

EXHIBIT 1

DECLARATION OF ELIZABETH DAGGETT

COMES NOW, Elizabeth Daggett, and pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

1. My name is Elizabeth Daggett, and I am over 18 years old. I have personal knowledge of the facts stated herein.
2. I am the parent of H.D., who is a 13-year-old District resident and student at St. Coletta of Greater Washington, also known as St. Coletta Special Education Public Charter School, a full-time special education public charter school in Washington, DC. I am also a District resident.
3. My family and I are members of The Arc of the United States and we benefit from the advocacy The Arc does related to special education and integration of students with disabilities.
4. H.D. has a rare chromosomal disorder, Christianson Syndrome, which causes global developmental delays, ADHD, and epilepsy. He is non-verbal and has delays in all activities of daily living such as eating, drinking, and toileting. He wears a diaper at all times.
5. H.D. was identified as a student with disabilities under Part B of the Individuals with Disabilities Education Act in December 2013.
6. H.D. has an Individualized Education Program (IEP). He is identified as a student with Other Health Impairments on his IEP. H.D.'s disabilities substantially limit his major life activities including, but not limited to, learning.
7. As of his most recent IEP on January 25, 2024, H.D. is classified as a Medically Fragile Student and is entitled to receive special education transportation to and from school through the Office of the State Superintendent for Education's Division of Transportation (OSSE

DOT). *See* Exhibit A (Amended IEP, St. Coletta Special Education PCS, 01/25/2024). His most recent IEP requires an aide to provide hand-to-hand assistance for H.D. to get on and off the bus and limits his ride time to 60 minutes.

8. Because of H.D.'s epilepsy, his IEP requires that H.D. wear a safety harness when riding the bus. The harness requires a specific anchor and is not compatible on public transportation and difficult to install on rideshare. The harness restricts his mobility, and when my husband or I drive H.D., we do not put him in the harness for more than 60 minutes so he can have a break and move around.

9. Christianson Syndrome prevents H.D. from experiencing physical feelings, such as hunger, thirst, or the need to use the bathroom. He also has an unusually high pain tolerance. Although he cannot express when he is hungry or thirsty, if he does not have enough to drink or eat during the day he becomes dehydrated and agitated, which can cause a tantrum. These tantrums affect his ability to focus and make it more difficult for him to get reoriented. As a result, he requires constant monitoring and a consistent schedule for eating and drinking.

10. H.D. requires a consistent schedule for his behavioral and physical wellbeing. H.D. requires regular medication in the morning and afternoon for his medical conditions. It is important for him to receive his ADHD medication because he is hyperkinetic and will have difficulty focusing and listening if he does not receive his dose. If he receives his dose too late in the day, it affects his ability to go to sleep in the evening.

11. Timely and reliable transportation are vital to H.D.'s safety. H.D. is aware of his schedule and very reliant on it remaining consistent. When the bus is late, H.D. attempts to escape the house looking for the bus. This is dangerous because he is not safe around cars and traffic and could run into the street. I have to deadbolt the front door to ensure he does not leave

unsupervised. H.D.'s safety requires that a trustworthy adult is available and observing him at all times he is home. This includes having a babysitter available when H.D. is expected to arrive home from school. However, because his transportation is unpredictable, I often have to pay the babysitter for a large window of time when H.D. is not there.

12. I am supposed to get updates from OSSE DOT about when H.D.'s bus will arrive, but this information is frequently unreliable. Sometimes I get a notice that H.D.'s bus is going to be late, but it arrives on time; other times, I get a notice that H.D.'s bus is on time, but it arrives late; on some occasions, I get a notification that H.D.'s route is down, but it does not provide an estimated time of arrival with another bus en route. I also regularly check OSSE DOT's online tracker, but it does not provide up-to-date and reliable information about H.D.'s route.

13. When H.D.'s bus is late, I also call OSSE DOT's Parent Resource Center to find out more information about his expected arrival time. When I call, I have had to wait 45 minutes or longer to speak to a representative. Many times, even after waiting 45 minutes, I am never connected to a representative, and even if I am connected, the representative rarely provides useful information about the location of the bus or the estimated time of pick-up or drop-off for H.D.

14. I called the Parent Resource Center on February 28, 2024 to find out the status of H.D.'s bus. I was told by the representative that they cannot track individual students and they do not have the capability for me to track H.D.'s location when he is on the bus. The representative also told me that not all buses have GPS tracking. Without GPS tracking, it becomes a game of telephone between the representative calling the bus and/or terminal to find out where the bus is and the status of its arrival and then relaying the information back to me.

15. For the 2022-2023 and 2023-2024 school years, St. Coletta's school day starts at 8:30 AM. The school days ends at 3:00 PM on Monday, Tuesday, Thursday, and Friday, with an early dismissal at 12:30 PM on Wednesdays. St. Coletta operates on an 11-month school year.

16. From August 29, 2022 to September 26, 2023, out of 201 morning bus rides, H.D. was picked up from home late 57 times and early a couple of times.

17. From August 29, 2022 to September 26, 2023, which totals 194 days, H.D. was dropped off late at home every day, except one. H.D. arrived home over an hour past his drop-off time 136 of those 194 days.

History of OSSE DOT Failures

2022-2023 School Year

18. H.D. was regularly picked up and dropped off late by OSSE DOT during the 2022-2023 school year.

19. In the fall of 2022, my husband or I had to drive H.D. to school 6 times when the bus was late or did not show up.

20. From January 9, 2023 to April 14, 2023, my husband or I had to drive H.D. to or from school 8 times because the bus was late or did not show up.

21. The week of January 9, 2023 alone, my husband or I had to drive H.D. to school three times in the morning and home two times in the afternoon. During this week, H.D.'s bus broke down in front of the school as it was leaving to take H.D. home. I did not receive any communication from OSSE DOT. I came and picked up H.D. from school when a staff member at St. Coletta called and informed me.

22. H.D. was regularly dropped off at home between 4:00 PM and 5:00 PM, which was one to two hours later than his scheduled drop-off time. For example, on March 3, 2023,

H.D. did not arrive home in the afternoon until 4:45 PM, an hour and 45 minutes after school got out. He arrived home with a soiled diaper and urine on his pants because of the long bus ride.

23. On days when H.D. had a half-day, he arrived home thirty minutes to over an hour late from his scheduled drop-off time.

24. H.D.'s afternoon bus routing schedule is unrealistic. His current scheduled drop-off time is 3:09 PM, but the bell time at St. Coletta's is 3:00 PM. From January 2023 to August 2023, H.D.'s scheduled drop-off time was 3:10 PM. It takes approximately thirty minutes for the bus to get from St. Coletta to my house. The only way H.D. could be home by OSSE DOT's anticipated drop-off time is if he was picked up before bell time. In fact, on October 31, 2022, H.D.'s bus departed St. Coletta's before the end of the school day, but he was still dropped off late.

