

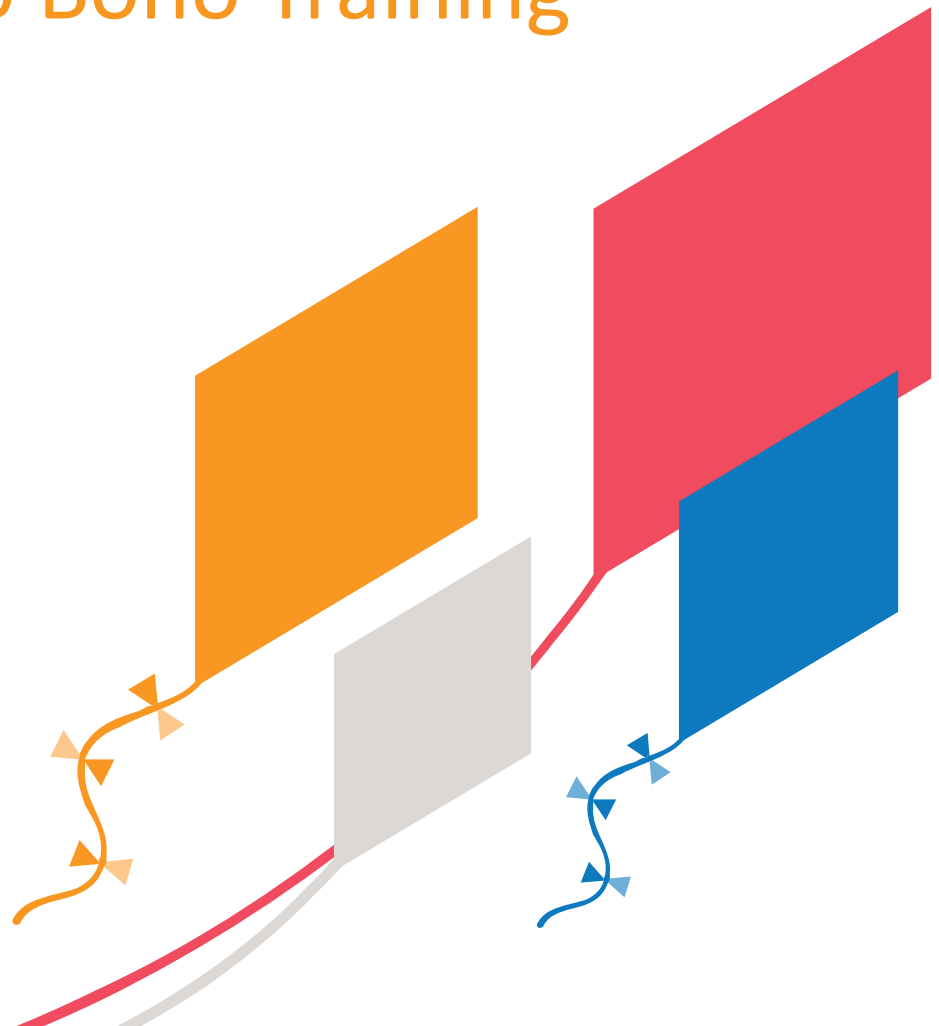
Children's Law Center

Special Education Pro Bono Training Part One

Jen Masi, Pro Bono Director



July 20, 2020



Quick Roadmap



CLC Pro Bono Program



Virtual Training Series



Today's Training



On Demand Resources

About Children's Law Center



WE REACH
1 out of 9 children
IN DC'S POOREST
NEIGHBORHOODS EACH YEAR



WE HAVE LAWYERS ONSITE AT
6 health clinics
ACROSS DC TO HELP FIND
AND FIX BARRIERS TO HEALTH



WE HAVE SERVED
**30,000 children
and families**
SINCE 1996



WE PARTNER WITH MORE THAN
500 pro bono lawyers



WE PARTNER WITH DISTRICT
AGENCIES, THE DC COUNCIL
AND COMMUNITY LEADERS TO
FIND OR IMPLEMENT
city-wide solutions
THAT BENEFIT ALL DC KIDS

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 advocate 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.

CLC Pro Bono Cases

Family

- ◆ Caregiver Custody
- ◆ Custody Guardian *ad Litem* (GAL)

Health

- ◆ Housing Conditions

Education

- ◆ **Special Education**

Supporting Pro Bono Attorneys



Screening

CLC thoroughly screens clients when assessing cases for pro bono placement to ensure the case is a good fit for a pro bono attorney.



Training and Resources

CLC offers in-person and online training and an abundance of resources on our website, including model pleadings, training materials and videos.



Mentoring

Experienced CLC attorneys mentor our pro bono lawyers. Mentors provide initial case recommendations, discuss strategy and legal issues, and remain available throughout the duration of the case.

