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**Testimony before the District of Columbia Council
Committee on Education
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**Agency Performance Oversight Hearing:
District of Columbia Public Schools**

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Good morning Chairman Catania and members of the Committee. My name is Judith Sandalow. I am the Executive Director of Children's Law Center¹ (CLC) and a resident of the District. I am testifying today on behalf of CLC, the largest non-profit legal services organization in the District and the only such organization devoted to a full spectrum of children's legal services. Every year, we represent over 2,000 low-income children and families, focusing on children who have been abused and neglected and children with special health and educational needs. The majority of the children we represent attend District of Columbia Public Schools (DCPS).

I appreciate this opportunity to testify regarding DCPS's performance over the past year, and will focus primarily on their performance in special education. While a great deal of work remains to be done, DCPS has maintained gains in several areas and begun to implement some promising new initiatives. DCPS has maintained its progress in identifying preschool-age students with disabilities, which means that the children identified are getting the services they need at the time when they can be most effective. DCPS's current special education eligibility rate for children between ages 3 and 5 is slightly increased from last year's and nearly doubled from the rate four years ago.² Continuing the trend of steady improvements for young children, DCPS has continued to expand the well-regarded Tools of the Mind program, which helps 3-to-5 year-olds learn the self-regulation skills that will allow them to be successful students.³ DCPS has also continued to invest in research-based instructional programs for struggling readers.⁴ We are hopeful that DCPS's partnership with the Ivymount school on classrooms for students with high-functioning autism will lead to better services and better-trained teachers for such students.⁵ Finally, we believe that the recent central office reorganization bringing early childhood education and visiting instruction under the umbrella of Dr. Beers' Office of Specialized Instruction will lead to improvements in those programs.

There is, however, still much progress to be made. DCPS now has an opportunity to move away from a focus on compliance to a focus on quality. The *Jones* class action case is coming close to resolution after 17 years, and DCPS is moving closer to complying with the federal government's requirements for procedural compliance with the Individuals with Disabilities Act (IDEA). These positive developments are possible because DCPS has made major investments in technology, staffing, and oversight over the past several years. Now that DCPS has these basic building blocks in place, it has the opportunity to focus on improving student achievement, which still remains extremely low. Only approximately 1 in 5 DCPS students receiving special education services tested proficient in reading or math last school year.⁶ That lack of achievement is wholly unacceptable. In my testimony today, I will provide recommendations for improvements in special education capacity building, transition services, family engagement, and behavioral supports. All of my recommendations are targeted at ensuring that all students with disabilities receive a quality education that provides them the skills they need to succeed as adults.

Special Education Capacity Building

In our testimony over the past several years, we have consistently raised concerns about DCPS's lack of sufficient special education program capacity. While we share the hope expressed often by Mayor Gray that all DC children be able to attend their local public school, in our experience too many DC public schools are still far from equipped to meet the needs of all children. The needs of children in special education vary widely. Some children may only need an hour or two of group speech therapy or counseling each week, and can spend the rest of their school days in a mainstream classroom. However, many children need more intensive supports. Some children have such serious emotional needs that they must have a trained clinician in their classroom at all times to help them manage their behavior. Some children need an hour of one-on-one tutoring each day to

learn to read. Some children cannot function in the noise and bustle of a mainstream school building, even within a self-contained classroom.

This wide spectrum of needs that fall under the general umbrella of “special education” is the reason that the federal Individuals with Disabilities Education Act specifically requires that all schools offer a continuum of special education placements, ranging from full inclusion to separate schools.⁷ It is also the reason that the IDEA requires that schools offer a wide range of “related services” that are necessary to support a student so that he or she can learn in the classroom.⁸ In fact, the Individuals with Disabilities Education Act requires that schools provide students with whatever instruction and related services are necessary to allow each particular student to learn, regardless of the school’s preexisting capacity to provide the service. However, the DC public schools are still far from having the capacity to provide all students with the specialized instruction and related services that they need and, as far as we know, there is no comprehensive plan to identify and fill the gaps.

