

4. Selected DCPS Policies

- a. DCPS Least Restrictive Environment (LRE) Policy (June 2010)
- b. DCPS Physical Restraint and Seclusion Policy (August 2011)
- c. DCPS Extended School Year (ESY) Policy (April 2011)
- d. DCPS Memo re: LD-ED Classifications (April 2008)
- e. DCPS School Visitor Policy (January 2017) includes:
 - i. DCPS Final Observation Designee Appointment Form
 - ii. 2017 Confidentiality Agreement



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS


Office of Special Education

June 2010

Guidelines for IEP Team Meetings to Consider Placement in a More Restrictive Environment

OSE-IIST001

Approved by: Michelle Rhee, Chancellor
Richard Nyankori, Deputy Chancellor for Special Education
James Sandman, General Counsel


6/2/10
6/1/10

More Restrictive Environment Guidelines

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More Restrictive Environment Guidelines

Purpose

The purpose of these guidelines is to effectuate the least restrictive environment requirement in the IDEA¹: that to the maximum extent appropriate, children with disabilities be educated with children who are not disabled, and that special classes, separate schools or other removal of children with disabilities from the regular education environment occur only when the nature or severity of the disability is such that education in regular classes, with the use of supplemental aids and services, cannot be achieved satisfactorily. To accomplish this goal, the IEP team meeting process will be structured so as to permit full consideration of appropriate strategies and services within the neighborhood school as well as appropriate school placements and services when the IEP team determines a student needs a more restrictive setting.

¹ 20 U.S.C. 1412(a)

More Restrictive Environment Guidelines

Case Types /Team Members/Location

These guidelines should be followed whenever school staff or a parent believe that a student with a disability may need to move to a more restrictive environment or that the needs of the student exceed the capacity of the student's neighborhood school. The following types of changes in placement scenarios would warrant use of these guidelines: a move from regular education classroom or regular education/outside general education combination to 100% out-of-general education; a move from a resource classroom to a non-public placement; or a move from a day school to a residential facility, hospital, or homebound setting. An increase in hours outside general education that would still provide a combination of inside and outside general education does not trigger use of these guidelines.

Other cases that are not appropriate for these guidelines include, but are not limited to, students who have HODs ordering placement and students who already have an appropriate placement but who have not enrolled.

The IEP team to consider placement is comprised of the parents of a child with a disability; not less than one regular education teacher of such child (if participating in the regular education environment); not less than one special education teacher of such child; a representative of the local education agency (DCPS) who is qualified to provide or supervise specially designed instruction, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of DCPS; an individual who can interpret evaluation results; at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child; and whenever appropriate, the child with a disability.

Prior to an IEP meeting to discuss a more restrictive environment for a student, the school's Special Education Coordinator or Placement Specialist will notify the DCPS Office of Special Education (OSE) via email as explained below. The notification should provide background information on the student and a narrative outlining the reasons the school or parent feels the student may need a more restrictive environment. The IEP meeting must be held within a reasonable time, not to exceed 30 days after the notification email.

IEP Team meetings to discuss a more restrictive environment shall be held at a mutually agreed upon time and location. These meetings can be held at 1200 First Street, NE, Washington, DC 20002 if that is a mutually acceptable location.

More Restrictive Environment Guidelines

Process for Considering Placement in a More Restrictive Environment

The process for considering placement in a more restrictive environment consists of 10 steps. The 10 steps are:

- Receipt by the DCPS OSE of notification that placement in a more restrictive environment will be discussed
- Assignment of the case to liaison in OSE
- Data gathering/review by OSE
- Observation of student by OSE liaison
- Preparation of summary report and recommendation by OSE liaison
- Scheduling of IEP meeting and issuance of letter of invitation
- Meeting of LEA reps and school staff
- Preparation of draft IEP
- IEP team meeting
- Follow-up

Special Education Coordinators, Non Public Unit Program Managers or Placement Specialists, or charter school personnel must send notification that placement in a more restrictive environment will be discussed to OSE at ire_review@dc.gov. When submitting notification, the referring person will first ensure that all required documents are in SEDS, including the most recent IEP, FBA/BIP (if appropriate), recent evaluations, and school-documented interventions, supports, and services. The notification should also include a narrative justification for a more restrictive environment if the school is recommending the change in placement or a brief summary of why the parent is requesting a change in placement. The OSE Data Manager will acknowledge receipt of the referral via email. Upon receipt of a referral, the Data Manager will assign the student to a Liaison in OSE on a rotating basis, with consideration taken of the Liaison's expertise. The Liaison is similar to a case manager and will oversee the case from referral to resolution.

The Liaison will review the data from the student's file, request any additional information needed, and create both a paper and an electronic file at OSE for the student. The assigned Liaison will schedule and complete an observation of the student at his or her current school. The Liaison will use the DCPS Observation Form and place the original Observation Form in the Student's paper file and an electronic copy in the electronic file.

More Restrictive Environment Guidelines

After the observation, the Liaison will complete a Summary Report and Recommendations form that summarizes the findings of the Liaison's observation and data review and makes recommendations to the IEP team based on those findings. This document will supplement the observations and data from school personnel. Copies of the Summary Report and Recommendations go to the student's school and in the student's electronic and paper file. Based on a review of the existing data, the OSE Liaison will give the OSE Data Manager a list of the IEP team members to invite to the IEP meeting through a letter of invitation generated in SEDS. The OSE Liaison will ensure that the team is comprised of the persons described on page 4 above and includes the members of the student's school-based IEP team.

The LEA representatives and school staff who are on the IEP Team will meet to review and discuss the Liaison's findings and recommendations. After this meeting, but before the IEP meeting, the student's SEC or Placement Specialist will prepare a draft IEP for the student for discussion at the IEP team meeting. No later than 30 days after the referral, the entire IEP Team will meet to discuss the IEP, placement, and location of services, unless the parent agrees to a later date. At this meeting an LEA representative with knowledge of the child will chair the meeting and the school's SEC or Placement Specialist will input information into SEDS. If the team decides a change of location is warranted, the team will work through the Location Assignment Checklist provided by the Office of the State Superintendent of Education. The IEP will be finalized before the completion of the meeting.

Within 24 hours of the IEP meeting, the SEC/Placement Specialist will distribute the finalized IEP to all adults who work with the student if the student remains at his or her current school. The SEC/Placement Specialist will also meet with the child's teachers and Related Service Providers within 24 hours to determine the scheduling of services and who the assigned provider will be. If the student's location of services changes, the SEC/Placement Specialist will provide the receiving school with the finalized IEP, within 24 hours of the IEP meeting if possible. The SEC/Placement Specialist will also send a Prior Written Notice notifying in writing the decisions of the IEP Team.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

Office of the Chancellor

2011 AUG 23 AM 11: 28

ABSTRACT OF CORRESPONDENCE

TO: Kaya Henderson, Chancellor
FROM: Dr. Nathaniel Beers, Chief, Office of Special Education
DATE: 08-23-11
SUBJECT: DCPS Physical Restraint and Seclusion Policy

1. Summary of Key Points (Brief): Policy will facilitate the implementation of a school-wide systematic approach to positive student behavior to improve overall school safety, minimize the need for the use of restraint and seclusion, and ensure that it is only used as a last resort in an emergency situation. These guidelines apply to all students in DCPS. Clearly outlines the use of physical restraints and seclusion in limited situations by certified staff (whenever possible) and only pursuant to this policy. This policy is to be used in conjunction with the training of staff in physical restraint and seclusion whereby each school is responsible for maintaining a core group of appropriate personnel trained and certified in crisis intervention techniques and procedures.