Virtual Training Series

July 2020				
Monday	Tuesday	Wednesday	Thursday	Friday
6	7 2:00 p.m. - 3:00 p.m. Caregiver Custody Part One: Custody Law and Practice	8 9:30 a.m. - 10:30 a.m. Caregiver Custody Part Two: Pretrial and Trial Advocacy	9	10
13 12:00 p.m. - 1:00 p.m. Custody GAL - Part One: The Role of the GAL	14	15 2:00 p.m. - 3:00 p.m. Custody GAL - Part Two: Custody Law and Procedure	16	17 10:00 a.m. - 11:00 a.m. Custody GAL - Part Three: Communicating with Children and Teens; Overview of Domestic Violence, Substance Abuse, and Child Abuse and Neglect
20 10:00 a.m. - 11:00 a.m. Special Education - Part One: What is Special Education?	21	22 3:00 p.m. - 4:00 p.m. Special Education - Part Two: Handling a Special Education Case	23 3:30 p.m. - 4:30 p.m. Cultural Humility Training	24 10:00 a.m. - 11:00 a.m. Special Education - Part Three: The Due Process Hearing
27	28 12:00 p.m. - 1:30 p.m. Housing Conditions Training	29	30	31

Today's Training

Content

- What is Special Education?

Remote Representation

- These cases can be handled remotely.

Questions

- Zoom Chat
- Email Jen Masi

On Demand Resources



**Training
Presentations**



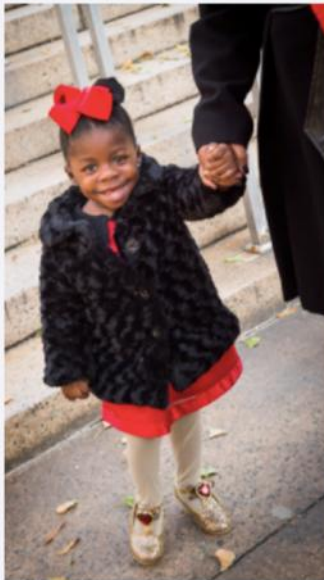
**Training
Videos**



**Training
Manuals**

On Demand Resources

Pro Bono



Though Children's Law Center is the largest non-profit legal provider in DC, many more children come to us than we can help. We are honored to partner with more than 500 pro bono attorneys every year from the area's top law firms, in-house legal departments and government agencies to help fill the gap.

If you are a pro bono attorney, we hope you will partner with us. We provide world class mentorship, training and written materials to help attorneys feel more comfortable navigating new areas of law. In addition to gaining valuable trial skills, we promise that you will be deeply touched by your experience – because our cases are life changing.

Want to learn more about becoming a pro bono lawyer for Children's Law Center? [Check out our FAQs](#) and sign up to [join our mailing list](#)! Closing a case? [Click here](#).

For information on how to partner with us, please contact Jen at JMasi@ChildrensLawCenter.org.

Resources >

Fact Sheets

Pleadings

Training Manuals

Training Presentations & Videos

Other



Meet Our Mentors



Pro Bono Partners



[Our Approach](#)

[Our Stories](#)

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Interested in a case?

◆ Email me!

jmasi@childrenslawcenter.org



Training Survey Request

- ◆ Please complete our electronic survey.
 - ◆ What worked?
 - ◆ Where can we improve?
- ◆ Thank you for your feedback!



What is Special Education?

Jani Tillery, Supervising Attorney

Sheryl Cozart, Staff Attorney



July 20, 2020



Training Agenda



What is a Disability?

**Overview of
Healthy
Together &
DC's School
System**

**Sect 504 of
the
Rehabilita-
tion Act of
1973**

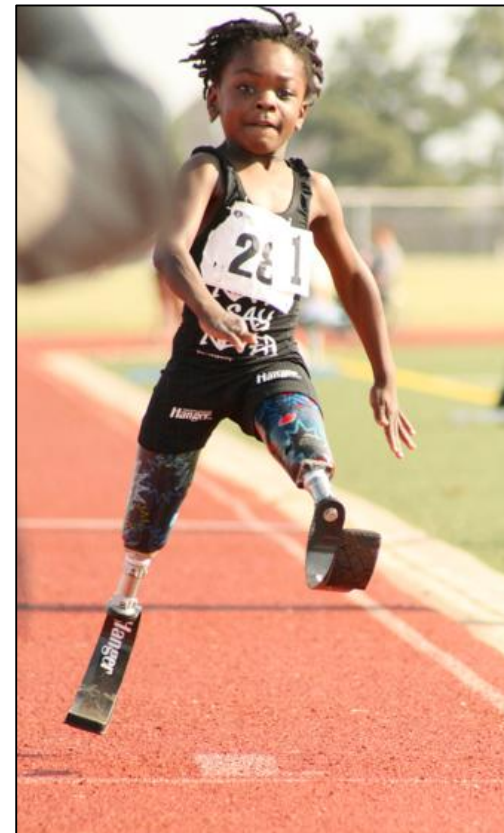
**What is
Special
Education?**

The background is a solid blue color. It features several abstract geometric elements: a light blue square in the top left, a light blue parallelogram on the right side, and a light blue diamond shape in the bottom left. A thin, light blue line with small arrowheads starts from the left and winds its way towards the top center. Another thin, light blue line starts from the bottom left and curves towards the bottom right.

What is a Disability?

What is a Disability?