In the past year, some of the gaps our clients’ have experienced have included:

- James,⁹ an elementary school student with psychiatric and physical disabilities, did not have a certified special education teacher in his classroom at any time during the 2012-2013 school year even though his Individualized Education Plan (IEP) team had determined that he needed special education in all his academic subjects.
- Sarah, an elementary school student with a speech delay, was not provided with speech therapy because the speech therapist had no more time on her schedule;
- Throughout the 2012-2013 school year, Derek, an elementary school student with learning and emotional disabilities, was only provided half of the occupational therapy, counseling, and speech therapy that his IEP team had determined he needed.

- Mark, a preschool student who uses a wheelchair, was placed at a school with a nonfunctioning elevator. The school did not provide an evacuation chair or any other safe way to evacuate Mark in case of emergency.
- Raul, a middle school student with emotional disabilities, had his hours of special education unilaterally reduced from 30 hours to 24 hours because DCPS did not have any placements available that could provide full-time special education (i.e., outside of general education for the entire day including academics, specials, recess, and lunch);
- A number of our clients who are in self-contained special education classrooms have been denied the opportunity to participate in “specials” (e.g., PE, art) because their schools do not have sufficient staff;

Shortage of related service providers

We have a major concern about the lack of capacity among related services providers during the past year. A number of our clients have been denied occupational therapy for months at a time because their school did not have an assigned occupational therapist (OT). It appears from the DCPS oversight responses and the recent *Jones* monitor’s report that many schools have lacked more than occupational therapists, but also lacked speech/language pathologists, social workers, psychologists, and adapted physical education teachers at times during the past year.¹⁰ During the 2012-2013 school year, students missed 33% of their behavior support services because of provider unavailability. During that time frame, students also missed 13% of their speech language services and 9% of their occupational therapy because of the lack of provider availability.¹¹ DCPS has asserted that these missed services were made up but did not provide the court monitor with evidence to substantiate their claim.¹² In fact, in our clients’ experiences, these services are often not made up.

We understand from Dr. Beers that DCPS is actively working to hire more occupational therapists, but 11 schools were still lacking these professionals as of January. The lack of occupational therapists has meant that hundreds of students have not received the support they need for their fine motor skills, hand-eye coordination, and self-care. Without this support, they struggle to complete basic tasks such as writing, using scissors, and tying shoes. This limits their ability to participate in the classroom. We understand that DCPS has planned to ensure students make up missed services by reimbursing parents who obtain private occupational therapy services and by requiring that the newly hired DCPS occupational therapists make up the missed hours from earlier in the school year. We appreciate these efforts, but making up weeks or months of services after the fact is not a viable long-term solution. Dr. Beers has told us that he is working to ensure that a sufficient number of occupational therapists and other related service providers are in place in time for Extended School Year (ESY) in late June. We look forward to receiving confirmation that all schools have a full complement of related service providers.

Self-contained middle and high school behavior classrooms

We continue to have serious concerns about DCPS's approach to serving middle and high school students with behavioral difficulties who need self-contained classrooms. In these classrooms, much of students' content-area instruction is provided by computer programs.¹³ While teacher with special education-certification (as distinct from content-area certified teachers) are available in these classrooms, in our experience they are not well-versed in the academic material the students are learning. Within one classroom, children may range in age from 14 to 22 and their disabilities may include learning disabilities, emotional disabilities, and mental retardation. The use of computer instruction might allow each child's programming to be individualized, but the special education teachers in the classrooms are not equipped to support students with such a wide range of needs, and the students are sometimes grouped with peers who are much older or younger. We

understand that DCPS plans to continue to expand this program in the 2014-2015 school year. The program as it stands now is not a model that we believe should be replicated. Instead, it should be evaluated and adjusted in order to provide more meaningful instructional supports. Data should also be collected on an ongoing basis to determine whether students in the programs are making academic and behavioral progress.

Summer School

DCPS currently refuses to provide special education services during summer school.¹⁴ If students with Individualized Education Plans enroll in summer school, DCPS will encourage their teachers to offer them accommodations from their IEPs (e.g., extended time on tests) but will not provide them with the specialized instruction or related services they need. This means that students with disabilities are denied a meaningful opportunity to make up classes they may have failed during the school year. This contributes to students with disabilities falling behind and dropping out of school. The impact of DCPS's refusal to provide special education supports during summer school will be even more pronounced when the Focused Student Achievement Act goes into effect, requiring students to pass courses in summer school in order to avoid being held back a grade. Furthermore, refusing to provide related services during summer school goes against the guidance of the federal Office for Civil Rights.¹⁵ Even leaving these additional considerations aside, DCPS should offer specialized instruction and related services in summer school in order to help the most vulnerable students make progress toward graduation.