2. Special Concerns:

3. Action Required: Signature

4. Contact Person: Carla Watson Phone: 202-423-0957

5. Chancellor's Action:

Approved Disapproved Modify Discuss

REMARKS:

[Handwritten Signature]

8/31/11

Chancellor's Signature

Date

CLEARANCE:

	PREPARED BY	CLEARED BY Chief	OGC (if required)	CLEARED BY	CLEARED BY
SURNAME & OFFICE (TYPED)	Carla Watson, OSE	Dr. Beers, OSE	Bob Utiger, OGC	<i>WR</i>	
INITIAL & DATE	<i>CW 8/19/11</i>	<i>NB 8/23/11</i>	<i>8/23/11 BU</i>	<i>8/31/11</i>	



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

August 2011

Guidelines for Physical Restraint and Seclusion

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Purpose

The District of Columbia Public Schools (DCPS) believes that social and emotional skills form a foundation for young people's success not just in school, but also as healthy and caring adults, productive workers, and engaged citizens. Positive student behavior in school is directly connected to increased motivation, efficient academic learning, high achievement, diminished disciplinary action, and increased graduation rates. Further, all students and school personnel in DCPS have the right to work and learn in a safe school environment. Implementation of a school-wide systematic approach to positive student behavior will improve overall school safety, will minimize the need for the use of restraint and seclusion, and ensure that it is only used as a last resort in an emergency situation. The purpose of these policies is to ensure that all students and staff are safe in school, and that students who may have a behavior crisis are free from inappropriate use of physical restraint or seclusion. These guidelines apply to all students in DCPS.

Positive Behavior Support

DCPS will implement school-wide programs and services that teach, reinforce and monitor positive behavior to create a school climate that is highly conducive to learning.

1. Each school will establish practices that have the goal of making the school climate and environment welcoming and supportive of learning, and will promote the recognition and reinforcement of appropriate student behavior.

2. It is expected that school staff will implement more intensive interventions if students are not responsive to the school's primary plan. These secondary and tertiary interventions can include social skills groups or the Behavior Education Program (BEP; Crone, Horner, & Hawken, 2004) for multiple individuals. Examples of secondary interventions include: small group instruction in social skills (e.g., Gresham, Van, & Cook, 2006), check-in and check-out (CICO) procedures (e.g., Fairbanks, Sugai, Guardino, & Lathrop, 2007), self-monitoring (Lane, Menzies, Bruhn & Crnabori, 2010) and literacy training (e.g., Lane, Wehby, et al., 2002). Tertiary-level support is often highly individualized (and resource intensive). Tertiary academic interventions are designed to address an individual's specific learning deficits (Hawken, Vincent & Schumann, 2008). Tertiary behavioral interventions are often in the form of a Behavior Intervention Plan (BIP) and other individualized interventions.

3. When personnel in any school for which DCPS is the LEA recognizes student behavior that is likely to lead to behavior that will be dangerous to the point of causing injury to someone, DCPS will immediately take steps to protect all concerned and will conduct a functional behavior assessment and develop a positive behavior plan including a plan for adjusting the antecedents and teaching replacement behaviors.
 - i. The plan will be developed in cooperation with the parent or guardian.
 - ii. This will occur whether or not the student is eligible for special education.

Definitions

A. **Chemical Restraint.** Use of medications to control behavior.

B. **Crisis Intervention Training.** Training provided to school personal who deal with aggressive, violent or out of control behavioral crises. It includes specific techniques for physical restraint and seclusion. The curriculum is evidenced based and aligns with best practices in behavior and crisis management. Training should include detection and signs of medical distress. The training results in certification by the program.

C. **De-Escalation.** Causing a situation to become more controlled, calm and less dangerous, thus lessening the risk for injury to someone.

D. **Functional Behavioral Assessment.** The assessment process includes the gathering information that can be used to hypothesize about the function of an individual's behavior. The analysis provides the information necessary to develop a behavior intervention plan.

E. **Mechanical restraint.** Use of any device or object (e.g., tape, ropes, straps, weights, weighted blankets) to limit an individual's body movement to prevent or manage out-of-control behavior.

F. **Physical restraint.** Any method of one or more persons restricting another person's freedom of movement, physical activity or normal access to his/her body.

G. **Prone physical restraint.** The individual is being held face down.

H. **Seclusion.** Individual is placed in a location where he or she is alone, and where he or she is physically prevented from leaving that environment.

I. **SEDS.** Special Education Data System. Also known as Easy IEP. SEDS is a comprehensive data system designed to support seamless service delivery for children with disabilities. The Office of the State Superintendent of Education for the District of Columbia (OSSE) has mandated SEDS use by all local education agencies for Individualized Education Program development, management, and historical record keeping.

J. **Supine physical restraint.** When an individual is face up on their back on a horizontal surface such as the floor.

Conditions for Appropriate Restraint and Seclusion

DCPS provides training for all staff on verbal de-escalation procedures, the dangers of restraint and seclusion, and procedures for contacting fully trained and certified staff when behavioral crises occur. Each school will maintain a core group of appropriate personnel trained and “certified” in crisis intervention techniques, which will include the use of physical restraint and seclusion procedures.

The District of Columbia Public School authorizes staff members to use physical restraints and seclusion in limited situations. The restraints and the use of seclusion may only be used under the circumstances specified in these policies. Physical restraint is appropriate only when a student is displaying physical behavior that presents imminent risk of injury to the student or others.

Conditions for the use of physical restraint

1. The student is demonstrating the intent and the ability to cause injury within a matter of minutes.
2. Physical restraint should only be employed as a last resort after other methods of de-escalating a dangerous situation have been attempted without success.
3. Physical restraint should only be employed by staff members who have received specific district approved crisis intervention training in the use of physical restraint procedures. In an exigent or unforeseen emergency an untrained staff member can intervene. If an untrained staff member intervened then they must complete the training within 90 days.
4. A physical restraint of a student should be conducted in a manner consistent with the techniques prescribed in a DCPS approved crisis intervention training program.
5. Physical restraint should last only as long as the risk of imminent injury is present. Typically, physical restraint should not last longer than a few minutes.
6. The degree of physical restriction employed must be in proportion to the circumstances of the incident, the size and condition of the student, and the potential risks for injury to the student.
7. Mechanical and chemical restraints are not authorized in school.
8. Prone or Supine forms of physical restraint are not authorized.
9. For the purposes of this policy physical restraint does not include:
 - a. Taking away a weapon (such as a knife or gun)
 - b. Breaking up a fight
 - c. Physical prompts provided in the course of instruction.

Guidelines for Physical Restraint and Seclusion

10. The use of physical restraint should not be included in a student's IEP, in the Behavior Intervention Plan, or other educational planning documents.

