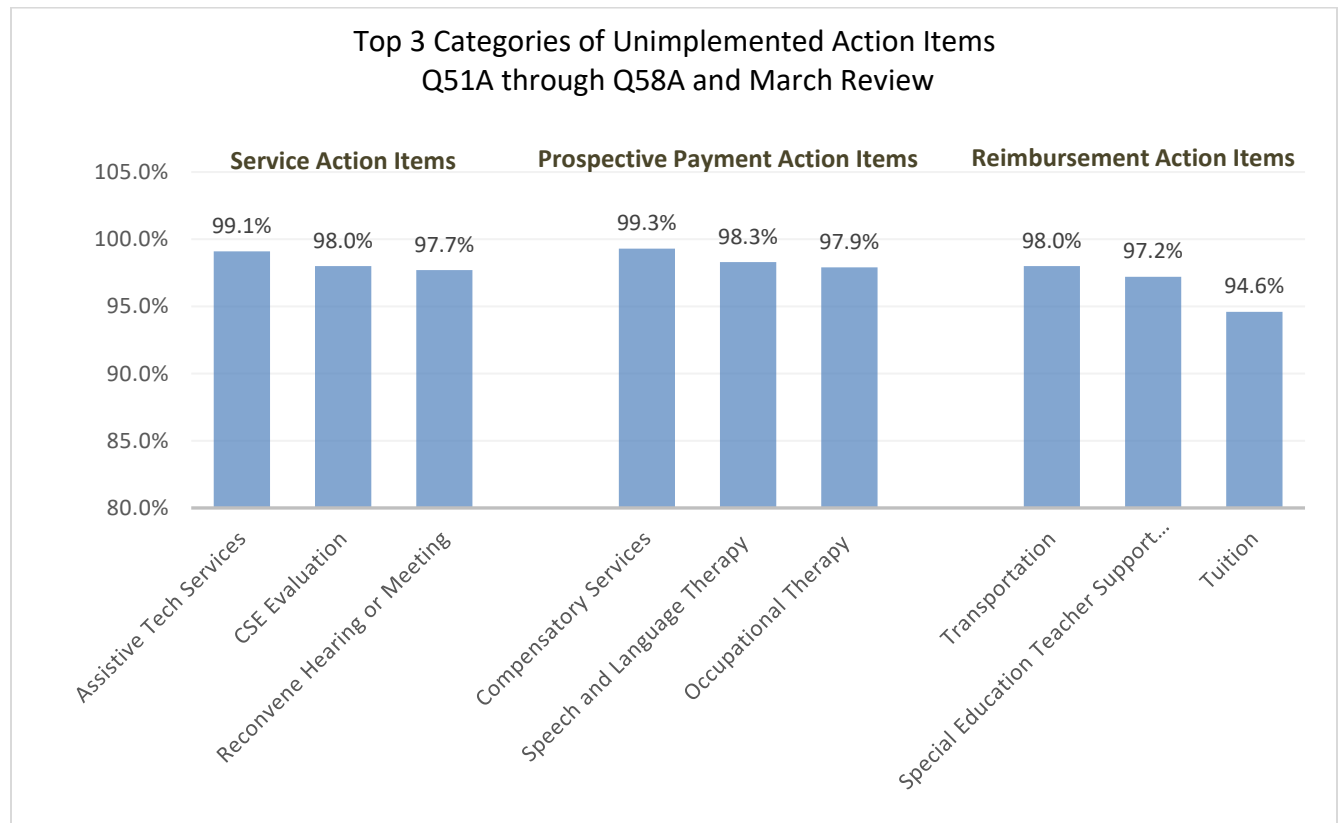


The table below indicates the percentages of Timely Implemented Payment and Service Orders and Action Items from Guidehouse's final PCA Q51A through Q58A reports as well as the March 2025 Limited Review.



