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Testimony Before the Office of the State Superintendent of Education
Division of Elementary, Secondary, and Specialized Education
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Public Hearing:
Special Education Rulemaking

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Introduction

Good evening. My name is Renee Murphy. I am a Senior Policy Attorney at Children's Law Center, and a DC resident.¹ I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 8 children in DC's poorest neighborhoods – more than 5,000 children and families each year. Nearly all the children we represent attend public schools in DC and many receive special education services.

Thank you for the opportunity to testify about the proposed revisions to the special education regulations in Chapter 30, implementing sections of the Special Education Students Rights Act of 2014 and the Enhanced Special Education Services Act. In my testimony this evening, I will focus on recommendations for ensuring promptness with the new 60-day initial evaluation timeline, for earlier transition planning, and some of our recommendations for a balanced system for appointing representatives if adult students cannot provide informed consent for their educational decisions. In our written comments, we provide specific recommended language for several provisions and additional clarifying recommendations.

Initial Referral and Evaluations Timeline

Reducing the evaluation timeline to 60 days was intended to hasten the delivery of services. Additional clarity in the regulations about parent referrals and documentation would help accomplish this goal. This is particularly important because parents often do not know the professional or legal terminology and thus may attempt to initiate the process in many different ways. All parental requests for assistance and references to special education, disability, or IEPs should be treated as a referral. We recommend that requests be documented in the Special Education Data System (SEDS) in order to ensure referrals and timelines are tracked appropriately. OSSE should also require the LEA to provide a written acknowledgement to a parent at the time of documentation, along with a copy of any needed consent form.

However, it is also important that OSSE make clear in these regulations that parental consent does not have to be on a specific form. We have found that to be an unnecessary barrier to the start of evaluations for children. All of these changes will help keep the team, including schools and parents, moving towards helping students promptly in the new 60-day evaluation timeline.

Transition Planning

Helping students connect their current schooling with their goals for life after high school is crucial for all students with disabilities. Federal law requires transition

planning for all students age sixteen and older, so our interpretation of the new DC statute is that OSSE should limit the exception from transition plans to younger students. To ensure that all students immediately approaching and in high school have transition plans including their courses of study, OSSE should only allow an IEP team to conclude that transition services are not needed when a student is in seventh grade or below.

Secondly, OSSE should ensure that students have all necessary evaluations completed before they graduate. In order to smoothly access adult services (e.g., RSA, DDS, DBH, MetroAccess) and also for accommodations on important tests and in college, students aging out of special education need to have recent evaluations. In addition, the evaluations needed for adult services are often necessary to understand and plan for the child's educational needs. Too often in our practice, we have encountered adult students who have gone many years without the formal assessments necessary to understand their current educational and transition needs, some as long as a decade. We recommend that a plan for how, when, and by whom the needed evaluations will be completed be a required part of the IEP.

Transfer of Rights

We commend OSSE's early issuance of proposed regulations to implement the full continuum of options for adult students and their families about who will make

educational decisions. Today we highlight suggestions to make the process more workable for families and students, particularly in regard to the process of certification that a student cannot provide informed consent for educational decisions.

To reduce the unnecessary burden on parents, we suggest removing the requirement to send copies of identifying documents and creating an optional certification form that parents and professionals can use. These changes will make the process more affordable and more feasible for parents and community professionals.

We also urge additional procedures to ensure that students know about their rights. We believe that a student should receive an easily-understood notice from OSSE when a certification that he or she cannot provide informed consent for education decisions is finalized. However, adult students for whom these professional certifications will be written may not be able to read well, so they also need verbal explanation of the certification and the process to challenge it. The teacher, who knows the student well, is the logical person to inform the student.

Conclusion

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

¹ Children's Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to be the voice for children who are abused or neglected, who aren't learning in school, or who have health problems that can't be solved by medicine alone. With 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 8 children in DC's poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.