When Physical Restraint Procedures Should Not Be Employed:

1. Physical restraint is not appropriate without imminent risk of injury to someone.
2. A verbal threat or verbally aggressive behavior does not itself indicate a substantial risk of injury, and should not result in restraint.
3. Destruction or damage to property does not constitute a risk of imminent injury unless in so doing a risk of injury to the student or others is created.
4. When known medical or physical condition of the student would make the restraint procedures dangerous for that student (e.g. individuals with heart or circulatory conditions, asthma, etc.) they should not be employed.
5. Restraint should never be used as a punishment or to force compliance with staff commands.

Conditions for Appropriate Use of Seclusion

1. Seclusion is appropriate only when a student is displaying physical behavior that presents imminent risk of injury to the student or others.
2. Seclusion should only be employed as a last resort after other methods of de-escalating a dangerous situation have been attempted without success.
3. Seclusion should only be used as long as the threat of imminent injury is present and should be discontinued when the student is no longer a threat to others.
4. Staff must maintain continuous visual and auditory monitoring of the student.
5. The use of a mechanical locked door is prohibited. The staff member can hold a door closed. When the staff member is not holding the door closed it will automatically release.
6. Seclusion should only be employed by staff members who have received specific DCPS approved crisis intervention training in the use of seclusion procedures.
7. Seclusion can only be used when the student can be safely transported to the seclusion environment by trained staff members using appropriate techniques based on crisis intervention training.
8. The use of seclusion should not be included in a student's IEP or Behavior Intervention Plan.

Guidelines for Physical Restraint and Seclusion

9. All seclusion environments should be inspected annually by fire or safety inspectors and for adherence to regulations affecting school safety codes. Seclusion environments should:
 - a. Be of reasonable size permitting individuals to lie or sit down.
 - b. Have adequate ventilation including heat and air conditioning as appropriate.
 - c. Have adequate lighting.
 - d. Be free of any potential or predictable safety hazards such as electrical outlets, equipment, and breakable glass.
 - e. Permit direct continuous visual and auditory monitoring of the student.
 - f. Meet current fire and safety codes.

Reporting and Documentation Requirements

Procedures for documenting and reporting the use of physical restraint or seclusion

A. Immediately after the use of physical restraint and/or seclusion, a staff member not involved with the incident shall examine the student to ascertain if any injury has been sustained during the restraint or seclusion.

B. The building administrator or designee will verbally notify the parent/guardian as soon as possible that the student was subjected to restraint or seclusion, how long it lasted, where it occurred, and who was involved. This notification must occur immediately following the restraint or seclusion, but no later than one hour following the initiation of the restraint or seclusion and must be documented in the student's behavior tracking system (STARS). If the student is identified or suspected of having a disability, then this should also be documented in the SEDS communication log.

C. The individuals involved with the incident shall complete a written report as soon as possible after the incident. All use of physical restraint or seclusion procedures must be documented on an incident report within one school day.

1. The building administrator or designee will send a copy of the written report to the parent or guardian within one school day following the use of restraint or seclusion, and will place a copy of the report in the student's record.

2. A copy of the incident report must be sent to the Instructional Superintendent or designee.

D. Within five days of the incident all of the individuals who were involved along with other team members should meet. For individuals who are not eligible for special education services, a student support team (SST) meeting must be held. For individuals who are eligible for special education services or may be suspected of having a disability, the IEP team must meet to discuss the restraint or seclusion and how to prevent it in the future. All meetings must be documented through the use of sign in sheets and meeting notes. Meeting sign in sheets and notes must be documented in the SST tracker and/or SEDS.

References

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- Fairbanks, S., Sugai, G., Guardino, D., & Lathrop, M. (2007). Response to intervention: examining classroom behavior support in second grade. *Exceptional Children, 73*, 288-310.
- Gresham, F. M., Van, M. B., & Cook, C. R. (2006). Social skills training for teaching replacement behaviors: remediating acquisition deficits in at risk students. *Behavioral Disorders, 32*, 363-377.
- Hawken, L. S., Vincent, C. G., & Schumann, J. (2008). Response to intervention for social behavior: Challenges and opportunities. *Journal of Emotional and Behavioral Disorders, 16*, 213-225.
- Lane, K. L., Menzies, H. M., Bruhn, A. L., & Crnabori, M. (2010). *Managing challenging behaviors in schools: Research based strategies that work*. New York: The Guilford Press.
- Lane, K. L., Wehby, J. H., Menzies, H. M., Gregg, R. M., Doukas, G. L., & Munton, S. M. (2002). Early literacy instruction for first-grade students at-risk for antisocial behavior. *Education and Treatment of Children, 25*, 438-458.



MARCH 10, 2011

(X) ACTION REQUIRED
() INFORMATIONAL

TO: Chancellor, District of Columbia Public Schools (DCPS)
Public Charter School Board
Public Charter School Directors
Principals, DCPS

FROM: Hosanna Mahaley
Acting State Superintendent of Education

Hosanna Mahaley

RE: Extended School Year (ESY) Services Policy

CONTACTS: Amy Maisterra, Chief of Staff
Division of Special Education
Email: Amy.Maisterra@dc.gov
(202) 481-3757
OR
Grace Chien, LEA Policy and Charter Implementation Specialist
Division of Special Education
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INTRODUCTION

The purpose of this Memorandum is to establish state-level standards and criteria for extended school year (ESY) services that are consistent with the Individuals with Disabilities Education Act (IDEA) requirement to provide a free appropriate public education (FAPE) to all students with disabilities. It is the expectation of the Office of the State Superintendent of Education (OSSE) that all local educational agencies (LEAs) implement this policy to support Individualized Education Program (IEP) Teams in making appropriate ESY eligibility determinations and service designations.¹ In order to facilitate implementation of this policy in a manner that accelerates reform without placing an undue burden on LEAs, for the 2010-2011 school year, LEAs need only comply with the certification requirements in this policy. See LEA Responsibility to Participate in and Certify ESY Decisions Section. Beginning in the 2011-2012 school year, and each year thereafter, LEAs are required to comply with all requirements set forth in this policy.

DEFINITION OF EXTENDED SCHOOL YEAR (ESY) SERVICES

Extended school year (ESY) services are IDEA Part B special education and related services that are provided to a student with a disability beyond an LEA's regularly scheduled school year. Similar to other Part B services, ESY services must be provided in accordance with the student's IEP and at no cost to the

¹ 34 C.F.R. §300.106(b)(2)



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parents of the student.¹ The designation of ESY services must be individualized to the unique needs of each student. LEAs may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of these services.² Furthermore, LEAs must consider and provide programs and services not currently available at the LEA, if such programs and services are necessary to address the individualized needs of a student.

DIFFERENCE BETWEEN ESY SERVICES AND SUMMER SCHOOL

By definition, ESY services are distinct from summer school and summer enrichment programs, which typically offer generalized content on a predetermined schedule. A student's need for ESY services cannot be fulfilled by summer programming that is not implemented according to the student's IEP. While ESY services are often implemented during the summer break, ESY services may be provided during other times outside of the normal school year, such as before and after regular school hours or during winter or spring break, if the IEP Team determines that a student requires ESY services during those time periods in order to receive FAPE.