25. On February 10, 2023, OSSE DOT did not take H.D. home from school because the bus did not have an anchor for his safety harness. I did not receive a notification from OSSE DOT about this issue. Instead, I received a call from a staff member at St. Coletta. I drove to St. Colleta and picked up H.D. H.D. did not arrive home until after 5:15 PM.

26. On April 13, 2023, just before 10:00 AM, I received a text and call that the bus would be 40 minutes late. However, by the time I received this text, it was an hour and a half after his scheduled pick-up time, and my husband had already arranged for a neighbor to take our daughter and decided to drive H.D. to school because he did not want to wait any longer and make H.D. late.

27. H.D. continued to be picked up late in the morning during the summer, sometimes egregiously late. For example, on July 18, 2023, the bus arrived an hour and fifteen minutes late

to pick H.D. up for school and on July 19, 2023, the bus was 40 minutes late. On July 24, 2023, the bus was 50 minutes late without any notice from OSSE DOT that H.D.'s route was delayed.

28. On days when there was an early dismissal, H.D. was also regularly dropped off at home late. For example, on May 26, 2023 and May 31, 2023, H.D. was not dropped off at home until 2:10 PM, an hour and fifteen minutes after his scheduled drop off time. I was not notified that he would be late, and I did not know where he was during this time. He was not provided water during these lengthy trips.

29. Throughout the summer, H.D. would arrive home between 4:45-5:00 PM, almost two hours later than he expected. H.D. would arrive home distraught and dehydrated. He often had a soiled diaper. He was not provided water during these lengthy bus trips.

2023-2024 School Year

30. During the 2023-2024 school year, the bus consistently arrives late to pickup H.D. in the morning and drops him off at home late in the afternoon. My husband or I continue to drive H.D. to school when the bus is late.

31. On the first day of school, August 28, 2023, H.D. could not take the bus because it arrived without an anchor for his safety harness. H.D. was upset by the disruption in his schedule and he was forced to wait longer to get to school because my husband was using the family car to drop my other two children off at school. Because of these delays, H.D. was dropped off at school almost an hour late on the first day.

32. Again, on November 7, 2023, the bus could not transport H.D. to school because it did not have the anchor for his safety harness. I had to take H.D. to school that morning.

I filed a complaint with the Parent Resource Center and was told the anchor would be on the bus for H.D.'s afternoon route. This was the only time a complaint I filed with the Parent Resource Center was resolved.

33. The bus also often fails to arrive on time in the morning to pick up H.D. For example, on September 11, 2023, the bus did not show up in the morning. I did not receive a text or call about the missing bus. When I called the Parent Resource Center, they did not have an estimated time when the bus would show up. We drove H.D. to school, and because of the delay, I was late to a medical appointment and my husband was late to work.

34. On January 4, 2024, the bus arrived and left without H.D. even though my husband asked the bus driver to wait for a few minutes to get H.D.'s shoes and safety harness on. My husband had to drive H.D. to school.

35. In the afternoons, H.D. arrives home late, between 4:00 PM and 5:00 PM, and I rarely receive communication from OSSE DOT about the delay. For example, on October 31, 2023, H.D. arrived home an hour late; on December 18, 2023, he arrived home around 4:15 PM, when his scheduled drop-off was 3:08 PM; on February 23, 2024, H.D.'s bus arrived home at 5:30 PM. On days when H.D. has a half-day, he arrives home thirty minutes to over an hour late from his scheduled drop-off time.

36. Because of the long bus rides in the afternoon, H.D. has urinated out of his diaper on multiple occasions, including, but not limited to, October 30, 2023, November 1, 2023, and November 2, 2023. For four straight school days at the end of February 2024, H.D. came home late and he had urinated out of his diaper. In February 2024, his diaper was so full it seeped through to his jacket.

37. To my knowledge, H.D. is not provided with water or food on the trips where he is on the bus for an extended period of time.

38. H.D. is still experiencing delays in his transportation to and from school.

Impact of OSSE DOT's Unreliable Transportation

39. As a result of OSSE DOT's inconsistent service, H.D.'s education has been negatively impacted. H.D. has been late to school on several occasions because of the bus's delays. If I drive him to school myself, he is still occasionally late to school because I must first drop off my other children. Because H.D. relies on routine, he will become agitated and anxious when the bus is even 15 minutes late. It can take up to an hour to calm H.D. down from his heightened state.

40. When H.D. is late to school, he misses breakfast, morning meeting, and instructional time.

41. Long delays or rides on the bus exacerbate H.D.'s tantrums. These long bus rides cause H.D. to come home and release his energy by acting out and throwing his toys.

42. When he comes home from school, he is often soiled, agitated, hungry, and dehydrated because of the long bus rides and his inability to move, eat, or drink in his safety harness for a long time. The long bus rides also increase his chances of a soiled diaper. When H.D. pees out of his diaper, he arrives home wet, uncomfortable, and in significant distress. In the summer months, H.D. has arrived home hot and sweaty when the bus does not have working air conditioning.

43. When H.D. is late to school he misses social interactions with his peers during morning meeting and missed instruction from his aide, which includes help with food and drink at breakfast.

44. At least two to three times a week, H.D. arrives home with his safety harness improperly secured. On multiple occasions, I have seen the straps by his legs improperly fastened putting him at risk of slipping out of the harness. On at least two occasions in January and February 2024, the bus dropped H.D. off at home with his safety harness incorrectly applied and the straps tied behind his neck. Because of these repeated instances, I worry that the staff are not trained on how to use H.D.'s safety vest and his physical safety is at risk.

45. Because of H.D.'s consistent late arrivals, I had to stop critical therapy for H.D. because he could not make his therapy sessions on time. If OSSE DOT could reliably drop H.D. off at home on time, I would reenroll him in these services.

46. My family only has one car. I also have two other children who attend different schools than H.D. and require transportation to and from school with the family car. Therefore, when I drive H.D. to school, I must decide which of my children to take to school first and which ones may need to be late. It takes approximately thirty minutes to drive H.D. to St. Coletta.

47. On days I am able to provide transportation to H.D., I incur the cost of gas. I have not received reimbursement from OSSE DOT for these costs.

48. In addition to the monetary costs of taking H.D. to and from school, my husband and I have missed work by having to take H.D. to school when the bus does not arrive or is late. I frequently worry about when, if, and how H.D. will get to school. I wake up each morning without knowing whether I can even go to work because the bus might be late or might not arrive at all. OSSE DOT's unreliable and inconsistent communication has affected my ability to participate in my job, such as attending meetings or even accomplishing work in the morning, because H.D.'s transportation is in a perpetual state of flux.