- **Medical Condition**
- **Social Construct**
- **Legal Concept**
 - A physical or mental impairment that substantially limits one or more major life activity (Americans with Disabilities Act)
 - An inability to work (Social Security Administration)
- **Identity (cultural and/or linguistic)**



Types of Disability

- **Physical**
 - *Motor, Musculoskeletal, Sensory, Digestive, Endocrine, Respiratory*
- **Mental**
 - *Intellectual, Cognitive, Learning*
- **Chronic Illness, Immune System**
- **Neurological**
 - *e.g., Autism, Traumatic Brain Injury*
- **Communication**
- **Psychiatric**



What is a Disability?

- **Definitions of disability vary and come from multiple sources:**
 - Individuals with Disabilities Education Improvement Act (IDEA) defined disabilities
 - Medical diagnoses
 - Diagnostic and Statistical Manual of Mental Disorders (DSM)
 - Social Security Administration Bluebook Criteria



What is a Disability?: Additional Resources

Videos:

- ▶ Crip Camp: A Disability Revolution (documentary)
- ▶ Special (TV show)
- ▶ Atypical (TV show)
- ▶ My Body Doesn't Oppress Me, Society Does
<https://bcrw.barnard.edu/videos/my-body-doesnt-oppress-me-society-does/>
- ▶ Poet with Learning Disabilities, LeDerick Horne
www.youtube.com/watch?v=EBcgN-OKLIE

Books:

- ▶ *Enabling Acts: The Hidden Story of How the Americans with Disabilities Act Gave the Largest US Minority Its Rights*, Lennard J. Davis
- ▶ *How to Be Heumann*, Judy Heumann

What is a Disability?:

Additional Resources

Organizations:

- ▶ [Autistic Self Advocacy Network](#)
- ▶ [Rooted in Rights](#)

People:

- ▶ [crippledscholar.com/](#) (Kimberly Jane)
- ▶ [crutchesandspice.com/](#) (Imani Barbarin)
- ▶ [leavingevidence.wordpress.com/about-2/](#) (Mia Mingus)
- ▶ [Annie Elaine](#) (AKA Annie Segarra)

Disability & Your Cases

- **In your cases you may be advocating for:**
 - **Specialized academic instruction**
 - **Accommodations** so students can access the school and classroom
 - **Related services** to assist students in accessing the school setting



Training Agenda



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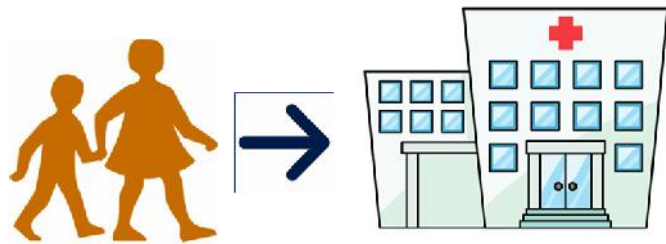
Healthy Together: **Children's Law Center's** **Medical-Legal Partnership**

What is a Medical-Legal Partnership?

- A healthcare delivery model that integrates legal assistance as a vital part of the healthcare delivery system
 - Expanding the concept of medical care for low-income families to include legal representation
- Program model based on prevention
 - Removing non-medical barriers to children and families' health and well-being
 - Address adverse social conditions negatively impacting health through a variety of modalities

MLP Model

Medical



Legal



CLC's MLP: Healthy Together



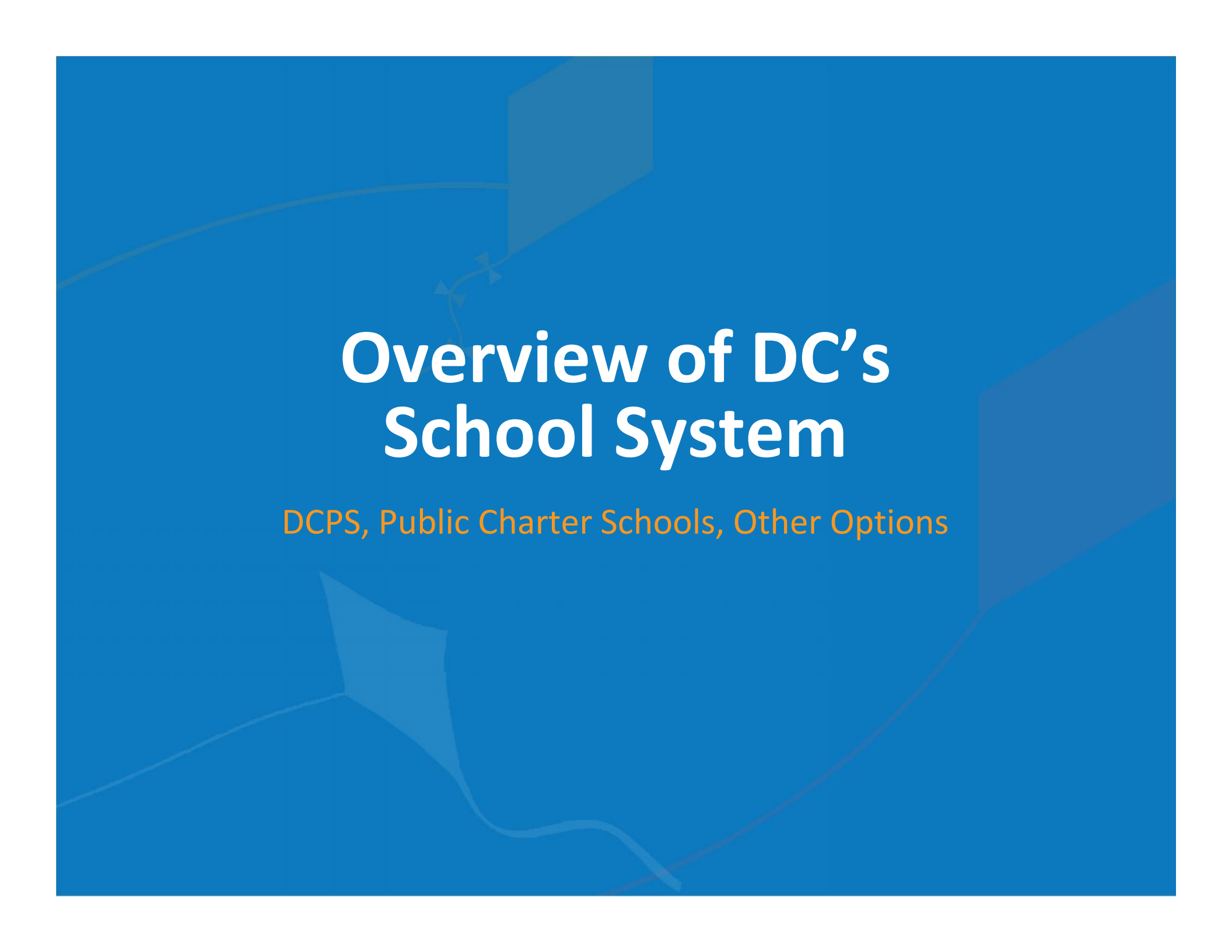
family. health. education.