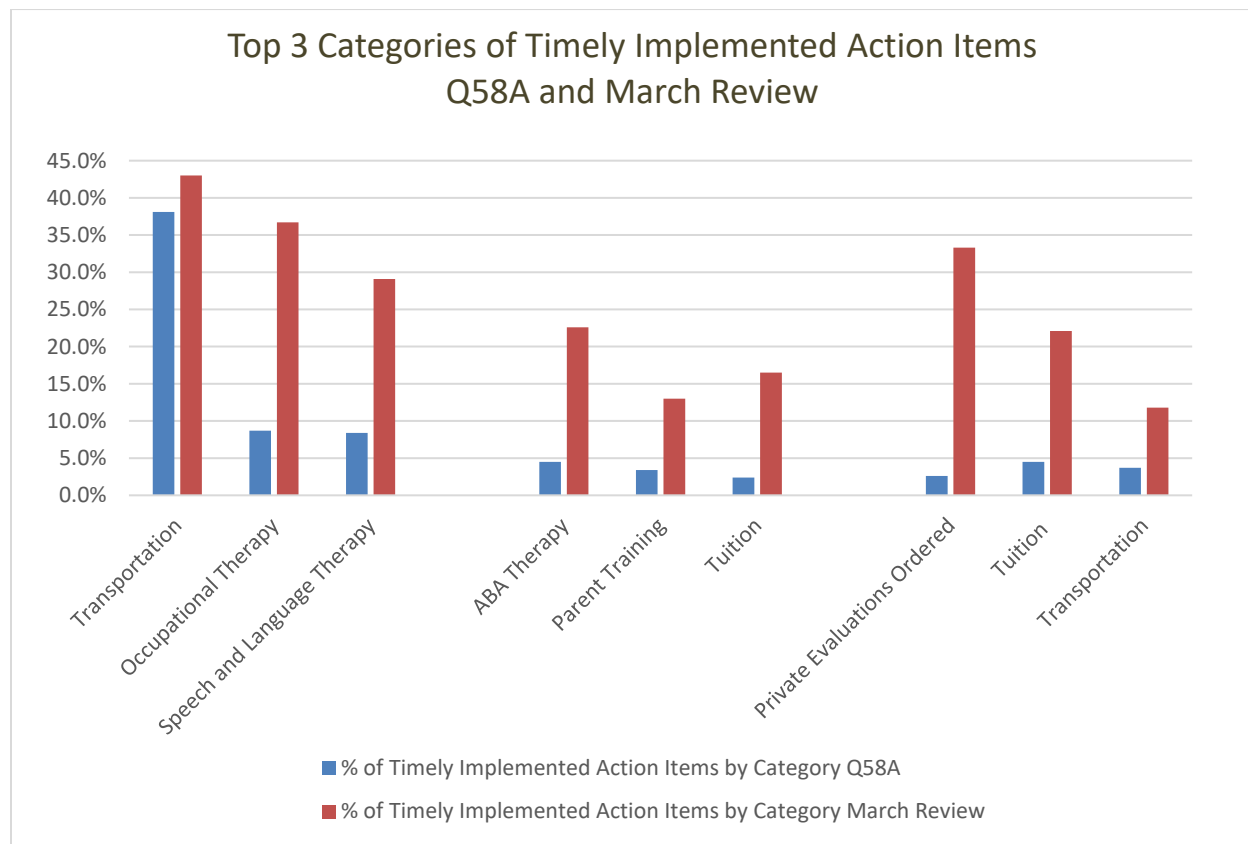


The table below indicates the categories with the highest percentages of Unimplemented Payment and Service Action Items from Guidehouse's final PCA Q51A through Q58A reports as well as the March 2025 Limited Review.





The table below indicates the categories with the highest percentages of Timely Implemented Payment and Service Action Items from Guidehouse's final PCA Q58A report as well as the March 2025 Limited Review.



VI. Limitations

The conclusions, observations and assessments detailed in this report are based on Guidehouse's methodology and the procedures performed. Had Guidehouse performed additional procedures or testing, it is possible that our conclusions, observations and assessments could be different. Guidehouse also relied on information provided by the DOE and AFC during its work.

VII. Conclusion

Guidehouse continues with its analysis of the Injunctive Relief Subclass Orders and Action Items relating to subsequent reporting periods. If the Parties decide it would be worthwhile, Guidehouse can expand the limited review to a full quarter of Orders and Action items or conduct a limited review of Orders and Action Items with final due dates in April 2025.

[Appendices Omitted]