49. I have advocated for H.D. at every level—from testifying at OSSE oversight hearings to filing complaints with the Parent Resource Center. *See Exhibit B (District of Columbia Council, Committee of the Whole Performance Oversight Hearing, February 28, 2024 Written Testimony)*. I have emailed numerous leaders at OSSE including, Dr. Christina Grant, the State Superintendent of Education at OSSE and Michael Riley, OSSE’s Director of Student Transportation. I have emailed and spoken to multiple D.C. councilmembers, including Zachary Parker, Christina Henderson, Robert White, and Chairman Phil Mendelson. I also emailed Ward 5’s State Board of Education representative Robert Henderson. I met with former OSSE DOT Director Gretchen Brumley on September 14, 2017, and seven years later, H.D.’s transportation continues to be unreliable and unsafe.

50. Despite my best attempts, OSSE DOT continues to pick H.D. up late for school and drop him off late in the afternoon.

Exhaustion of Administrative Remedies

51. Because of the ongoing problems with H.D.’s transportation and my concerns about OSSE DOT’s ability to implement viable long-term solutions, I filed a Due Process Complaint with OSSE’s Office of Dispute Resolution on September 20, 2023. A hearing was held on November 30, 2023, and I received a decision from the Hearing Officer on December 11, 2023. *See Exhibit C (Hearing Officer Determination, Hearing Officer Keith L. Seat, 12/11/2023)*.

52. The Hearing Officer found that OSSE failed to implement H.D.’s IEP and denied H.D. a FAPE by their ongoing failure to provide consistent, reliable, and appropriate transportation to H.D.

53. The Hearing Officer ordered compensatory education in the form of payment for a 6-week summer camp, including transportation to camp, and reimbursement for the expenses I incurred when I had to transport H.D. to school. I have not received any reimbursement.

54. The Hearing Officer also ordered OSSE to comply with H.D.'s IEP, notify me of any changes to H.D.'s transportation, including changes to his route, delays, and cancellations, and improve their transportation services for H.D.

55. Despite the Hearing Officer's order, OSSE is not arriving on time and not complying with Henry's IEP.

56. I am seeking that OSSE DOT provide reliable transportation, including on-time pick-ups and drop-offs, a reasonable amount of time on the bus, and bussing as promised in H.D.'s IEP during the extended school year. I am also seeking that OSSE DOT provide regular and accurate communication about the location of my son and estimated pick-up and drop-off times. H.D. requires this in order to receive FAPE and to have equal access to his education and to ensure he is not unnecessarily segregated from his peers.

57. My attorneys have informed me of the responsibilities of a class representative and I am willing to protect the interests of the class.

58. I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated this 5 day of March, 2024 at Washington, District of Columbia.


Elizabeth Daggett, Plaintiff

EXHIBIT 1-B

Dear Chairman Mendelson and Councilmembers.

My name is Elizabeth Daggett, and my family and I have lived in Brookland since 2005.

My written testimony is to – again – ask the DC Council to provide the education and services that the city’s most vulnerable student population needs and is entitled to. The DC Council must hold OSSE accountable to provide reliable and safe transportation services, which it currently fails to do and has never done well in the 10 years we’ve used it. And the DC Council must provide the gap funding to St. Coletta to cover all operating costs – a minimum of \$1M annually.

OSSE transportation accountability

Since January 9, 2023, the families in DC who rely on OSSE to provide transportation have encountered the worst service and communication in the 10 years we’ve used the service. It is over a year later and OSSE still cannot provide service for all routes or accurate communication.

Since that time, we’ve had to drive our son, [REDACTED], to or from school multiple times due to a severely late or down bus. On Friday, our son didn’t get home until 5:30pm, when school ends at 3pm, because there was no bus to bring him home. We didn’t receive any communication from OSSE and only knew of the issue because St. Coletta called us. He regularly gets home between 4:30-5pm, when school ends at 3pm. One time he didn’t arrive home until around 5:15pm because the bus that came for pick-up didn’t have the latch needed for his safety harness, so they left him at school until another bus could come. Another time was because the bus broke down in front of the school. Again, we didn’t receive any communication from OSSE when these incidents occurred and only knew of the issue because St. Coletta called us. During this time, we’ve received texts/robocalls that are too cryptic to be of any help (e.g. “Transportation is currently awaiting; No ETA as of 7:30am”) or were inaccurate (e.g. received the text quoted, but bus came as usual, then received a text an hour later that it was en route). We’ve also seen that the daily DOT update website (<https://osse.dc.gov/page/daily-dot-updates>) that was stood-up for this current situation doesn’t provide accurate information. Once we saw that the bus was down on the website, only to have it show up on time. Through all of this experience, we are still one of the lucky families as there are so many that haven’t had any service for weeks or months at a time and their livelihood was severely impacted.

OSSE has said that the main reason for this current service disruption is the driver shortage and “callouts.” OSSE may not be able to control callouts, but it can plan for known events, such as a driver shortage. The driver shortage is not new as of the beginning of 2023 and there wasn’t the major service disruption in the fall of 2022 or the first week of January 2023. There were around 60 bus driver retirements that occurred in December 2022, which OSSE didn’t plan for either. In all this time, OSSE has held one hiring fair in February 2023. OSSE could have proactively addressed the driver shortage issue, but didn’t, and they haven’t addressed it now.

Submitted by Elizabeth Daggett
Education Agencies Performance Oversight Hearing
February 28, 2024

OSSE has also said that it had to re-route all students because the new software that was implemented wasn't working as needed, so they had to revert to the old software. That re-routing was effective January 9, 2023, and contributed to this "perfect storm" of a service and communication failure. Is this the same software that OSSE piloted in 2019, but hasn't implemented (a "Next Bus"-type app and a "parent portal")? (See Transportation Advisory Council meeting minutes from March 27, 2019, and October 3, 2019) Where has the taxpayer money gone for those communication improvements?

Enclosed is my testimony the briefing paper that I provided to my Ward 5 Councilmember, Zachary Parker, and the staff of Councilmember Robert White at the end of January 2023 that details the situation at that time and the short- and long-term solutions that I suggested. I have also spoken with Dr. Grant and Michael Riley, OSSE DOT director, throughout this crisis and provided the same short- and long-term solutions to them. The solutions include improving bus status communication via improved automated texts/robocalls and ultimately a "Next Bus"-type app; improving the reimbursement process and expanded coverage; better succession planning; and increasing family participation. None of my solutions have been implemented and neither bus service nor communication has improved.

Note that the service and communication issues with OSSE transportation are not new - it is just that this current crisis is the worst we've ever encountered. I met with Gretchen Brumley (former OSSE DOT director) on *September 14, 2017* and the issues are still the same – poor service, unreliable communication, missed education, etc. – as are the solutions that I suggest. As this document and my interactions during this fiasco prove, I've tried to work with OSSE DOT for years and they haven't made the necessary changes or improvements.