District charters

Charter schools that have elected to use DCPS as their Local Education Agency (LEA) for special education purposes present a particular challenge. We have found our clients have better experiences with Local Education Agency charters (independent charter schools that provide their own special education services) rather than District charters (those charters that rely on DCPS as

their special education LEA). The District charters often use their District status as an excuse to only offer limited special education services or placement types, with the rationale that if these options are not right for the child, the parent can just withdraw the child and enroll in DCPS. These charters have no incentive to develop strong special education programs because they can hand over their students to DCPS if students require more intensive or specialized services than the charter currently offers. DCPS, on the other hand, has little ability to require a District charter to provide appropriate special education services. The result is that children with disabilities are funneled from District charters back into DCPS schools, losing out on the opportunity to benefit from whatever special programs the charter might offer. In order to prevent this, we recommend that DC eliminate the option for charter schools to use DCPS as their Local Education Agency for special education purposes.

Transition services

Another major gap in DCPS's special education services is its inability to provide vocational and life skills training to teenagers and young adults with disabilities. Such training is essential if these students are to leave school able to support themselves. Under federal special education law, DCPS is obligated to provide special education students between ages 16 and 22 with "transition services" to help them prepare for further education, careers, and independent living.¹⁶ DCPS has made strides this past year in developing a self-advocacy curriculum and some classes geared at developing transition skills,¹⁷ but many DCPS schools are still failing to comply with basic transition planning requirements. In federal fiscal year 2011, the most recent for which DCPS data are available, only 28% of DCPS students had a transition plan that complied with the Individuals with Disabilities Education Act requirements.¹⁸

The failure to comply with transition planning requirements is compounded by the fact that there are far too few slots in DCPS's current transition programs. DCPS has 1,262 students who are

older than 16 in special education,¹⁹ not counting the high school special education students at the charter schools that have elected to use DCPS as their Local Education Agency for special education purposes.²⁰ There are also approximately 700 high school students placed by DCPS in nonpublic schools and residential programs.²¹ To our knowledge, the secondary transition programs that DCPS currently offers to help students learn job skills – these are Project Search, which provides supported employment in the federal government for students with cognitive disabilities; Marriott Bridges, which helps students explore careers in hospitality; and CEO, which connects students to mentors and summer internships – are not able to serve anywhere near the number of students who need such services. CEO, for example, is projected to serve 40 students this year.²² The numbers served by the other programs are, to our knowledge, also in the dozens. In addition, our attorneys have learned that the programs’ eligibility criteria exclude many students who desperately need vocational training.²³

The impact of this lack of vocational and life skills training is that far too many DCPS students leave school without the skills they need to become independent adults. At a time when the city is wisely focusing on developing career-readiness for young adults through RAISE DC, it is essential that DCPS expand its vocational programs to meet the needs of the over 3,000 high school special education students.²⁴ Offering more programs that engage students in learning job skills will likely lead to fewer students dropping out, as we find that many of the teenagers we work with are very motivated by learning vocational skills even if they may have given up years ago on learning to read or do math. Integrating vocational programs into the curriculum will also likely improve students’ academic skills, as we also find that many of our clients make more progress in academics when those academics are tied to practical skills.

As we did last year, we urge DCPS to assess the vocational and life skills training needs of its students. At the same time, DCPS should assess the effectiveness of Project Search, Marriott

Bridges, CEO and any other vocational programs in operation. Based on the information from these assessments, DCPS should develop and implement a plan to expand the vocational and life skills training opportunities for special education students. This plan should be developed in coordination with OSSE and the Rehabilitation Services Administration (RSA), the agency tasked with helping adults with disabilities obtain and maintain employment. In developing the plan, DCPS should consider strategies to help students with disabilities access the vocational programs that are provided to general education students. In our experience, these programs are often inaccessible to students with Individualized Education Plans because they do not provide sufficient accommodations, but likely the programs could be made more accessible. The work should also be coordinated with the efforts of the District Career and Technical Education Task Force, which has developed a strategic plan for improving vocational education in DC.²⁵ Their plan only has a cursory mention of the needs of students of disabilities.