Children's National[®]
Health System



**Mary's
Center**

The background is a solid blue color with several abstract, semi-transparent geometric shapes and lines. There are some curved lines and a few small, light-blue geometric shapes scattered across the background, creating a modern, minimalist aesthetic.

Overview of DC's School System

DCPS, Public Charter Schools, Other Options

Charter Schools vs. Public Schools

- **In DC:**
 - ~50% of students attend DCPS schools
 - ~50% of students attend charter schools
- Charter: privately-run public school
 - [DC Public Charter School Board](#)
- **Generally, charter schools must follow the same laws as public schools!**
- For more information about charters:
 - <https://www.brookings.edu/policy2020/votervital/what-are-charter-schools-and-do-they-deliver/>

Avenues for Enrollment in DC Schools

- Residence
- School lottery (myschooldc.org)
- Application high schools
- Transfer (safety transfer or other special transfer)
- Special education schools/programs:
 - Placed at a school to receive special education
 - Placed through a Hearing Officer Decision

Getting to School

- Students in DC must get themselves to school (for DCPS or Charter School)



UNLESS

- Students qualify for transportation as part of their special education plan or under the ADA or Sect. 504, or
- The school provides transportation for all students



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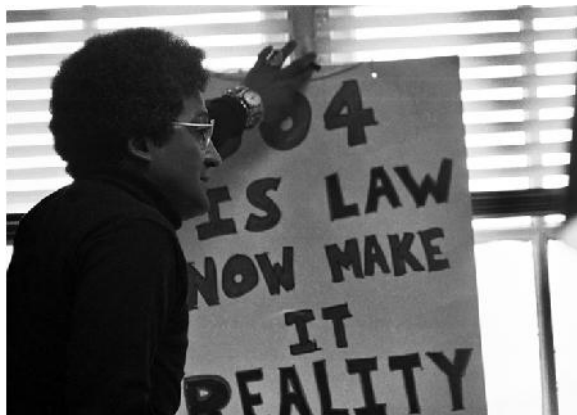
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Section 504 of the Rehabilitation Act of 1973

Section 504: Defined

- The Rehabilitation Act of 1973, Section 504 is a broad civil rights law which protects:
 - individuals with disabilities in any agency, school, or institution receiving federal funds from:
 - discrimination and establishes their right to have the opportunity to fully participate with their peers.



What is Section 504?

- Creates affirmative obligations for schools that accept public funding for students with disabilities of mandatory school age.
 - Schools are required to provide a free appropriate public education (FAPE) (pursuant to Section 504)
 - In DC, school is mandatory from age 5 (kindergarten) through age 18.
 - Not the same as the Special Education under the Individuals with Disabilities Education Act (IDEA)

Section 504 Plan

- Plan developed when the child has a disability and needs accommodations but does not require special education
- Examples:
 - Child with allergy needs classroom accommodations (e.g., nut-free environment)
 - Child with Attention Deficit Hyperactivity Disorder (ADHD) needs to be allowed to doodle or do other work to avoid being disruptive
 - Child in a wheelchair requires elevator access and bus transportation
 - **See pro bono manual for 504 Plan examples**

Training Agenda



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What is Special Education?