When a route is impacted, families have to decide to wait for the bus (if not a down route) or figure out a way to transport their disabled child to school – in addition to get to work/appointment, pay for gas/transportation, get other children to school, etc. Over the past year, we've had to drive our son to/from school almost 20 times, which is at least an hour round-trip. Families shouldn't have to *hope that the bus will operate as promised on a daily basis.*

Please see this article by Theresa Vargas of the Washington Post, as it accurately describes what so many families have had to deal with during this spring 2023 debacle: <https://www.washingtonpost.com/dc-md-va/2023/02/08/disabled-students-buses-dc/>

And her follow-up at the beginning of the 23/24 school year:
<https://www.washingtonpost.com/dc-md-va/2023/08/30/school-bus-disabled-students-dc/>

Here are articles by Martin Austermuhle at DCist/WAMU and Sam P.K. Collins at the Washington Informer on the spring 2023 situation:

DCist: <https://dcist.com/story/23/01/20/students-with-disabilities-face-barrage-of-school-bus-delays-in-dc/>

Washington Informer - <https://www.washingtoninformer.com/bus-service-cuts-highlight-woes-of-special-needs-students/>

<https://www.washingtoninformer.com/d-c-parents-demand-clarity-from-osse-on-continuing-bus-delays/>

<https://www.washingtoninformer.com/special-needs-families-tackle-school-placement-out-of-school-time-quandaries/>

Here are links to media stories that report the continued transportation issues that families have encountered since the beginning of 2023:

John Gonzalez at WJLA - <https://wjla.com/news/local/dc-school-bus-disruption-special-needs-students-hiring-challenge-retaining-driver-shortage-staffing-callouts-delayed-pick-up-drop-off-parent-reimbursement-uber-lyft-superintendent-dcps-education>

<https://wjla.com/amp/news/local/dc-school-bus-disruptions-special-needs-students-disabilities-hiring-retaining-driver-call-outs-parents-superintendent-incentives-dcps-transportation-issues-routes-drop-off-council-district-education-osse>

John Henry at WUSA - <https://www.wusa9.com/article/news/education/dc-school-bus-delays-students-special-needs/65-fdbcf559-82ce-407c-9978-b856fd2fc00c>

Delia Goncalves at WUSA - <https://www.wusa9.com/article/news/local/dc/dc-parents-say-unreliable-bus-service-harms-students-with-special-needs/65-b549b105-3272-4bd4-aa67-9eebdaf0dde5>

Mariel Carbone at DC News Now - <https://www.dcnewsnow.com/news/local-news/washington-dc/bus-delays-cancellations-impacting-dcs-most-vulnerable-students/>

<https://www.dcnewsnow.com/news/local-news/washington-dc/dc-parents-say-school-bus-delays-cancelations-persist-weeks-into-new-year/>

<https://www.dcnewsnow.com/news/local-news/washington-dc/osse-leadership-addresses-ongoing-delays-to-bus-service/>

<https://www.dcnewsnow.com/news/local-news/washington-dc/anc-asks-mayor-council-to-investigate-school-bus-service-issues/>

Bob Barnard at Fox5 - <https://www.fox5dc.com/news/investigation-after-dc-mom-unable-to-locate-son-with-autism-after-school-amid-bus-driver-shortages>

Here are links to media stories since 2016 that report the consistent transportation issues that families have encountered:

2022 - Sam Ford at WJLA – late bus/mother pays for daily transportation - <https://wjla.com/news/local/bus-assigned-dc-georgetown-take-special-needs-student-idon-school-late-mother-uber-lyfr-driver-shortage-staff-hardy-middle-dmv#>

Late bus/mother pays for daily transportation - <https://wjla.com/news/crisis-in-the-classroom/joann-mccray-dc-mom-spends-80day-to-take-her-son-jdon-chisley-from-southeast-to-special-ed-classes-in-georgetown-office-of-the-state-superintendent-of-education#>

2018 - Michael Quander at WUSA – student left on bus for hours/no communication - <https://www.wusa9.com/article/news/local/dc/pissed-is-an-understatement-8-year-old-with-autism-stuck-on-dc-school-bus-for-hours/65-613846630>

Student left on bus for hours/no communication - <https://www.wusa9.com/article/news/local/dc/investigation-launched-after-child-with-autism-was-stuck-on-school-bus-for-hours/65-614238795>

2016 - Pete Muntean at WUSA – Bus late for weeks - <https://www.wusa9.com/article/news/local/dc/special-needs-school-bus-runs-late-for-weeks-says-dc-mom/65-376252503>

Tisha Lewis at Fox5 – Student left on bus - <https://www.fox5dc.com/news/dc-student-left-alone-on-school-bus-for-over-an-hour-before-being-discovered>

The OSSE DOT system is responsible for transporting eligible students with disabilities in DC to school each day so they can receive their legally mandated educational hours. (Section 504 of the *Rehabilitation Act of 1973* requires a school district to provide a “free appropriate public education” (FAPE) to each qualified person with a disability.) For over a year, students have missed educational hours and services that are required by their Individualized Education Program (IEP). OSSE hasn’t discussed if it is tracking hours and services missed due to transportation delays or failures and what types of compensatory hours or services it is planning to offer.

The students eligible for transportation are the city’s most vulnerable population, as they have significant disabilities, are medically fragile, and/or need consistency of routine to function well. It is already a heavy lift for families to care for a disabled child, but when the support services break down, it is overwhelming. It is unsustainable for families to have to continue to figure out student transportation and unacceptable that OSSE allowed this dire situation to happen.

I'm extremely frustrated and disappointed as it seems to demonstrate that DC isn't providing the required services to disabled students and their families - again. In 1995, parents brought a class action suit against DC (*Petties v. DC*) that included a failure of OSSE to provide safe, timely, and appropriate transportation services. In 2003, a Consent Order was issued for a court-appointed, independent Transportation Administrator to "assume responsibility for the transportation needs of students with disabilities." The 2003 Consent Order specifically required the Transportation Administrator "to implement the necessary meaningful long-term institutional improvements to ensure the safe, timely and appropriate provision of transportation services to students with disabilities in the District of Columbia." The court-appointed Transportation Administrator was in place for almost 10 years (vacated December 19, 2012) and yet we still have the same problems today – unreliable and untimely transportation – as those that caused the lawsuit and court monitoring. Do parents have to file suit again to get OSSE to provide the transportation that they are charged with and funded to provide? The bus drivers, attendants, and PRC staff are professional and caring – this is an administrative failure by OSSE.

Therefore, the DC Council must hold OSSE accountable to provide the consistent bus service and communication systems that they have promised and that are severely needed, as clearly evident from this current service failure. OSSE DOT has failed students and families for too long.

Gap funding for St. Coletta

My 13-year-old son, [REDACTED], is one of the happiest and most loving kids you will ever meet. He was also born with a genetic mutation that causes global developmental delay, epilepsy, and significant hyperactivity. Due to his condition, there are very few school options for him – public or private. When he was three years old, he was placed at a DCPS school, but it couldn't support his needs. We moved him to a better situation for his elementary school years at a DC public charter school (PCS). For middle school and beyond, we were so happy when he was accepted at St. Coletta. It has been a great fit for him and his needs. St. Coletta is a PCS that provides the education and services for ~250 intellectually disabled students.