ELIGIBILITY FRAMEWORK FOR EXTENDED SCHOOL YEAR (ESY) SERVICES

At minimum, eligibility for ESY services must be considered on an annual basis as part of the IEP process for every student with a disability.³ The intent of ESY services is to provide FAPE, not to provide additional resources or maximize programming beyond FAPE. When an IEP Team makes a decision regarding ESY eligibility, it is determining whether the benefits gained during the regular school year would be significantly jeopardized if the student does not receive ESY services. OSSE has established the following criteria for IEP Teams to apply in determining ESY eligibility:⁴

Criterion 1: Impact of Break in Service on Critical Skills

The IEP Team begins the ESY determination process by considering whether the break in service will jeopardize one or more critical skills. In the context of ESY services, the phrase *critical skill* refers to a skill that is essential to a student's overall educational progress. A critical skill may be an academic skill, such as reading, or a non-academic skill that has a direct educational impact, such as a fine motor skill.⁵ The IEP Team is required to describe the educational impact of the break in service on any identified critical skill and to support any identified concerns with student data. See Analysis of Student Data Section. ESY services are not necessary for FAPE if the

¹ 34 C.F.R. §300.106(b)(1)

² 34 C.F.R. §300.106(a)(3)

³ 34 C.F.R. §300.106(a)(2); 34 C.F.R. §300.324(b)(1)(i)

⁴ "States may use recoupment and retention as their sole criteria but they are not limited to these standards and have considerable flexibility in determining eligibility for ESY services and establishing State standards for making ESY determinations. However, whatever standard a state uses must be consistent with the individually-oriented requirements of [IDEA 2004] and may not limit eligibility for ESY services to students with a particular disability category or be applied in a manner that denies students with disabilities who require ESY services in order to receive FAPE access to necessary services." 71 Fed. Reg. 46582 – 46583 (August 14, 2006)

⁵ Non-academic skills also include social, functional, and behavioral skills that have a direct educational impact. ESY eligibility decisions based on the identification of a critical skill that is related to behavior must reference and build upon the student's behavioral intervention plan (BIP) and functional behavior assessment (FBA).



IEP Team does not have concerns about the impact of the break in service on any of the student's critical skills.

Criterion 2: Degree of Regression of Critical Skill

The IEP Team must consider the degree of regression that the student will experience in any critical skill identified as potentially jeopardized by the break in service. In the context of ESY services, the term *regression* refers to a decrease in performance level or ability related to a previously attained or partially attained (emerging) critical skill. Since most students experience some natural regression during breaks in service, the IEP Team should use student data to determine if there is a likelihood of significant regression (*i.e.* the student would need to relearn the critical skill or skill set in its entirety, to the detriment of his/her overall educational progress). See Analysis of Student Data Section. ESY services are not necessary for FAPE if there is little or no risk of significant critical skill regression.

Criterion 3: Time Required for Recoupment of Critical Skill

The IEP Team must consider the time the student would require for recoupment of any critical skill identified as potentially being jeopardized by the break in service. In the context of ESY services, the term *recoupment* refers to a student's capacity to recover a regressed critical skill to a degree demonstrated prior to the break in service. Due to natural regression, most students will require a reasonable amount of time for recoupment once school reconvenes. The IEP Team must use student data to assess whether the time the student requires for critical skill recoupment is extraordinary. See Analysis of Student Data Section. ESY services are not appropriate for students with disabilities who can recoup critical skills with re-teaching in a reasonable amount of time.

ANALYSIS OF STUDENT DATA

IEP Teams must use student data to quantify, to the extent possible, the likely impact of a break in service on educational benefit, through a rigorous discussion of critical skill regression and recoupment. In order to make well-informed ESY eligibility and service decisions, IEP Teams must utilize at least three months of progress monitoring data from the current school year.⁶ The term *progress monitoring data* refers to student information that, collected and measured over time, demonstrates a performance trend toward or away from the achievement of a specified goal in the student's IEP. Examples of progress monitoring data include assessment data, progress or service notes, classroom observations, and student work samples. Other sources of data that IEP Teams must use, if available, to inform and support their decisions include:

- Historical data from the previous school year that documents the student's rate of progress toward critical skill attainment, and rate of regression of an identified critical skill and time needed for the recoupment of the critical skill following previous breaks from service;

⁶ LEAs should utilize any relevant current data for students for whom the LEAs cannot obtain three months of progress monitoring data from the current school year (*e.g.* students transitioning from Part C, students recently determined eligible for special education services under IDEA Part B, or students recently transferred from a different LEA).



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- Medical records or evaluations that speak to the nature and/or severity of the student's identified disability(ies) as it relates to the student's need for consistent, continued access to highly-structured programming; and/or
- Current developmental data that indicate that the student is at a critical stage of breakthrough or on the verge of acquiring an emerging skill within a skill set.

For an IEP Team's ESY decisions to be considered complete, the IEP Team must identify the source of student data utilized and describe the analysis of such student data for each eligibility criteria in the student's IEP. All supporting documentation must be uploaded to the Special Education Data System (SEDS) no later than five (5) business days after the ESY eligibility determination.

APPROPRIATE DESIGNATION OF ESY SERVICES

Once an IEP Team has completed its analysis of student data and has determined whether the student is eligible for ESY services, the IEP Team must designate special education and, as appropriate, related services that are directly relevant to preventing the anticipated significant regression of the identified critical skill. Designated ESY services may include all, some, or at minimum one, of the special education and/or related services that the student receives during the school year. It is inappropriate for an IEP Team to designate an entirely new service that is not substantively linked to the student's existing services.

The IEP Team must specify frequency, duration, and setting of ESY service delivery in the IEP in a manner consistent with OSSE's Related Services Policy. The term *frequency* refers to how often a special education or related service will be provided (*i.e.* the number of sessions per week and the length of each session). The term *duration* refers to how long the LEA will continue to provide the special education or related service (*i.e.* how many weeks or months of service as indicated by start and end date). The term *setting* refers to the decision regarding whether the designated services will be delivered in a general education or a non-general education learning environment.

Similar to special education and related services provided during the year, ESY services must be provided in the student's least restrictive environment (LRE). However, LEAs are not expected to create entire programs to accommodate individual students in a general education setting.⁷ The IEP Team may make alternative arrangements (*e.g.* services within the student's home) if such a location does not interfere with service delivery or conflict with ESY goals (*e.g.* those goals specific to socialization).

Eligibility for ESY-Related Special Education Transportation Services

Students eligible for transportation as a related service during the school year are eligible for transportation as a related service for the duration of ESY services. Students who were not determined eligible for transportation as a related service during the school year may be eligible for transportation as a related service for the duration of ESY services, if the IEP Team, applying new student data such as

⁷ ESY services must be provided in the LRE. However, LEAs are not required to create new programs as a means of providing ESY to students with disabilities in integrated settings if the LEA does not provide such programs at that time for its general education students. 64 Fed. Reg. 12406, 12577 (March 12, 1999)



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location of ESY services, determines that the student is eligible using the established state-level criteria. All ESY-related transportation eligibility decisions must be recorded in the student's IEP. LEAs must submit a completed administrative transportation request form to OSSE-DOT no later than five (5) business days after the ESY-related transportation eligibility determination.

DEVELOPMENT OF ESY GOALS

An IEP Team that determines that a student is eligible for ESY services must develop and document at least one ESY goal per identified critical skill. The goal should be designed to ensure that the student will retain the identified critical skill rather than acquire new skills. However, LEAs are not prohibited from teaching a new skill in addition to the identified critical skill, if the skill is required to assist the student with making meaningful educational progress toward IEP goals. The goal(s) must link service delivery to critical skill performance in a way that is specific, measurable, attainable, relevant, and time-limited. Each goal should have a clear description of the content taught, the way in which the student's progress will be measured, and the frequency with which the student's cumulative data will be assessed for necessary adjustments. All service decisions, terms, and goals must be documented in SEDS.