Legal Authority

- The Individuals with Disabilities Education Improvement Act (IDEA)
 - Title 20 USC § 1400, *et seq.*
- Federal Regulations
 - 34 CFR Parts 300 and 301 (ages 3-21)
 - 34 CFR Part 303 (ages 0-2)
- Local Regulations
 - District of Columbia Municipal Regulations, Title 5



Legal Authority

- **Four Newer Local Laws**
 - **Enhanced Special Education Services Amendment Act of 2014**
 - D.C. Act 20-487
 - **Special Education Quality Improvement Act of 2014**
 - D.C. Act 20-488
 - **Special Education Procedural Protections Expansion Act of 2014**
 - D.C. Act 20-486
 - **Student Fair Access to School Amendment Act of 2018**
 - D.C. Act 22-157

Legal Authority

- OSSE Special Education Student Hearing Office Due Process Hearing Standard Operating Procedures Manual (SHO SOPM)
- Policies and guidance documents promulgated by OSSE and DCPS (e.g., COVID-19 guidance)



Special Education System Framework

- State Education Agency (SEA)
 - The state school system of the state in which the child resides that oversees all LEAs (local education agencies) in the state
 - See 20 U.S.C. § 1412
 - In DC: Office of the State Superintendent for Education (OSSE)

Special Education System Framework

- Local Education Agency (LEA)
 - The local school system of the county, city, or town in which the child resides and oversees the day-to-day delivery of specialized instruction and related services to children with disabilities
 - See 20 U.S.C. § 1413
 - In DC: District of Columbia Public Schools (DCPS) or the Independent Charter School (LEA Charter)
 - All LEA's have the same legal responsibility regardless of size.

What is the IDEA?

- The Individuals with Disabilities Education Act is a federal statute that is meant to ensure that all children with disabilities receive a free appropriate public education (FAPE) in the least restrictive environment (LRE).
- Children ages 0 to 22 years old are covered by the IDEA
 - Part C of the IDEA covers children ages 0-2
 - Part B of the IDEA covers children ages 3-21

What is Special Education?

- Specially designed instruction, provided at no cost to the parent, that meets the unique needs of a child with a disability.
- Special education can include:
 - Travel training
 - Vocational training
 - Specialized academic instruction
 - Related services
 - Classroom accommodations and modifications
 - *See* CFR §300.39

Related Services Can Include:

- Speech and Language Therapy
- Occupational Therapy
- Physical Therapy
- Counseling Services/Behavioral Support Services
- Transportation Services
- Parent Counseling and Training
- Medical Services
 - *See 34 CFR §300.34*

Accommodations/Modifications and Supplementary Aids and Services:

- Dedicated Aide
- Use of iPad
- Special Seating
- Adaptive Furniture
- Extra Time for Tests
- Breaks During Testing or Class
- Testing at Best Time of the Day for Student

Accommodations/Modifications and Supplementary Aids and Services:

- Specified Form for Directions (Repeated, Written, Oral)
- Use of Calculator
- Use of Lined Paper or Graph Paper
- Basically, any aids, services, and/or supports that a child needs to be educated in their Least Restrictive Environment.
 - *See 34 CFR § 300.42*

Key Term:

Free and Appropriate Public Education (FAPE)

- Special education and related services:
 - Provided at no charge to the parent under public supervision and direction
 - Meets the standards of the State Education Agency (OSSE)
 - Designed to meet the individual needs of the child to ensure the child makes educational progress
 - Are provided in conformity with the child's Individualized Education Program (IEP)
 - ▶ *See 20 USC §1401(9); 34 CFR §300.17*

Key Term: Free and Appropriate Public Education (FAPE)

- A child's educational progress cannot be trivial or *de minimus*, must be appropriately ambitious in light of the child's unique circumstances (new Supreme Court standard-*Endrew F. v Douglas County School District RE-1*)



Key Term: Child Find

- DC must ensure that all children with disabilities or suspected of having a disability, residing in the city (or who are wards of the city) and who are in need of special education and related services are identified, located, and evaluated.



Key Term: Child Find

- Applies regardless of the severity of the child's disability
- Includes children who are:
 - Not attending school
 - Homeless
 - Wards of the District
 - Attending Private Schools and Public Charter Schools
 - ▶ *See 20 USC §1412(a)(3); 34 CFR §300.111*

Key Term: Individualized Education Program (IEP)

- A written statement for each child with a disability that is developed, reviewed, and revised in accordance with the IDEA (20 USC §1414(d))
- The plan governing what a child in special education should be receiving as part of his/her education
 - See 20 USC §1401(14); 34 CFR §300.22

Key Term: Individualized Education Program (IEP)

- “[Congress envisioned] the IEP as the centerpiece of the [IDEA]’s education delivery system for disabled children.”
 - *Honig v. Doe*, 484 US 305 (1987)



Key Term: Least Restrictive Environment (LRE)

- To the maximum extent appropriate, children with disabilities are educated with children who do not have disabilities in a general education classroom
- Children with disabilities should attend their neighborhood school unless that school does not have the kind of program that can meet their special needs
 - *See 20 USC §1412(a)(5); 34 CFR §300.114*

Steps to Obtain Special Education

1. Referral
2. Evaluation
3. Eligibility Determination
4. IEP Development
5. Placement Determination
6. IEP Review
7. Re-Evaluation



Step 1: Referral

- In order to be evaluated for special education and related services, a child with a suspected disability must first be referred for evaluations.
- A child must be referred by:
 - Parent
 - Employee of school system
 - Adult child
 - Employee of another state agency (e.g. CFSA, DMH)
 - ▶ *See 20 USC §1414(a); 34 CFR §301(b)*

How are Referrals Made?