So, I'm upset that St. Coletta is struggling financially due to an action taken by the DC Council and that it may be forced to close. My understanding is that Mayor Anthony Williams and the DC Council asked St. Coletta to move to DC from Alexandria, VA around 2000. DC provided the land, but no funding for the building, which St. Coletta raised on its own.

After the groundbreaking in early 2004, DC told St. Coletta it had to be a PCS to make it easier for DC students to enroll. However, the uniform per pupil formula did not provide enough money to fund all the operating costs and services for students, due to their high level of need.

Submitted by Elizabeth Daggett
Education Agencies Performance Oversight Hearing
February 28, 2024

When St. Coletta opened at its current location in September of 2006, DC signed a memorandum of understanding (MOU) to provide gap funding between the uniform per pupil formula funding and the actual operating costs of the school. The District provided the gap funding for years, but the DC Council revoked the MOU to end the gap funding in 2018.

Although the Council provided \$1M last year, St. Coletta has lost \$3M since 2018 and cannot cover the expenses to provide the necessary services, such as in-house speech therapy/physical therapy/occupational therapy, dedicated aides, assistive equipment, etc., for its students solely based on the uniform per pupil formula funding. As a PCS, St. Coletta must also cover all administrative and building expenses.

The uniform per pupil formula has increased over the years, but at St. Coletta that funding only covers the special education teacher in each class and not all the support staff, therapists, specialists, and resources. To attempt to address this disparity, DC has said it would conduct an adequacy study, as it hasn't ever assessed how much it takes to provide the education and services for the students at St. Coletta. However, this adequacy study is not completed and St. Coletta cannot cover the budget shortfall until it is completed and additional funding is provided.

When St. Coletta was asked to move to DC, it was to address many of the concerns about DC failing to provide adequate education to disabled students from the various lawsuits and court-monitoring (See *DL vs. District of Columbia*, *Blackman-Jones vs. District of Columbia*, and *Petties vs District of Columbia*). If St. Coletta were to close, there is no other viable option in DC for students like my son, REDACTED

To fulfill its promise when St. Coletta moved to DC, the DC Council needs to provide the gap funding of \$1M/year that St. Coletta needs to provide the extensive staff and services that are necessary for the student population served. The DC Council also needs repay the gap funding of \$3M for the years when the DC Council did not honor its promise. I believe that providing the gap funding to St. Coletta would be much less than the cost for OSSE to place 250 intellectually disabled students in private facilities.

Conclusion

The DC Council needs to provide the education and services that the city's most vulnerable student population needs and is entitled to. It must hold OSSE accountable to provide reliable and safe transportation services for the students entitled to receive it and funded by District taxpayer funds. And it must provide the gap funding to St. Coletta to cover all operating costs – the \$3M that was withheld and the \$1M annually. Thank you for your attention to these issues and in advance for your action to resolve them.

Submitted by Elizabeth Daggett
Education Agencies Performance Oversight Hearing
February 28, 2024

Paper sent to OSSE – Dr. Grant and Mr. Riley – and Councilmembers Parker and White in January 2023

Office of the State Superintendent of Education Department of Transportation (OSSE DOT) Issues

The purpose of this document is to describe the short- and long-term service and communication issues of the OSSE DOT system and provide suggestions for improvement. My expectation is that OSSE will commit to implementing most, if not all, of the short-term suggestions within the next two weeks and will conduct a sincere review for implementation of the long-term suggestions during the same time. *I am requesting a response and update on the current transportation issues and implementation of actions to correct those issues in two weeks.*

Background

The OSSE DOT system is responsible for transporting eligible students with disabilities in DC to school each day so they can receive their legally-mandated educational hours. The eligible students are the city's most vulnerable population, as they have significant disabilities, are medically fragile, and/or need consistency of routine to function well. It is already a heavy lift for families to care for a disabled child, but when the support services break down, it is overwhelming.

Over the winter break, OSSE informed families that the bus routes would change, effective Monday, January 9, 2023. No reason was given for the re-routing of the system. The buses operated on the fall schedule for the week of January 3, and there were no major issues. The current transportation disaster started on January 9 and includes some families who haven't had bus service since January 6. By my estimation, ~500 families per day have been affected since January 9.

OSSE says that the service and communication issues were caused by employee callouts, a bus driver and attendant shortage, the need to switch to a new routing system, and a significant number of retirements in December. It is possible this was a 'perfect storm,' but service and communication issues are not new and the current situation reflects a new low.

Communication

OSSE has mostly failed at communication for the nine years that my son has used it. OSSE has failed to notify us when the bus was in an accident or had broken down (twice; once was within the past two weeks). The texts/robocalls used to notify families of route issues include limited information (e.g. "late, no ETA," "late, unavailable") that doesn't help families make informed decisions and it oftentimes is inaccurate (i.e. we get a notice the bus will be late, but it arrives on time; notice arrives after we call the PRC; no notice of broken down bus).

The only option families have is to call the Parent Resource Center (PRC). However, the wait times over the past couple of weeks have been significant, as I've experienced with three calls that took >45 minutes to be answered. Once you get through, the PRC representatives are very professional, but they are not equipped with on-hand knowledge to give families meaningful information and have to call "the terminal" to try to obtain more information. Families experienced with the transportation can usually assess how late the bus will be if they know the cause of the lateness, but they shouldn't have to divine this information.

Service

Submitted by Elizabeth Daggett
Education Agencies Performance Oversight Hearing
February 28, 2024

OSSE DOT service has been “okay” for the nine years that my son has used it. Prior to the last two weeks, we had six days this school year when the bus was either delayed or down in the morning, which adversely affected our family. Families shouldn’t have to *hope that the bus will operate as promised on a daily basis*. I know of a family that for the entire 2021-2022 school year, their child was on a route on “go back” every other week due to staffing issues. This meant that, every other week, the child was picked up 1.5 hours later than scheduled each morning. I also have documentation of contacting my Ward 5 Councilmember about significant OSSE transportation issues in September 2017, January 2020, and October 2021.

Per the DCist article (<https://dcist.com/story/23/01/20/students-with-disabilities-face-barrage-of-school-bus-delays-in-dc/>), OSSE is responsible for transporting ~3700 students, which requires 530 buses.

From an email with an employee in the OSSE Chief of Staff’s office:

- On Monday, January 9, there were 20 missed routes in the morning and 32 missed in the afternoon. OSSE said this was due to 109 employee callouts. There were 2261 calls to the PRC.
- On Friday, January 13, there was 1 missed route in the morning and 1 missed in the afternoon. OSSE said this was due to 79 employee callouts. There were 665 calls to the PRC.