LEA RESPONSIBILITY TO PARTICIPATE IN & CERTIFY ESY DECISIONS

For ESY services that are designated for the summer months, LEAs must ensure that all ESY eligibility determinations, service designations, and location site decisions are made in a timely manner. An LEA's responsibility to ensure timely ESY decisions includes certification⁸ of affirmative ESY eligibility and service decisions, as detailed below. To comply with the requirement that IEP Teams must utilize at least three months of progress monitoring data from the current school year to make informed ESY decisions, and additionally must certify ESY decisions regarding nonpublic schools and ESY decisions that require transportation, LEAs shall ensure that all ESY-related decisions are made between the months of December and April.⁹

LEA Certification of ESY Decisions for Students Served by Nonpublic Schools

LEAs must certify all affirmative ESY eligibility and service decisions for all students served by nonpublic schools to OSSE¹⁰ no later than the first Monday of May every school year. To meet this certification requirement, LEAs must submit the LEA Certification Form listing all students eligible for ESY services to be provided by nonpublic schools. ESY service decisions that are not properly and timely certified by an LEA will be monitored by OSSE, for compliance with IDEA, to

⁸ The term "certification" refers to the requirement that LEAs provide adequate and timely notice to OSSE of ESY eligibility and ESY-related transportation services that result in state-level expenditures. ESY decisions for students served by nonpublic schools and ESY-related transportation service decisions made by "District Charters" must be submitted to, and certified by, the District of Columbia Public Schools (DCPS), which in turn must submit this information to OSSE. District Charters are public charter schools that have elected DCPS to serve as the LEA for purposes of special education.

⁹ LEAs will not be found noncompliant for ESY-related decisions or certifications that are untimely due to student enrollment or initial eligibility determinations for special education services under IDEA Part B that occur later than three months before the end of the school year.

¹⁰ The LEA at which the student is enrolled is responsible for being involved in all ESY decisions, including ESY decisions made in IEP Team meetings convened at nonpublic schools. LEAs may participate in IEP Team meetings in-person or through designation of nonpublic personnel. Regardless of the mode of participation, the LEA remains responsible for being actively involved in all IEP decisions. 34 C.F.R. §300.325(b)(2)



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ensure that LEAs have participated adequately in IEP Team decision-making.¹¹ OSSE will not pay invoices for ESY services where there is no documentation of the LEA's knowledge of, or involvement or participation in, the IEP Team decision regarding eligibility and service designation for ESY. Failure of an LEA to certify does not eliminate the ongoing obligation of the LEA to comply with the requirements set forth in IDEA. LEAs are responsible for any delays and expenses that result from failure to submit the necessary documentation in a complete and timely manner.

LEA Certification of ESY-Related Transportation Service Decisions

LEAs must certify all affirmative ESY-related transportation eligibility decisions, including all ESY service site location assignments, to the Department of Transportation at OSSE (OSSE-DOT) no later than the first Monday of May every school year. To meet this certification requirement, LEAs must submit the LEA Certification Form listing all students eligible for ESY-related transportation services. OSSE-DOT will not process requests for ESY-related transportation services resulting from IEP Team decisions made without appropriate knowledge or involvement of the LEA at which the student is enrolled, and will not process requests for students who did not receive transportation during the school year without proper documentation in SEDS as required.

DOCUMENTATION OF ESY SERVICE IMPLEMENTATION & CLOSEOUT SUMMARY REQUIREMENT

After all ESY decisions have been certified, LEAs must continue to fulfill their obligation to provide FAPE by ensuring that ESY services are provided by qualified service providers, implemented according to the terms specified in the student's IEP, and documented in service logs in SEDS.¹² Once ESY services have been rendered to the student for the duration specified in the student's IEP, the LEA must examine the service log record to ensure completeness, and must complete a final closeout summary in SEDS that summarizes 1) the progress made on the student's ESY goal(s) and 2) the status of the identified critical skill(s) in terms of the resulting level of regression and the anticipated time required for recoupment. All summer closeout summaries must be completed prior to the beginning of the next school year.

COMPLIANCE AND MONITORING

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires that every state education agency (SEA) monitor LEAs to ensure compliance with Part B of the IDEA. A finding of LEA noncompliance by OSSE will result in the requirement to submit an improvement plan containing corrective actions for each area of noncompliance. OSSE may also recommend or require training and technical assistance to LEA staff when crafting corrective actions. All items of noncompliance must, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in sanctions that include potential withholding of Part B grant funding.¹³

¹¹ 34 C.F.R. §300.325(b)

¹² Responsibility for service implementation remains with the LEA, even if a nonpublic school implements a student's IEP. 34 C.F.R. §300.325(c)

¹³ 34 C.F.R. §300.604(a)



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All LEAs must comply with monitoring requirements established annually by OSSE, which include the collection and submission of both quantitative and qualitative data that support monitoring for regulatory compliance and programmatic quality. Additionally, a subset of LEAs will be selected for OSSE's annual focused monitoring process.

ADDITIONAL GUIDANCE

This memorandum supersedes all previous policy, memorandum, and/or guidance promulgated by the SEA. Please direct any questions regarding the content of this document to Grace Chien, LEA Policy and Charter Implementation Specialist, at (202) 741-5089 or by email at Grace.Chien@dc.gov.

**DISTRICT OF COLUMBIA
PUBLIC SCHOOLS**

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April 29, 2008

MEMORANDUM

TO: SCHOOL PSYCHOLOGISTS

**FROM: OMETHA LEWIS-JACK, Ph.D.
SUPERVISOR, SCHOOL PSYCHOLOGISTS**

RE: LD/ED CLASSIFICATIONS AND MULTIPLY DISABLED

According to the Code of Federal Regulations, Department of Education, Section 300.8 (7), Multiple disabilities is defined as concomitant impairments (such as mental retardation-blindness or mental retardation-orthopedic impairment), the combination of which causes such severe education needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities do not include deaf-blindness.

It has been brought to my attention that several psychologists are using the classification of multiple disabilities to describe students who are both learning disabled and emotionally disturbed. Please note that this is inaccurate. Therefore effective immediately, please refrain from using the MD classification in this manner.

A child who is emotionally disturbed exhibits one or more of the 5 characteristics that over a long period of time and to a marked degree adversely affects a child's educational performance. Consequently, a child is either LD or ED. You are a major part of the IEP team that decides the classification. As such, your input is often very much valued and your recommendations taken seriously. You should not agree to this wrong practice. If you observe that the team has noted both disabilities on the IEP, please do not sign your name to this document and educate the team and correct this mistake in order to avert grave consequences.

Thank you for your cooperation.