- Referrals should be made in *writing* to the school system or principal
- Referrals for children ages 0-3 should be made to OSSE for Early Intervention (Strong Start)
- Referrals for children ages 3-5 should be made to Early Stages

Group Exercise: Why Are Referrals Made for Evaluation?

- What are examples of instances where a parent might make a referral?
- Why would a doctor make a referral?
- Why would a school employee make a referral?

What Happens Once a Referral is Made?

- The school must hold an MDT/IEP meeting after the referral is made and before conducting evaluations.



What Happens Once a Referral is Made?

- At the meeting, the school should:
 - Review current information and data about the child and any pre-referral interventions
 - If further evaluations are needed, develop a Student Evaluation Plan (SEP) detailing the reasons for the referral and the evaluations to be conducted
 - Explain to the parent what evaluations are to be conducted
 - Obtain informed consent from the parent of the child (See 20 USC § 1413(a)(1)(D); 34 CFR § 300.9)

Multidisciplinary Team/IEP Team

- MDT/IEP team must include:
 - The parent(s)
 - Special education teacher
 - Individual who can interpret evaluation results
 - Other persons at the discretion of parent or LEA, who have knowledge or special expertise regarding the child
 - The child, if appropriate
 - Representative of LEA who is:
 - ▶ Knowledgeable about general curriculum of LEA
 - ▶ Knowledgeable about the availability of resources of LEA
 - ▶ Qualified to provide or supervise the provision of special education
- ▶ *See 34 CFR § 300.321*

Step 2: Evaluation

- The LEA is responsible for conducting a comprehensive and individualized evaluation to determine:
 - Whether a child is a child with a disability, and
 - The educational needs of the child
 - ▶ *See 20 USC § 1414(b); 34 CFR § 300.304*
- **DC Code requires the school to complete initial evaluations within 60 days.**
 - ▶ § 38–2561.02(2)(A)

Common Types of Evaluations: Psychological

- Three main areas of testing
 - Cognitive/Intelligence
 - Social-emotional
 - Academic testing



Common Types of Evaluations: Psychological

- **School Psychologist vs. Clinical Psychologist**
 - School psychologists only need to have a Master's and be licensed by OSSE
 - **Clinical psychologists are PsyDs or PhDs and have state licensure to practice**
 - School evaluations will give classifications from IDEA
 - **Only clinical psychologists can give DSM-V diagnoses**

Common Types of Evaluations: Psychiatric and Neuropsychological

- **Psychiatric Evaluation**
 - Conducted by an MD psychiatrist
 - IDEA permits this type of evaluation, but schools rarely do it and refer out
 - Not a good alternative to a psycho-educational - should be conducted in conjunction with it
- **Neuropsychological Evaluation**
 - Typically conducted when child has experienced brain injury

Common Types of Evaluations: Related Services

- **Speech and Language Evaluation**
 - Physical ability to produce speech
 - Expressive and receptive language
- **Occupational Therapy Evaluation**
 - Fine motor skills
 - Sensory differences
- **Physical Therapy Evaluation**
 - Gross motor skills

Common Types of Evaluations: Related Services

- **Assistive Technology Evaluation**
 - Looks at whether any technology can assist the student's educational functioning
- **Functional Behavioral Assessment**
 - Series of observations to determine the root causes and triggers of a student's problematic behaviors
 - Used to create a behavior intervention plan

Group Exercise

- Child has been diagnosed with ADHD and does not have special education services at school. Your client's main concerns are:
 - He has trouble paying attention.
 - He struggles with reading.
 - Very impulsive and fights with classmates and teachers when frustrated.
 - Writing is difficult to read.
- What evaluations do you ask for?

Step 3: Eligibility Determination

- Once all evaluations are completed, the school must convene another MDT/IEP meeting
- Meeting is to review the evaluations
 - Meeting must include someone who can interpret evaluation data

Step 3: Eligibility Determination

- The MDT/IEP team must determine if the child:
 - Is a child with a disability as defined in the IDEA; and
 - If that disability impacts the child in the school setting such that they require specialized instruction and related services
 - ▶ See 20 USC § 1414(b)(4); 34 CFR § 300.306

Eligibility Determination

- When making this determination, the MDT/IEP team must review the evaluations and other relevant information, such as:
 - Existing evaluations provided by the parent
 - Information provided by the parent
 - Assessments conducted in the classroom
 - State and local assessments of the child
 - Observations of teachers and related service providers
 - ▶ See 20 USC § 1414(c)(1)

Disabilities Under the IDEA

- **Autism**
- **Deaf-Blindness**
- **Deafness**
- **Emotional Disturbance**
- **Hearing Impairment**
- **Intellectual Disability**
- **Multiple Disabilities**
- **Orthopedic Impairment**
- **Other Health Impairment**
- **Specific Learning Disability**
- **Speech and/or Language Impairment**
- **Traumatic Brain Injury**
- **Visual Impairment (Including Blindness)**
- **Developmental Delay**

34 CFR § 300.8; 5-E DCMR § 3001

What if a Parent Disagrees with an Evaluation?