This data is incomplete and doesn’t portray the reality that families faced those days. For example, I received a text/robocall on Friday morning that the bus would be “late,” but no further details. I called the PRC but was on hold the entire time it took for me to decide to drive my son and arrive at school (45 minutes). I wasn’t counted as a “call,” since I hung up, and the route wasn’t considered a “missed route” as the bus eventually came after it finished its first route (either as “doubled up” route or “go back” route). On Friday afternoon, my son didn’t arrive home until 4:55pm because his route was doubled up, so it wasn’t considered a “missed route.” And, I didn’t call the PRC as a parent of another student on the route texted me the situation. My son was not successfully transported to or from school by OSSE DOT and the “data” doesn’t reflect the associated communication and transportation failures.

From the OSSE daily update started last week (<https://osse.dc.gov/page/daily-dot-updates>):

- On Tuesday, January 17, there were 106 routes impacted (delayed, doubled up, go back or down) in the morning and 18 routes in the afternoon.
- On Wednesday, January 18, there were 81 routes impacted (delayed, doubled up, go back or down) in the morning and 36 routes in the afternoon.
- On Thursday, January 19, there were 108 routes impacted (delayed, doubled up, go back or down) in the morning and 13 routes in the afternoon.
- On Friday, January 20, there were 104 routes impacted (delayed, doubled up, go back or down) in the morning and 14 routes in the afternoon.
- On Monday, January 23, there were 119 routes impacted (delayed, doubled up, go back or down) in the morning and 79 routes in the afternoon.
- On Tuesday, January 24, there were 81 routes impacted (delayed, doubled up, go back or down) in the morning and 2 routes in the afternoon.

Although OSSE says that it has taken immediate steps to address the staffing shortages, to include attendance incentives and will host a job fair in February, the routes (and therefore families) impacted are still significant. When a route is impacted, families have to decide to wait for the bus (if not a down route) or figure out a way to transport their disabled child to school – in addition to get to work/appointment, pay for gas/transportation, get other children to school, etc. For the week of January 9, we had to drive our son to/from school 5/10 times, which is at least an hour round-trip. It is unsustainable for families to have to continue to figure out student transportation, when OSSE is supposed to be responsible.

Short-term Actions

For this specific situation, OSSE has taken a step in the right direction by providing the list of routes impacted in the morning and afternoon and updating it (<https://osse.dc.gov/page/daily-dot-updates>). This list provides families with the information they need to plan their day and make informed decisions. Families want the bus system to function reliably and consistently, but if it doesn't, they want accurate information.

Suggestions

- Fill staffing shortages – OSSE needs to use all resources (human, monetary, regulatory, etc.) to completely staff all bus routes and provide for backups.
 - Increase attendance incentives and incentivize staff who retired to return to work.
 - Research and use any Federal waivers or funds (pandemic or otherwise) to fill the driver shortage (such as included in this ED press release: <https://www.ed.gov/news/press-releases/us-department-education-announces-joint-temporary-action-us-department-transportation-help-address-school-bus-driver-labor-shortage>). If the FMCSA waiver is no longer available, lobby ED and DOT to renew the waiver.
- Improve bus status communication –
 - The current texts/robocalls are unhelpful to families. The automated messages need to include better information, such as “bus broken down, sending replacement,” “route down, on go back,” or “bus hasn't left terminal/school yet.”
 - Each bus could have a phone or other communication device that could notify families when the bus is starting its route (in the morning or afternoon) or when there are delays.
 - In addition to estimated pickup/dropoff times, OSSE DOT could inform each family what time the bus is scheduled to leave the terminal/school and the stop number their child is. Families could use that to calculate when the bus should arrive once notified of the route starting.
 - At a minimum, OSSE DOT needs to require bus drivers to notify the terminal and PRC of their status (which apparently is not a current requirement).
- Increase family participation – OSSE needs to hear directly from users of the bus system to ensure any actions/changes are meaningful. Distribute a survey to families and/or hold listening sessions at schools. Convene the Transportation Advisory Council (TAC), which includes

representatives of families, schools, and other stakeholders, to review and provide feedback on proposed actions/changes.

- Improve reimbursement process – Families can be reimbursed for self-travel or ride-shares, but it requires the submission of a form and W-9 and the processing takes up to 60 days. The burden is on families to submit paperwork and wait – all for something that was OSSE’s responsibility. Reimburse families directly or provide a stipend (which was under consideration by OSSE last year). I know of families for whom reimbursement took >90 days or hasn’t been received at all.

Long-term Improvements

The service and communication issues are not limited to this crisis or specific set of circumstances, but are on-going and systemic. By failing to address these issues, OSSE has demonstrated that the transportation of disabled students is not important and there hasn’t been accountability.

Suggestions

- Provide real-time bus status – In 2019, OSSE DOT promised a “Next Bus”-type app for families to use to track and contact the bus and piloted a “parent portal” (not Aspen). I don’t know the status of those projects, but their implementation was to allow families to directly access and update information regarding their child’s transportation. Families would not have to rely on the PRC as the only information source. An interactive, real-time communication app is the #1 request from families. If there is no money in the budget, set up a public competition to create such an app and promote it at local universities and high schools.
- Improve succession planning – OSSE cannot control callouts for illness or similar issues or worker shortages, but it can control how it ensures a full workforce. Part of the current driver shortage was the significant number of retirements that occurred in December. Any well-run organization would plan for retirements by tracking staff who are eligible to retire or at retirement age, polling on retirement planning, and preemptively hiring staff to provide an immediate backfill of those positions.
- Improve route implementation planning – Besides notifying families of the new routes, OSSE DOT didn’t appear to plan for the implementation of the new routes. Bus service is always disrupted when the routes change, as drivers are learning the routes, but OSSE should have developed contingency plans for known potential issues.
- Expand reimbursement coverage - Families should be reimbursed for their *time* to transport their children to attempt to make them whole. This would help hold OSSE accountable and incentivize them to ensure they provide a transportation system that operates consistently and reliably. The unexpected time off of work to transport can have real and serious effects on a family’s livelihood.

Conclusion

Submitted by Elizabeth Daggett
Education Agencies Performance Oversight Hearing
February 28, 2024

Addressing the staffing shortage and improving the reimbursement process may take more time, but I believe that it is a reasonable expectation for OSSE to implement the bus status communication and family participation short-term actions within the next two weeks. I request an update on the status of all the short- and long-term suggestion topics and on actions taken by OSSE in two weeks, with specific emphasis on eliminating the staffing shortage.

Families want and need for OSSE to meet its obligation to provide a transportation system that functions properly. The ripple effect of unstable or failed transportation is significant to families and OSSE doesn't seem to get it.