January 2017

School Visitor Policy

Chancellor's Directive 260.2

Version 2.0

Submitted by: Araceli Jacobs, Manager, Policy and Legal Strategy, Office of the Chief Operating Officer

Approved by: John Davis, Interim Chancellor
Carla Watson, Chief Operating Officer
Scott Barash, General Counsel
Jane Spence, Interim Chief, Office of the Chief of Schools

Chancellor's Signature

Date

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I. Executive Summary

<p>Originating Office: Office of the Chief Operating Officer Office of the General Counsel Office of the Chief of Schools</p>	<p>Number: 260.2</p>
<p>Subject: School Visitor's Policy Authority: DC Code §22-3102</p>	<p>Date: January 3, 2017</p> <hr/> <p>Rescinds: <i>School Visitors, School Records Release and Barring Notice Procedures</i>; issued on February 19, 2013</p>

Introduction

District of Columbia Public Schools (DCPS) seek to provide a world-class education for all of its students. This commitment requires DCPS to regulate school buildings, classrooms and other aspects of the school community. Schools are public institutions and should be open to visits from parents and other interested parties to the extent that visits do not compromise student or staff safety and do not disrupt the education process or school's operation. School buildings will continue to be open to the public as long as visitors do not disrupt school instruction, operation, or activities; or compromise the safety and security of students and staff.

Purpose

This directive explains the procedures for school building visits. The guidance in this directive applies to the school building and all exterior grounds of the school, including the playground and any other buildings and areas on DCPS property. The school principal has primary responsibility for ensuring visitor access in the school building and visitor conduct are monitored and supervised while on school property. The principal has the authority to deny access to any individual seeking to enter the school if the principal determines that the visitor's presence poses a danger or disruption to school activities, school instruction, or students and staff. Visitors who pose a threat or disruption to the school environment may be denied access or barred, subject to the provisions of DCPS School Barring Notice Procedures. This directive rescinds the Chancellor's Directive, *School Visitors, School Records Release and Barring Notice Procedures*, issued on February 19, 2013, and further rescinds any other document issued by DCPS to date regarding policies or procedures for school visitors.

Roadmap

This directive will provide general procedures that apply for all school visits, as well as specific guidelines for parents and legal/court-appointed guardians, professionals, law enforcement officials, and attorneys. The directive also includes specific information related to the release of student records. The appendix at the end of the document includes FAQs and all referenced forms.

II. School Visitor Procedures

A. Security Procedures for All School Visitors

All visitors and school staff must comply with the following procedures regarding school visits:

1. The main entrance of the school building shall be used for all exits and entries to the school, except in cases of fire or emergency. Any person found violating this rule will be immediately reported to the principal or school security officer.
2. The following sign shall be posted at the main entrance to all school buildings:

ALL VISITORS
Upon entering this building you must report immediately to the administrative office and receive permission to be on the premises. Only those individuals who have school related business will be granted permission to remain. Any unauthorized entrant is in violation of Section 22-3302(b) of the D.C. Code and will be criminally prosecuted.

3. All visitors must immediately report to the security desk or station to identify themselves and receive a visitor's badge. Proper identification must be presented in order to receive a badge. Proper identification includes a driver's license or other government-issued personal identification card, passport, or a current employee identification card from a local or federal government agency or private entity.
4. All visitors must sign the school security visitor's log. The log shall have appropriate columns so that visitors can provide their name, agency/office, purpose of visit or person they are visiting, times of entry and departure, and badge number if applicable.
5. Visitors must follow the instructions provided to them at the security station. As directed by the principal, school security may limit the areas and time during which the visitor may access the building, but not in a manner that will unreasonably infringe upon the rights of a parent or a parent's designee to observe or support a child in the classroom. The scope and duration of the visit will correspond with the purpose of the visit.
6. Visitors must wear or display their visitor's badge at all times while on school premises.
7. All visitors must sign out on the visitor's log prior to exiting the building and return their visitor badge to security.
8. All staff members shall relay concerns regarding the presence or conduct of visitors to school security or the principal immediately so that further appropriate action may be taken.

B. Parents and Legal/Court-Appointed Guardians

Parents and guardians- including educational surrogate parents appointed by the Office of the State Superintendent of Education (OSSE) or the Family Court of the D.C. Superior Court—should be given wide latitude regarding access to the school for the purposes of meeting with their child's teacher or other school staff, or observing their child's class. Parents and guardians of prospective students should

also be given a reasonable opportunity to visit the school and to observe proposed classes upon request. However, a parent or guardian's presence in the school must never cause a disruption to the function of the school or the instructional program of any student or in any way compromise the safety or security of the school, students, or staff.

Relatives or caretakers who are not the child's guardian will be allowed to visit the school if they are accompanied by a parent or guardian or if they have received permission in advance from the child's parent or guardian and the school principal. If a relative or caretaker appears on the emergency contact list for a student, the relative or caretaker should be allowed access to the school to drop the student off or pick the student up.

In the event that a court order, decree, or agreement describes the rights of parents, guardians and/or other relatives with respect to a child, the access that the school may provide to the child must be consistent with that order, decree, or agreement. That court order, decree, or agreement should be provided by the parent to the school as soon as reasonably possible. Applicable court orders, decrees, or agreements supersede all other provisions of this directive. School staff should contact the DCPS Office of the General Counsel (OGC) for guidance on interpreting the terms of a court order, decree, or agreement.

C. Visitors Participating in IEP/504 Meetings/ Observations of Students with Disabilities

Non-school staff may visit DCPS to participate in IEP meetings or to observe students with disabilities in classroom settings. These visits must comply with the following procedures:

IEP/504 Meetings

Visitors may be allowed entry to the school for the purpose of meeting with school staff regarding a student who is receiving special education services pursuant to the Individuals With Disabilities Improvement in Education Act of 2004 (IDEA). Such visitors may include: educational advocates, attorneys, guardian *ad litem* attorneys, evaluators, and parent designees. However, these visitors should only remain in the building for the purpose and duration of their scheduled IEP meeting and should not be allowed to walk unaccompanied through the school or to observe students in class unless the circumstances described below in Section C.2, *Classroom Observations for Students with Special Needs*, apply. The following guidelines shall apply to visitors in the school for special education matters:

- a. All Security procedures in Section A, above, must be adhered to;
- b. Upon arrival to the school, the evaluator, educational advocate, outside observer, or similar visitor must report to the principal or a principal's designee; and
- c. Individuals who have been barred from a school through a barring notice or court order but who need to participate in an IEP meeting may participate by phone.

Classroom Observations for Students with Disabilities¹

Observations can be conducted by parents as stated in Section B above. Parent's designees and professionals completing evaluations of a student at the school will also be allowed to observe the child in the classroom. Professional evaluators conducting an assessment must present an authorization letter from the parent. The authorization letter should indicate what assessment the evaluator is conducting,

¹ D.C. Act 20-486

and include the parent's signature giving permission to conduct the assessment of the student at school. Third-party persons (including attorneys and educational advocates) who are not evaluators, Hearing Officer-designated experts, parents, or parent designee(s) shall not be allowed to observe classrooms while children are in the classroom. A parent of a child with a disability may appoint a designee to observe the child's current or proposed special educational program. This designee must:

- a. Have professional expertise in the area of special education being observed;
- b. Be necessary to facilitate an observation for a parent with a disability; or
- c. Be necessary to provide language translation assistance to a parent.