- After a request for an IEE, the LEA has two choices under the law
 - Provide funding authorization for an IEE without unnecessary delay
 - File a due process complaint against the parent to prove the appropriateness of their evaluation
 - *34 CFR § 300.502*

Step 4: Development of an IEP

- The IEP is developed by the MDT/IEP team
- The IEP must include:
 - The child's present level of performance
 - Information on how the child's disability affects his/her involvement and progress in a general education setting
 - Measurable annual goals and objectives
 - Levels and types of special education, related services, supplementary aids/services and program modifications

Step 4: Development of an IEP

- The IEP must include (cont'd):
 - An explanation of the extent to which the child will not participate with nondisabled children in the general education class
 - Any accommodations required in the classroom and for standardized testing
 - ▶ *See 20 USC § 1414(d)*

Other Important IEP Components

- Transportation
- Extended School Year (ESY)
- Behavior Intervention Plan (BIP) (*See 34 CFR § 300.324(a)(2)(i)*)
 - Functional Behavior Assessment (FBA) should be done first

Other Important IEP Components

- Transition Plan (*See 34 CFR § 300.43*)
 - Required for child ages 16 and over
 - Includes a transition services plan and age-appropriate goals relating to:
 - ▶ Training
 - ▶ Education
 - ▶ Employment
 - ▶ Independent Living Skills, if appropriate

Group Exercise

- What factors should be considered when determining what school to send their child to?
 - What information might a parent/guardian consider?
 - What might their top priorities be in selecting a school or classroom?
 - What makes a classroom appropriate for a student?

Step 5: Placement

- Meeting convened with the IEP/MDT team
 - Can be separated from or folded into an IEP meeting
- Placement is based on the individual needs of the child, and must consider:
 - The IEP; and
 - LRE requirements

Step 5: Placement

- Placement is made by a group of people, including:
 - The parent
 - Other persons knowledgeable about the child, the meaning of the evaluation data, and placement options
- Placement must be determined at least annually
- Placement must be as close as possible to the child's home
 - *See 34 CFR § 300.116; 20 USC § 1414(e)*

Continuum of Placements

- Instruction in General Education Classes
 - Inclusion/Push-in Services by special education provider
- Instruction in Special Education Classes
 - Pull out classes in academic subjects or for related services
 - Ranges from one or two classes to the bulk of a child's school day (self-contained)

Least Restrictive Environment

More Restrictive Environment



Continuum of Placements

- Special Schools
 - Educational placement where a child spends all day in a special education setting with special education peers
 - No contact with general education peers during the day
 - Can be a public school or a non-public school

Least Restrictive Environment

More Restrictive Environment



Continuum of Placements

- Home Instruction
- Instruction in Hospitals and Institutions
 - Residential programs are for children unable to function in the community
 - Children with disabilities in residential programs must be able to access their specialized instruction
 - ▶ *See CFR § 300.38 and § 300.115*

Least Restrictive Environment

More Restrictive Environment



Step 6: IEP Review

- IEPs must be reviewed and revised as necessary, but at least once a year
- A parent or school can request an IEP meeting at anytime if there is concern about the provision of FAPE to the child
 - For example:
 - ▶ Child is regressing in academic or behavioral areas
 - ▶ Child has begun to act out
 - ▶ Child has made excellent progress and goals need to be adjusted
 - ▶ *See 20 USC § 1414(d)(4)*

Group Exercise: Practice Reading an IEP

- Turn to the IEP in your handouts
 - What is the eligibility classification?
 - What type of meeting is it?
 - What is the date of the meeting?
 - What services does the student receive?
 - Inclusion or pull out services?



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Office of Special Education

Individualized Education Program (IEP)

STUDENT INFORMATION

Student Name	Local ID	State USI	Grade	Gender	DOB	Language
[REDACTED]	[REDACTED]	[REDACTED]	9th Grade	M	[REDACTED]/1999	
Student's Address		City	State	Zip Code		
[REDACTED]		Washington	DC	20020		
LEA of Enrollment		Case Manager		School Phone		
District of Columbia Public Schools		Teri Marshall		301-210-4860		
School / Site		School Address		City	State	Zip Code
HRMD - High Road Upper School of Prince George's County		12050 Baltimore Avenue		Beltsville	MD	20705

ELIGIBILITY / IEP INFORMATION

Last Eligibility Meeting Date	Last IEP Annual Review Meeting Date	Disability
07/08/2014	11/06/2014	Emotional Disturbance

IEP MEETING DETAILS

Type of Meeting	Meeting Date
Annual Review	10/29/2015

SIGNATURES OF IEP TEAM PARTICIPANTS



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Office of Special Education

Individualized Education Program (IEP)

SPECIAL EDUCATION AND RELATED SERVICES

Special Education Services

Service	Setting	Begin Date	End Date	Time/Frequency
Specialized Instruction	Outside General Education	10/29/2015	10/28/2016	25 hr per wk

Related Services

Service	Setting	Begin Date	End Date	Time/Frequency
Occupational Therapy	Outside General Education	10/29/2015	10/28/2016	120 min per mon
Speech-Language Pathology	Outside General Education	10/29/2015	10/28/2016	240 min per mon
Behavioral Support Services	Outside General Education	10/29/2015	10/28/2016	60 min per wk

Other Classroom Aids and Services

This section documents aids, services, and other supports that are only provided in regular education classes or other education-related settings to enable children with disabilities to access the curriculum and are not accommodations provided in the Statewide Assessment.