EXHIBIT 2

DECLARATION OF VERONICA GUERRERO

COMES NOW, Veronica Guerrero and pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

1. My name is Veronica Guerrero, and I am over 18 years old. I have personal knowledge of the facts as stated herein.
2. I speak Spanish, but this declaration was translated for me. I do not read or speak English.
3. I am the parent of A.F., who is a 14-year-old student at St. Coletta of Greater Washington, also known as St. Coletta Special Education Public Charter School, a full-time special education public charter school in Washington, DC. We are both District residents.
4. My family and I are members of The Arc of the United States and we benefit from the advocacy The Arc does related to special education and integration of students with disabilities.
5. A.F. has autism and a seizure disorder.
6. A.F. has an Individualized Education Program (IEP) that identifies him as a student with autism. A.F.'s disability substantially limits his major life activities including, but not limited to, learning.
7. A.F.'s IEP classifies him as a Medically Fragile Student and entitles him to special education transportation through the Office of the State Superintendent for Education's Division of Transportation (OSSE DOT). *See* Exhibit A (IEP, St. Coletta Special Education PCS, 05/10/2023).
8. A.F.'s most recent IEP for the 2023-2024 school year states that OSSE must provide him with a vehicle equipped with a ramp lift and specialized seatbelt. A.F. must also be transported in an adaptive stroller and a harness to and from school to ensure that he remains

seated, as A.F. will occasionally attempt to get out of his seat belt and harness. A.F. requires an additional five minutes of wait time and hand-to-hand transfer to get on and off the bus.

9. A.F.'s IEPs for the 2021-2022, 2022-2023, and 2023-2024 school years have required A.F. to have a dedicated aide sit next to him throughout the duration of a bus trip to provide support and ensure safe transportation to and from school. For the past three school years, A.F.'s IEP has limited his bus ride to one hour.

10. The adaptive stroller, additional wait time, and specialized training for his aide were added in December of 2022 after series of incidents on transportation in September and October of 2022. *See* Exhibit B (Amended IEP, St. Coletta Special Education PCS, 12/14/2022).

11. Since A.F. entered the District of Columbia Public School system in 2012, I have encountered consistent issues with transportation provided by OSSE DOT to A.F.

History of OSSE DOT Failures

2022-2023 School Year

12. As a result of OSSE DOT's failures, A.F. missed 11 days of school, arrived late to school 90 times, and was home late nearly every day during the 2022-2023 school year.

13. At the start of the school year, OSSE sent a bus that did not have the proper safety harness and A.F. could not ride for the first few days of school. At least once, the bus lacked a harness because OSSE DOT employees left it at A.F.'s school. On days that he could not ride the bus, I drove him to school. He still arrived late because we first waited to see if the bus would come. He arrived to school and got settled into his classroom around 45 to 50 minutes after the bell time.

14. The bus was frequently late starting in September and throughout the 2022-23 school year. If the bus had not arrived by 7:40 AM or 7:45 AM on a Monday, Tuesday, Thursday or

Friday, then I drove him to school. We would arrive around 9:10 AM, and he would get to his class around 9:20, about 50 minutes after the start of school. I did not have a car before the problems with his bus coming late. I got a car only so that I could start taking him to school.

15. St. Colletta has a half day on Wednesday and gets out by 12:30 PM. If the bus was late on Wednesday, I kept him home because by the time he arrived at school and got settled into class, he barely had any time left to learn.

16. In addition to the ongoing problems, there were several severe incidents in the 2022-2023 school year that caused A.F. to become very anxious about riding transportation. In September 2022, I saw that they were not properly using his safety harness and asked the bus attendant about it. She began to yell at me and tell me it was not her responsibility or problem. A.F. was not yet on the bus and got very agitated by this. I told her she needed to help him get on the bus safely. She continued to yell at me and I ended up falling on the curb and getting injured. A.F. ran away because he was so upset. He did not go to school that day, and he became very anxious about riding the bus. Over the next few weeks, he was very agitated whenever he had to board the bus in the morning and afternoon.

17. I filed a complaint with OSSE about the incident. OSSE called me back, but when they learned I spoke Spanish, they said they would have someone who spoke Spanish call me back. I never received a call back.

18. St. Coletta suggested that I stop the morning bus temporarily for a few weeks while they ordered him an adaptive stroller to use to board the bus. I felt I had no choice but to listen and stop the transportation temporarily because OSSE was not safely transporting him and I was not seeing an aide on the bus. I asked OSSE to stop transportation for two weeks while we worked to resolve these issues. I had to drive him to school myself during this time.

19. Although I requested OSSE to stop the bus for only two weeks, the bus did not start again until January of 2023 causing me to drive him to school for almost two months.

20. When the bus started coming again on January 3, 2023, OSSE sent a bus that could not manage his adaptive stroller and A.F. was not permitted to board. I drove him to school. They did not send an appropriate bus until the second week of January.

21. Throughout January 2023, the bus only occasionally came on time. When it was late, I often had to drive him to school and he arrived late.

22. Around this time, I retained Children's Law Center for legal representation. When they got involved and contacted OSSE DOT about transportation, the transportation issues began to improve in the morning.

23. A.F. was consistently dropped off late in the afternoon and had hour-long bus rides. For example, on December 16, 2022, A.F. was dropped off after 6:00 PM; on January 31, 2023, A.F. was dropped off after 5:30 PM; on March 8, 2023, the school dismissed the students at 12:00 P.M. and A.F. was not dropped off at home until 2:00 P.M.

24. Because he consistently arrived home late, both his therapists cancelled their services for him. Both of these services were ordered by his doctor. He needs therapy to address his aggressive behavior. Since he stopped getting this therapy, he has had a significant increase in aggressive behaviors at home, at school, and on transportation. His occupational therapist was working on important goals like toileting and feeding himself, which were complimenting the work he did toward his IEP goals at school. His progress has significantly slowed down or stopped since he stopped occupational therapy at home.

25. When A.F. arrived home late during the extended school year over the summer, he was often sweaty, overheated, and upset because the bus did not always have a working air conditioner. This is dangerous for him because the heat could trigger his seizures.

2023-2024 School Year

26. Although transportation has been somewhat better this year, there still have been days when A.F.'s transportation is late and I must drive him to school or keep him home. Every morning is stressful because we never know when the bus will come and we are left waiting to see if it will come on time.

27. During the fall of the 2023-2024 school year, A.F. missed approximately three days of school, was late to school 20 times, and dropped off late at home 55 times.

28. On September 11, 2023, I drove A.F. to school because his bus was late and I did not want him to be late for school. Again, on November 28 and 29, 2023, the bus did not arrive at all and I had to drive A.F. to school.

29. During the week of October 15, 2023, the bus usually arrived early for morning pick up at 7:40 AM or 7:50 AM, despite being scheduled to arrive at 6:55 A.M.

30. A.F. continues to be dropped off late in the afternoons. For example, on September 22, 2023, he arrived home at nearly 5:00 PM, an hour and a half after his scheduled drop-off time. During the week of October 15, 2023, A.F. was dismissed around 12:00 PM, but A.F. usually did not arrive home until after 3:00 PM.