Family Engagement

Program Listings

DCPS continues to lag behind its sister agencies in information sharing. We do appreciate that, in response to oversight requests from the Committee, DCPS provided a full listing of its special education programs with details about their staffing and curricula. This information had never been provided to the public before. We have heard from many parents that they have struggled to find out what programs the DC Public Schools offer, so we expect this new information will be very much appreciated by the community and we hope that it will be distributed widely. It should be distributed online in a way that is simple for laypeople to understand. The information DCPS provided regarding which schools are wheelchair-accessible should also be made available online.

Policies

While we appreciate DCPS's new openness about its programs, we were dismayed that DCPS's oversight responses indicated that the agency does not plan to make its policies available to the public.²⁶ Many DC agencies make their policies available on their websites; DCPS generally does not do so. The page of the DCPS website devoted to policies only includes a handful of its policies.²⁷ We generally have to submit FOIA requests to DCPS in order to receive copies of basic policies, even after schools have cited those policies as justifications for denying our clients' requests.²⁸ DCPS should ensure that all policies and directives are available to the public online and upon request.

DCPS should also provide the public with opportunities to contribute to the development of policies. Most agencies allow the public to participate in policy development through the notice and comment process.²⁹ This process informs the community that the agency is contemplating a policy change and gives the community a formal opportunity to offer feedback. We have found this process to be very effective at bringing a wider knowledge base to bear on the development of policy and at increasing the community's sense of trust and connection to the agency. We urge DCPS to issue its policies for notice and comment.

Unilateral placement decisions

This year, DCPS has continued its troubling practice of making placement decisions for students without involving them or their parents. We often find that DCPS will propose a new school for a student without giving the parent any information about it, especially when DCPS seeks to return a student from a nonpublic placement. Our lawyers have attended many IEP meetings where DCPS told the parent that a student would be placed at a program that had yet to be developed or where DCPS refused to give the parent any specific information at all about where the student would be placed. Instead, parents are often told that the "LRE (Least Restrictive Environment) team" will make the placement decision. Parents are not allowed to participate on the

LRE team or given any information about its members or decision-making process. We believe that parents should be given detailed information about any proposed placements or locations of services. Parents should also have the opportunity to visit these proposed placements when school is in session in order to observe them firsthand.

In addition, at the beginning of this school year, DCPS informed many high school students that they would not be allowed to attend their neighborhood school because they had repeated a grade. DCPS did not provide clear information to parents or the community about its new plan to divert students repeating grades to alternative programs. Through our clients' experiences and conversations with DCPS staff, we suspect that DCPS is now requiring many students who had repeated a grade at any time in their educational careers to attend alternative programs (such as STAY and Twilight) rather than their local high school. Those alternative programs do not have self-contained special education classes and cannot offer full-time special education. Some of them require students to attend school in the evening rather than during the day. They have few support staff available for students: for example, with 799 students, Roosevelt STAY has only 1 guidance counselor, 4 social workers, and no psychologists.³⁰ They have extremely high dropout rates.³¹ For a subset of students, they might be appropriate programs, but DCPS's approach of unilaterally moving students into the program was not appropriate. We suggest the Council inquire into how many students were sent to the STAY and Twilight programs under these circumstances and what efforts DCPS is making to ensure they receive all the academic and social supports they need.

Nonpublic placement "preferred provider network"

We understand that DCPS is developing a "preferred provider network" of nonpublic schools. DCPS will make referrals to these schools to the exclusion of others in exchange for those schools agreeing to provide DCPS with a greater level of access. Reportedly, those schools also must agree to not testify against DCPS's interest in due process hearings. We are deeply troubled by this

arrangement. Decisions about where to refer a child for services should be based solely on the child's needs and the school's ability to address those needs. Additionally, parents should be members of the team that makes decisions about school placements. If DCPS is taking some schools out of contention for reasons not related to their ability to serve students, that limits parents' ability to be meaningful partners in the placement decision. We suggest that the Council inquire into the details of this "preferred provider network" to ensure that it does not prevent students from being placed at appropriate schools or prevent staff from nonpublic schools from cooperating with parents who file due process complaints.