Graphic organizer Visual trackers Speech-to-text software Alerting snacks Movement breaks Scaffolded notes Copies of Notes Verbal Repetition Checklists computer keyboard

DEDICATED AIDES

Student requires the support of a dedicated aide: ☐ Yes ☒ No

Step 7: Re-Evaluation

- A child who receives special education services must be re-evaluated in all areas of suspected disability every 3 years unless all members of the team agree that it is not necessary
 - A school may not unilaterally make the decision not to evaluate
 - Team's decision not to evaluate should be documented
- A child can be re-evaluated more frequently at the request of the parent or teacher

Step 7: Re-Evaluation

- School must also re-evaluate child “as conditions warrant”
 - Sudden change in school performance
 - Significant event in child’s life (death of parent, trauma) impacting school performance
 - *See 20 USC §1414(a)(2); 34 CFR §300.303(b)(2)*

IEPs vs. 504 Plans

	IEPs	504 Plans
Eligibility	<p>Must be evaluated</p> <p>Student must have a legally-defined disability</p>	<p>Evaluation is optional</p> <p>Student must have a physical or mental condition that substantially limits a major life activity</p>
The Plan	<p>Strict legal requirements regarding what must be included in the IEP</p>	<p>Fewer requirements regarding what must be included in the student's 504 Plan</p>
Funding	<p>Federal funding</p>	<p>No federal funding</p>
Legal Protections, Remedies	<p>Stronger</p>	<p>Weaker</p>

New Discipline Law: Student Fair Access to School Amendment Act of 2018 (SFASA)

- *DC Code § 38-236.01 through § 38-236.09*
- Uniform school discipline reform that applies to DCPS and public charter schools.
- Sets limits on schools' use of suspensions, expulsions, and involuntary transfers.

SFASA:

Out-of-School Suspensions

- Out-of-School Suspension cannot exceed five consecutive school days for grades K-5
- Out-of-School Suspension cannot exceed ten consecutive days for grades 6-12
- A student cannot be suspended from school for more than twenty cumulative school days in a school year *unless the head of the LEA provides written justification for emergency removal*

Discipline: Suspensions and Expulsions

- Students with disabilities have special protections in disciplinary matters
 - Can be suspended, but strong legal protections govern suspensions
 - Protections cover students with disabilities who have not yet been found eligible for special education if the school system knew or should have known that the child is a child with a disability through parent or teacher referral
 - ▶ *See 34 CFR § 300.534*
- **Protections ensure students with disabilities receive a FAPE**

Extra Protections for Students with Disabilities

Excluding a child with disabilities from class for ≥ 10 school days

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A change in placement

- School must convene a Manifestation Determination Review (MDR) meeting to determine whether child's behavior is a manifestation of disability
- *If an MDR is scheduled, reach out to your mentor!*

What is a **Manifestation Determination Review?**

- The IEP team must convene within 10 school days of the decision to change the child's placement to determine:
 - (i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; *or*
 - ▶ (NOTE: This is NOT whether the child knows right from wrong)
 - (ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.
 - (iii) DCPS also considers if the IEP was appropriate

What is a **Manifestation Determination Review?**

- **The IEP team must review and consider all relevant info, including:**
 - Evaluations
 - Observations of the child
 - Information provided by the parent
 - Current IEP and placement
- *See 34 CFR § 300.530*



Manifestation Determination: Results

- If the team answers “**yes**” to any of the questions MDR meeting questions, the behavior is deemed to be a manifestation of the child’s disability and the disciplinary action **must be** rescinded.
 - There is an exception for incidents where child had dangerous weapon, drugs, or caused serious bodily injury

Manifestation Determination: Results

- **In addition, if the answer is “yes” the school must:**
 - Conduct a Functional Behavior Assessment (FBA) and create/implement a Behavioral Intervention Plan (BIP)
 - Review a BIP already in existence and modify it as necessary
 - Permit the child to return to their previous placement, unless team agrees there should be a change in placement
- *34 CFR §§ 300.530 - 300.536*
- *20 U.S.C. §§ 1415(k)(1) and (k)(7)*

And if a Parent Disagrees?

- **Expedited Due Process Hearing is always available**
- DCPS Students
 - DCMR regulations apply to DCPS students (not DCPS-LEA charter school students) (DCMR Title 5, Chapter 25)
 - Disciplinary hearings available for suspensions over 10 days
 - Other types of advocacy may be possible

School Discipline Hypothetical

- De'vonte is a 6th grader with an IEP that provides specialized instruction and counseling services. His disability classification is Other Health Impairment.
- After getting into a big fight with some other students at school, he is being referred for a 30 day suspension. As you prepare for the meeting, your client tells you that De'vonte loved his counselor at the beginning of the school year, but she quit and he is not sure who his counselor is now.

School Discipline Hypothetical

- What additional evidence would you want to collect before your MDR?
- What arguments would you raise at the MDR?
- What arguments do you think the school would raise?

Training Part One – Complete!

- ◆ What's next?
 - ◆ Special Education Training Part Two
 - ▶ Handling a Special Education Case

**Questions?
Interested in a case?**

**Email Jen Masi
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Thank you!



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