A parent-appointed designee may not represent the child or family in litigation related to the provision of a free and appropriate public education (FAPE) nor can the designee have a financial interest in the outcome of such litigation. A designee must agree in writing that they will not disclose nor use any information obtained during the course of an observation for the purpose of seeking or engaging clients in litigation against the District or the LEA. In addition:

- a. All security procedures in Section A, above, must be adhered to;
- b. All classroom observations must be scheduled prior to the day of arrival at the school;
- c. Prior to the in-class observations, any observer must complete and provide to the principal the *Confidentiality Agreement* (see Appendix);
- d. In appointing a parent's observer, the LEA may require advance notice and for the designation to be in writing, by completing the *Observation Designee Form* (see Appendix)²;
- e. The parent, designee, or evaluator must act in such a manner that allows the regular school program to continue during the observation by refraining from engaging the attention of the teacher or other student(s) through conversation or other means;
- f. The parent, designee, or evaluator may be accompanied by DCPS personnel at the discretion of DCPS;
- g. Attorneys who are representing the parent's child in litigation related to the provision of a free and appropriate education (FAPE) should only be in the school building to attend a student's IEP meeting, to retrieve student records, or to speak with a member of the school staff. Attorneys have no legal right to observe any class and shall not be permitted to do so;
- h. In all instances of professionals visiting the school for special education matters, an appointment should be made with the relevant school staff person or an IEP meeting should be previously arranged and notice issued to all relevant attendees;
- i. School staff are under no obligation or requirement to meet with an attorney, educational advocate, or observer or to allow them access to the school, if prior arrangements have not been made and agreed upon; and

² The time allowed for the observation shall be sufficient to allow the parent, evaluator, or other designee to evaluate the child's performance in a current program or a proposed program to support the child and in the setting where the program or proposed program would normally occur.

- j. Other professionals, not explicitly described above, visiting the school for special education matters shall have no direct interaction with students, including the student who is the subject of the observation.

D. Attorneys and Legal Professionals

Under certain circumstances, attorneys and other legal professionals may have reason to visit schools. These visits must comply with the following procedures:

All Attorneys and Legal Professionals

All attorneys and legal professionals (including those from the United States Attorney's Office (USAO), the Office of the Attorney General of the District of Columbia (OAG), and Public Defender Service and any private attorney) must show their badges and identification at the security station. They must then be directed to the main office to speak with a principal or a designee.

If any attorney or legal professional wishes to receive education records or any information contained in education records, the principal or a designee must contact DCPS-OGC to receive clearance to release such records or other student data.

Guardian ad litem Attorneys

Guardian ad litem attorneys may observe classes if they present a court order or other reliable documentation indicating they are permitted to do so. The valid court order or other legally binding document must demonstrate the attorney's relationship as *guardian ad litem* for the child. The court order must be signed by a judge, must indicate the student's name, and must be dated within one calendar year of the visit.

Attorneys from OAG or USAO

If an attorney from OAG or USAO has come to question a student regarding a matter, the attorney must first obtain consent from the student's parent if the student is under 18. The principal or a designee can contact the student's parent to receive consent for the attorney to talk to the student or to allow the parent time to come to school to participate in the interview, but is not required to do so. Ultimately it is up to the attorney to obtain the required consent.

If an attorney from OAG or USAO has come to the school to investigate a matter and wishes to speak with school staff, the principal and all school staff should cooperate and answer any questions, as long as no undue disruptions are caused to the school environment or to class instruction.

Attorneys Serving a Subpoena

If an attorney (or an attorney's investigator or process server) wants to serve a subpoena on DCPS or a DCPS employee in their capacity as a government employee, the school staff shall inform the attorney that DCPS-OGC accepts service on behalf of DCPS. The staff person should then request that the attorney take the subpoena to DCPS-OGC in Central Office. If the attorney refuses, school staff should contact OGC for assistance. If necessary, OGC will authorize school staff to accept the subpoena and then immediately send it to OGC for review.

Attorneys from the Public Defender Services (PDS)

For attorneys from the Public Defender Service (PDS), and private attorneys (and their investigators and process servers), the following guidelines must be followed:

School staff should contact DCPS-OGC for guidance before engaging with PDS and/or private attorneys in any matter.

Under no circumstances should such attorneys have any direct interaction with students, unless the attorney is representing the student in court case. In that instance, the attorney maybe allowed to interact with the student in a manner that minimizes disruption to the student's classroom instruction. If the student is under 18, school staff must contact a parent/guardian to obtain consent prior to allowing access.

School employees are not required to speak with attorneys from PDS unless a valid subpoena has been issued naming the employee as a witness in a court proceeding. These proceedings will always involve the government in some capacity. If a subpoena has been issued and the issuing attorney or investigator wishes to speak with the employee, the principal or a designee should allow the employee to speak with the issuing attorney/investigator as long as it poses only minimal disruptions to the school environment or to class instruction.

School employees are not required to speak with attorneys representing parents in private custody proceedings that do not involve the government unless a valid subpoena has been issued naming the employee as a witness in a private custody proceeding. DCPS-OGC can accept service of private custody subpoenas on an employee's behalf with the employee's permission. However, if an employee is served with a subpoena in a private custody matter, the principal or the employee should contact DCPS-OGC for guidance. The principal should allow the employee to speak with the issuing attorney/investigator as long as it poses only minimal disruptions to the school environment or to class instruction. Employees may also be entitled to receive witness appearance fees in private custody matters so long as no official government resources (including the employee's duty time) are utilized.

E. Law Enforcement, Investigators, and Other Government Officials

Schools should make every effort to cooperate with law enforcement, including: local, state, and federal police officers/ investigators, investigators from the DC Office of the Inspector General (OIG), D.C. Child and Family Services Agency (CFSA), or the DCPS Investigation Team. However, school visits should be conducted in a manner that does not disrupt the school environment or class instruction unless absolutely necessary.

III. Release of Student Records

To comply with the Family Educational Rights and Privacy Act (FERPA), DCPS must not provide access to confidential student records, or discuss the content of such records, without written authorization granted by the parent/guardian or adult student, or via court order (see Appendix for *DCPS Authorization to Release Records*). The principal should call DCPS-OGC with any questions related to FERPA or education records access.

1. For private attorneys/third parties, the school must receive a written consent (see Appendix for *DCPS Authorization to Release Records*), signed within one year of the date of the records request.
2. For *guardian ad litem* attorneys and social workers, the school must receive a court order or other document that affirmatively grants access to the records.
3. For social workers from child welfare agencies, the social worker should have valid identification to substantiate their status as an employee of a child welfare agency, along with a court order, a valid authorization for release of records or other document that explicitly grants them access to the records of a particular student(s).

Appendices

Appendix I: Frequently Asked Questions (FAQs)

Q1: What is the process a parent should follow to appoint a designee for observation?

A1: The parent must fill out the *Observation Designee Form* and submit it to their child's school. This form must be completed and submitted before the observation is scheduled to take place.

Q2: How do I determine if a potential designee has a financial stake in litigation?

A2: If a school is unsure that a potential observer has expertise in special education or has a financial interest in the outcome of litigation, then they should ask the parent to fill out the *Observation Designee Form* (see Appendix). This form should then be uploaded to SEDS and the school should contact their School Support Liaison (SSL) or OGC for assistance.

Q3: How do I upload the designee observation form to SEDS?

A3: The form should be faxed into SEDS and the miscellaneous cover sheet should be entitled "*Observation Designee Form.*"

Q4: Are third party persons such as attorneys or educational advocates allowed to observe a child in the classroom?