Observation policy

In Feb. 2013, DCPS issued a "Chancellor's Directive on School Visitors, School Records Release, and Barring Notice Procedures." It is positive in that it gives parents and professionals completing special education evaluations the right to observe children in class. However, the Directive forbids others, such as educational experts and advocates, from observing children in class. We understand that DCPS is concerned that a high volume of visitors might in itself create a disruption to the learning environment, but that concern needs to be weighed against the importance of allowing parents to obtain expert opinions regarding their children's needs and facilitating the involvement of parents who are not in a position to perform school observations themselves. For children in special education, parents have a clearly established right to participate in a meaningful way in decisions regarding their Individualized Education Program and placement. Meaningful participation requires that the parent have full information about the child's school performance and the supports provided by the school, which sometimes can only be obtained through observations performed by someone with specific qualifications or training. As the Supreme Court stated in *Schaffer v. Weast*, the Individuals with Disabilities Education Act guarantees that "the school bears no unique informational advantage" regarding the child's school programming and

performance.³² Preventing parents from having their children observed by experts and advocates in fact confers an informational advantage on the school system. Even for children not in special education, it may be necessary for a therapist or other professional to observe the child in the classroom to help the parent understand the child's needs or to inform treatment provided outside the school setting. We recommend therefore that observations be limited not by type of professional but by reasonable – and flexible – limitations on the number of total hours that a child may be observed (by someone other than a parent or evaluator) in a given period of time.

Access to representation

DCPS has made what appears to be a concerted effort to limit parents' access to special education representation. Over the past several years, DCPS has become less and less willing to pay reasonable attorneys' fees to parents who prevail in due process hearings or obtain favorable settlement agreements. Recently, DCPS announced that it would no longer use its fee payment guidelines. In practice, this means that attorneys must sue DCPS in federal court in order to obtain reasonable attorneys' fees. This is expensive and burdensome for all parties involved. It is especially problematic for indigent parents who now find that very few attorneys are willing to take special education cases on a contingency basis.

When combined with the burden of proof being placed on parents and DCPS's push to prevent experts from doing school observations, DCPS's actions to avoid paying reasonable attorneys' fees work to deprive low-income families of access to legal representation. This is especially problematic now, when the *Jones* case is near closing. As the court monitor in that case writes, when the case closes "all that will remain as a source of pressure upon the special education system in the District of Columbia will be the oversight by OSEP [Office of Special Education Programs at the U.S. Department of Education] and the ability of the private bar to bring due process complaints on behalf of individual students. The former has not proved to be an effective

remedial tool as demonstrated by the years of persistent ‘high risk’ status maintained by the District of Columbia schools. And the latter has been a diminishing presence as described in this report.”³³ It is important to make sure that there is an active special education attorney bar both to ensure individual students have access to legal representation and to ensure that the system as a whole functions well.

Mental health services

DCPS has expanded its school-based mental health program in the past year, though additional expansion is needed to fully meet the many and varied mental health needs of DCPS students. DCPS reports a significant increase in the availability of evidence-based mental health interventions for students who have experienced trauma. Last year, the two evidence-based programs DCPS uses (which are Cognitive Behavioral Intervention for Trauma in Schools and Structured Psychotherapy for Adolescents Responding to Chronic Stress) were available in only a handful of schools, whereas this year they are available in all middle and high schools.³⁴ DCPS also now has 40 schools with school-based mental health providers provided by the Department of Behavioral Health, an increase of six schools over last year. Because some of the schools share staff, that corresponds to an increase of three social workers from last year.³⁵ DCPS has also increased its own staff of social workers from last year’s 133 to 145 this year. In addition, DCPS increased its staff of psychologists from 75 last year to 81 this year.³⁶ Finally, DCPS greatly increased the number of Student Support Team (SST) meetings held; this year, DCPS has held 3,833 such meetings, almost double the total number held last year.

We encourage DCPS to continue investing in mental health capacity this year. Many more school-based mental health providers are necessary to fully comply with the *South Capitol Street* requirement that all schools have school-based mental health programs by the 2016-2017 school year. While it is positive that more Student Support Team meetings have been held this year, we are

concerned that they may not be sufficiently thorough because DCPS reports that only about one-third of the SST meetings held because of poor attendance resulted in a determination of the reasons for the students' absences.³⁷ We expect that this indicates that the school staff do not have sufficient time to devote to preparing for and holding meaningful meetings.

We also encourage DCPS to adopt innovative programs to support students affected by poverty, trauma, and toxic stress. DCPS students suffer from toxic stress for reasons too numerous to list, but some of the common reasons include exposure to neighborhood violence, exposure to domestic violence, and lack of stable housing. While schools cannot change neighborhood or family conditions, they can provide the structure and supports that ameliorate the effects of this toxic stress in order to help children be receptive to academic instruction. If schools do not take steps to address the impact of toxic stress on students, then even the best reforms to school governance or instruction will be undertaken in vain. Several states, including Massachusetts and Washington states, have pioneered Trauma-Sensitive Schools, a school-wide approach to making school policies, facilities, and instruction supportive of children who have experienced family violence and other significant harm. I urge DCPS to adopt programs such as these that translate scientific knowledge about toxic stress and trauma into practical policies and interventions. The new funding available through the "at-risk" student designation should be used to fund such programs.

Overall, we recognize that DCPS has made improvements in its school-based mental health supports, but encourage DCPS to continue expanding mental health services to the point where all schools have sufficient staff to provide counseling, SSTs, and trauma-sensitive interventions to all students.

Conclusion

Thank you again for the opportunity to testify and I welcome any questions.

¹ Children’s Law Center works to give every child in the District of Columbia a solid foundation of family, health and education. We are the largest provider of free legal services in the District and the only to focus on children. Our 80-person staff partners with local pro bono attorneys to serve more than 2,000 at-risk children each year. We use this expertise to advocate for changes in the District’s laws, policies and programs. Learn more at www.childrenslawcenter.org.

² This year’s rate is 8.8%. See Q2 Attachment, “FY 2013 Performance Accountability Report,” p. 6. For last year’s data, see 2012 DCPS Oversight Responses, Attachment Q3, p. 8. For 2010 data, see “Percentage of children ages 3 through 5 served under IDEA, Part B, as a percentage of population, by disability category and state: Fall 2010,” Data Accountability Center, available at https://www.ideadata.org/arc_toc12.asp#partbCC. The national average rate at which preschool children receive special education is 5.94%, but experts estimate that the District should serve a larger proportion of children because of the characteristics of the population. Comparisons with other cities suggest that DC should provide special education services to approximately 10-12% of preschool children. Memorandum Opinion & Findings of Fact and Conclusions of Law, p. 9. D.L. v. D.C., Civil Action No. 05-1437 (RCL). Nov. 16, 2011.

³ See Q2 Attachment, “FY 2013 Performance Accountability Report,” p. 8.

⁴ DCPS 2013 Performance Oversight Responses, Q64.

⁵ DCPS 2013 Performance Oversight Responses, Q57.

⁶ In 2013, 20.3% of DCPS students in special education scored proficient or above in math and 18.1% scored proficient or above in reading. This did represent a small improvement over the year before. See “Presentation of 2013 DC CAS Results (Statewide),” available at <http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Presentation%202013%20DC%20CAS%20Results%20%28Statewide%29.pdf>.

⁷ 34 C.F.R. § 300.115 requires that each state have a continuum of alternative placements available to meet the needs of children with disabilities. The continuum must include the alternative placements listed in § 300.38: regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions.

⁸ 3 C.F.R. § 300.34 defines “related services” as “transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech- language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also includes school health services and school nurse services, social work services in schools, and parent counseling and training.”

⁹ We have changed our clients’ names to protect their confidentiality.

¹⁰ See DCPS 2013 Oversight Responses Q69 and Report of the Monitor for the 2012-2012 School Year, Feb. 3, 2014, filed in *Blackman v. D.C.*, Case 1:97-cv-10629-PLF, p. 30-31.

¹¹ Report of the Monitor for the 2012-2012 School Year, Feb. 3, 2014, filed in *Blackman v. D.C.*, Case 1:97-cv-10629-PLF, p. 30-31.

¹² Report of the Monitor for the 2012-2012 School Year, Feb. 3, 2014, filed in *Blackman v. D.C.*, Case 1:97-cv-10629-PLF, p. 30-31.

¹³ See DCPS 2013 Oversight Responses, Q85 Attachment Self-Contained Classrooms. Instruction in the behavior classrooms is provided via the Plato computer system.