A4: An observer must have professional expertise in the area of special education being observed or must otherwise be necessary to assist a parent with a disability or with language translation. If a school is unsure of whether a potential observer should be allowed in the classroom, they should follow the procedure outlined in Question 2.

Attorneys should generally only be in the school building to attend a student's IEP meeting, to retrieve student records, or to speak with a member of the school staff.

Appendix II: Observation Designee Form



Parental Appointment of Observation Designee

I _____ parent/guardian of _____
(Parent/Guardian's Name) (Student's Name and Date of Birth)

hereby appoint _____ as my designee to observe my child's current or proposed special
(Name of Designee)

special education program at _____ School. I hereby represent that he/she is neither representing my child's interests in litigation related to the provision of a free and appropriate public education, nor has any financial interest in the outcome of such litigation. I further represent that he/she will not disclose or use any information obtained during the course of an observation for the purpose of seeking or engaging clients in litigation against the District of Columbia or the Local Education Agency (LEA).

I further assert that this designee (check at least one, and all that apply):

- ___ has professional expertise in the area of special education;
- ___ is necessary to facilitate an observation for me due to my disability; and/or
- ___ is providing language translation services for me.

(Parent/Guardian's Name- Print)

(Parent/Guardian's Signature)

(Date)

Appendix III. DCPS Authorization to Release Education Records (Student 17 and Under)



DCPS Authorization to Release Education Records

I _____ parent/guardian of _____
(Parent/ Guardian's Name) (Student's Name and Date of Birth)

hereby consent to the appropriate official at my child's school or the DCPS Office of Data and Strategy to release my child's education records to:

(Name of representative, agency, physician, or attorney)

(Address and phone number of representative, agency, physician, or attorney)

The purpose of the disclosure is:

(Describe the specific purpose for the records disclosure)

By signing below, I authorize the release of the following records:

(Describe specifically which records are to be released including any applicable date range)

By signing below, **1) I acknowledge and understand that I have the opportunity to review the records to be disclosed and the right to challenge the contents of such records;** 2) I am 18 years of age; and 3) I am signing this document on behalf of my child because he/she is not 18 years of age. NOTE: This release is valid only for the purpose stated. The DCPS must obtain my written authorization before releasing any further information to any other requester. **This authorization will expire one year from the date of signature.**

(Parent/Guardian's Name-Printed) (Parent/Guardian's Signature)

(Parent/Guardian's Current Address)

(Parent/Guardian's Contact Number) (Date)

Appendix IV: DCPS Authorization to Release Education Records (Adult/Former Student)



DCPS Authorization to Release Education Records –Adult Student or Former Student

I _____ hereby give consent to the appropriate official at my
(Student's Name and date of birth)

current school or former school, or the DCPS Office of Data and Strategy to release my education records to:

(Name of representative, agency, physician, or attorney)

(Address and phone number of representative, agency, physician, or attorney)

The purpose of the disclosure is:

(Describe the specific purpose for the records disclosure)

By signing below, I authorize the release of the following records:

(Describe specifically which records are to be released including any applicable date range)

By signing below, **1) I acknowledge and understand that I have the opportunity to review the records to be disclosed and the right to challenge the contents of such records; and 2) I am 18 years of age.**

NOTE: This release is valid only for the purpose stated. The DCPS must obtain my written authorization before releasing any further information to any other requester. **This authorization will expire one year from the date of signature.**

(Adult/ Former Student's Name-Printed)

(Adult/ Former Student's Signature)

(Adult/ Former Student's Current Address)

(Adult/ Former Student's Contact Number)

(Date)

Appendix V: Classroom Observer Confidentiality Agreement



Classroom Observer Confidentiality Agreement

I, _____, will be conducting an observation of
(Observer's Name- Printed)

_____ and hereby affirm that:
(Student's Name- Printed)

- I agree to preserve the confidentiality of any and all personally identifiable student information that I view or have access to during the course of my observation of the above-referenced student and the instruction provided at his/her school;
- I agree that I will not interrupt the teacher during instructional time or engage in disruptive, destructive, or threatening conduct;
- I agree to refrain from interrupting any teacher during instructional time and from engaging in any conduct that is disruptive, destructive or threatening;
- I further agree that I may not disclose any confidential and personally identifiable information about any other DCPS student obtained by me during the course of my observation(s), as required by law;
- I certify that I do not represent the student in current litigation related to provision of a free appropriate public education and I have no financial interest in the outcome of such litigation;
- I certify I will not disclose nor use any information obtained during the course of the observation for the purpose of seeking or engaging clients in litigation against the District or the LEA;
- I further understand the terms of this Agreement shall remain in effect during and after my observation.

This agreement is given in consideration for my ability to conduct an observation at

_____ on _____
(Name of School) (Date of Observation)

(Observer's Name- Printed)

_____ (Parent/Guardian's Signature) _____ (Today's Date)



Parental Appointment of Designee for Observation

I/we, _____ hereby appoint
_____, as my/our designee to observe my child’s current
or proposed special educational program, at _____ School. I hereby
represent that he/she is neither representing my child in litigation related to the provision of
free and appropriate public education nor has a financial interest in the outcome of such
litigation and will not disclose nor use any information obtained during the course of an
observation for the purpose of seeking or engaging clients in litigation against the District or the
LEA.

I further assert that this designee (Check at least one and all that apply)

- Has professional expertise in the area of special education
- Is necessary to facilitate an observation for me due to my disability, or
- Is providing language translation services for me

Parent Signature

Date

Print Name

Parent Signature

Date

Print Name

ADDENDUM TO THE CLASSROOM OBSERVER CONFIDENTIALITY AGREEMENT

CLC suggests that you provide the attached addendum to all prospective observers prior to their observation. In its policy, DCPS does not allow a wide swath of people into the classrooms (mostly everyone who is not a parent is excluded).

The policy does, however, specifically allow those doing evaluations to observe a child in school –which is why CLC always requests that our educational experts conduct an evaluation of educational need that involves review of records and a school observation.

Additionally, we recommend that any evaluator/expert who is required to sign the confidentiality agreement before going in to do an observation, do the following:

- 1) Write at the bottom of the Confidentiality agreement: “my signature on this agreement is subject to the attached addendum.”
- 2) Sign and date the addendum to the same date as the confidentiality agreement was signed (I’ve attached the addendum – but the child’s name would need to be added).
- 3) Get a copy of the full, signed document (both pages) from the school for your records (and provide a copy to the attorney).

Please also notify your pro bono mentor if your expert is asked to sign a Confidentiality Agreement.

ADDENDUM TO THE CLASSROOM OBSERVER CONFIDENTIALITY AGREEMENT

I am conducting an independent educational evaluation of [CHILD'S FULL NAME] to assist with the provision of special education services under the Individuals with Disabilities Education Improvement Act (IDEIA). I understand that the attached Confidentiality Agreement is not intended to interfere with the rights afforded by the IDEIA and local law to children with disabilities or their parents.

To the extent required under the IDEIA and local law, as soon as possible upon completion of my observation and report, I agree to provide said report of any recommendations or observations I made regarding the above-referenced student and the student's classroom/school environment to the District of Columbia Public Schools.

EXPERT/EVALUATOR

Date