¹⁴ See DCPS 2013 Oversight Responses, Q60 (stating that students with IEPs and 504 plans receive the same instruction as general education students in summer school, though their teachers are “encouraged” to offer them the accommodations from their IEPs).

¹⁵ See *West Lafayette (IN) Cmty. Sch. Corp.*, 352 IDELR 498 (OCR 1987); accord, *Seattle (WA) Sch. Dist. No. 1*, 352 IDELR 375 (OCR 1987).

¹⁶ See 34 C.F.R. § 300.320(b)(2).

¹⁷ DCPS 2013 Performance Oversight Responses, Q37.

¹⁸ District of Columbia IDEA Part B Local Education Agency Report for Federal Fiscal Year 2011 (July 1, 2011 – June 30, 2012), available at http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Report%20to%20the%20Public%20Part%20B%20FFY%202011_0.pdf. Note that OSSE has recently reported District-wide secondary transition compliance rates of 47%, but has not disaggregated that data by LEA. It is possible that DCPS’s current compliance rate is higher than 28%.

¹⁹ DCPS 2013 Oversight Questions Q86.

²⁰ The most recent list of charter schools that have elected to have DCPS serve as their LEA for special education purposes is available at <http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/DC%20Public%20Charter%20School%20LEA%20Status%20SY%2012-13.pdf>.

²¹ OSSE 2013 Performance Oversight Responses, Q69 Attachment.

²² DCPS 2013 Performance Oversight Responses, Q68.

²³ Reasons for exclusion include having the non-qualifying disability classification, having a juvenile record, or having a history of attendance problems.

²⁴ <http://dme.dc.gov/DC/DME/Programs/Raise%20DC%20-%20Partnership%20Summary%20FINAL.pdf>

²⁵ “Strengthening the Pipeline to College and Careers,” District Career and Technical Education Task Force, Dec. 2013, available at <http://www.dc-aya.org/sites/default/files/content/PUBLIC%20CTE%20Strategic%20Plan.pdf>.

²⁶ DCPS 2013 Performance Oversight Responses, Q81.

²⁷ <http://dc.gov/DCPS/About+DCPS/Strategic+Documents/DCPS+Policies>

²⁸ For example, we had to FOIA the handbooks describing the responsibilities and qualifications of the different categories of professionals providing special education related services. We also had to FOIA the instructions for use of EasyIEP. In past years, we had to submit FOIA requests to receive any information about DCPS’s special education programs.

²⁹ The DC Administrative Procedures Act requires that “The Mayor and each independent agency shall, prior to the adoption of any rule or the amendment or repeal thereof, publish in the District of Columbia Register...notice of the intended action so as to afford interested persons opportunity to submit data and views either orally or in writing.” D.C. Code § 2-505. “Rule” is defined to mean “the whole or any part of any Mayor's or agency's statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Mayor or of any agency.” The Public Education Reform Act required that “the Mayor shall promulgate rules and regulations governing DCPS, including rules governing the process by which the Mayor and DCPS will seek and utilize public comment in the development of policy.” D.C. Code § 38-172(c)(1).

³⁰ DCPS 2013 Performance Oversight Responses, Q62 and Q68 Attachment, Related Services Providers.

³¹ The STAY programs report dropout rates ranging from 50% to 81%. OSSE FY 13 Oversight Responses, Q36.

³² *Schaffer v. Weast*, 546 U.S. 49, 61 (U.S. 2005).

³³ Report of the Monitor for the 2012-2012 School Year, Feb. 3, 2014, filed in *Blackman v. D.C.*, Case 1:97-cv-10629-PLF, p. 66.

³⁴ Last year, DCPS ran a Mental Health Consultation program in 18 elementary schools, a Cognitive-Behavioral Intervention for Trauma for Schools program in 3 middle schools, and Structured Psychotherapy for Adolescents Responding to Chronic Stress in 6 High Schools. This year, CBITS and SPARCS are available in all middle and high schools. DCPS 2013 Performance Oversight Responses, Q84.

³⁵ DCPS 2013 Performance Oversight Responses, Q86 Attachment Related Service Providers.

³⁶ DCPS 2013 Performance Oversight Responses, Q86 Attachment Related Service Providers.

³⁷ DCPS 2013 Performance Oversight Responses, Q70.