31. We have been unable to restart his afternoon therapies because he is still not arriving home at a consistent time. Sometimes, he rides the bus for a very long time and sometimes they leave him at school as late as 5:00 PM, an hour and a half after the end of school, before going to pick him up. OSSE never notifies me when this happens and I have to try to call the school or

the Parent Call Center to ask about timing but they also cannot tell me where the bus is. I have put a tracker in A.F.'s backpack or I track his iPad to try to find out where he is since OSSE cannot or will not tell me.

Impact of OSSE DOT's Unreliable Transportation

32. A.F.'s education has been negatively impacted by OSSE DOT's transportation failures. A.F. is eager to attend school and is disappointed each time he misses school. When A.F. arrives to school late, he misses breakfast, valuable instruction, and time with his peers.

33. A.F. has trouble sleeping and will get agitated and upset when he misses school and does not have a consistent routine. Because of his disability, a consistent routine is very important. When his routine is disrupted, he will get very upset and become very aggressive. I try to calm him through therapeutic massage or other techniques, but I am not always able to. It takes him sometimes over an hour to calm down.

34. It is difficult when A.F.'s transportation is inconsistent because we cannot have a set routine in the morning. That is why I drive him to school if the bus is not here by 7:45 AM, but even then the routine varies from whether he will get picked up anywhere from 6:40 AM until 7:45 AM, which causes him stress.

35. Although A.F.'s IEP states that A.F. has a ride time limit of one hour, OSSE DOT has frequently dropped A.F. off late at home and caused him to be on the bus for many hours.

36. A.F. has lost the opportunity to have his therapies for the past year. There are long waitlists to get those services back in place again. Losing those services has not only harmed him at home, but also at school because he has increased aggression and stopped making as much or any progress in many of his IEP goals.

37. Because of A.F.'s seizures, I worry about A.F.'s physical safety on the bus and OSSE DOT's ability to monitor A.F.'s seizure activity and accurately communicate with me if anything happens. For example, at the start of the 2021-2022 school year, A.F. had a seizure while riding on the bus. I was never notified of this incident by OSSE. When I learned of the incident, I contacted A.F.'s doctors and neurologist who sent a letter to the school to inform them that A.F. could not be on the bus for lengthy periods of time due to his seizure disorder. Fearing for A.F.'s safety, I requested a nurse to accompany A.F. while riding the bus. When I called the Parent Resource Center to report this incident, OSSE took no remedial action and I was told that a nurse could not be provided to accompany A.F. I am unaware of any seizure plan to address A.F.'s diagnosis on the bus other than having the dedicated aide, who is not reliably on the bus.

38. OSSE DOT does not reliably provide a dedicated aide as required under A.F.'s IEP. His IEP notes that A.F. needs a dedicated aide for his safety because he will sometimes attempt to get out of his seat belt or safety harness. On several occasions, OSSE DOT has failed to provide A.F. with an aide on the bus causing A.F.'s physical safety to be at risk. I worry about A.F.'s safety should he suffer from a seizure or get out of his seat when riding to or from school when an aide is not present. The aide is also supposed to help with his physical aggression. However, without a consistent and well-trained aide, A.F. cannot be transported safely.

39. A.F.'s aide is also supposed to help with his physical aggression. There have been about five incident reports filed by the bus staff calling A.F. aggressive and saying he has behavioral issues. I worry that they misunderstand his disability and do not know how to help him.

40. I worry that the bus staff have not been properly trained to spot his seizures. His big seizures are easy to spot, but his smaller seizures are not. He is nonverbal and cannot express

when he is having a seizure. Because he does not have the same dedicated aide each day, if there is an aide at all, there is no consistency or familiarity developed with A.F. and his disabilities. I worry that his aides have not received the necessary training on seizure activity putting his health and physical safety in danger.

41. On days I am required to provide transportation to A.F., I drive forty-five minutes each way to take him to school. It is difficult to balance getting A.F. to school on time on the days when I also have to bring my daughter to District of Columbia International School (DCI), which is a 50-minute drive away from St. Coletta's. I have incurred the costs of gas when I have to take A.F. to school. I have not submitted reimbursement for these costs because the forms are in English and I do not understand how to submit them.

42. I receive text messages about A.F.'s transportation and they are always in English. When OSSE calls me, then only call in English. When I call OSSE, they only answer in English. Although I know I can request an interpreter and one will be provided, they do not tell me this is an option when I call, and I have to know to request it.

Exhaustion of Administrative Remedies

43. Because of the ongoing problems with A.F.'s transportation and my concerns about A.F.'s safety on the bus, I filed a Due Process Complaint with OSSE's Office of Dispute Resolution on December 19, 2023, regarding OSSE's failure to provide consistent and reliable transportation. A hearing was held on March 5, 2024, and I expect to receive a decision by March 15, 2024.

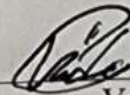
44. I am seeking that OSSE DOT provide reliable and timely transportation for A.F., including on-time pick-ups and drop-offs, one hour bus rides in line with his IEP, and a fully trained dedicated aide available on all bus rides for A.F. I am also seeking that OSSE DOT

provide reliable and effective communication with me in Spanish, an accurate tracking system for me to know where A.F.'s bus is, and accurate daily calls, texts, and emails for me to know where A.F.'s bus is. I am seeking compensatory education, including tutoring and related services, to compensate for the hours A.F. has missed or been late to school. A.F. requires this in order to receive FAPE and to have equal access to his education and to ensure he is not unnecessarily segregated from his peers.

45. My attorneys have informed me of the responsibilities of a class representative, and I am willing to protect the interests of the class.

46. I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge. I certify that I have reviewed this declaration in Spanish.

Dated this 7 day of March, 2024 at Washington, District of Columbia.



Veronica Guerrero, Plaintiff

EXHIBIT 3

DECLARATION OF MARCIA CANNON-CLARK

COMES NOW, Marcia Cannon-Clark, and pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

1. My name is Marcia Cannon-Clark, and I am over 18 years old. I have personal knowledge of the facts stated herein.

2. I am the mother of B.R.C., an 8-year-old student at School-Within-School at Goding, a District of Columbia Public School. We are both District residents.

3. My family and I are members of The Arc of the United States and we benefit from the advocacy The Arc does related to special education and integration of students with disabilities.

4. B.R.C. was born with a benign tumor that affects her brain development. As a result of the damage from the tumor, she is diagnosed with hydrocephalus, a neurological disorder that causes fluid buildup in her brain. B.R.C. has a ventricular shunt to treat the hydrocephalus. The tumor also causes other significant medical issues including epilepsy, global developmental delays, and cortical visual impairment, meaning she is unable to see beyond nine inches in front of her. B.R.C. is also nonspeaking and uses a wheelchair.

5. B.R.C. has had an Individualized Education Program (IEP) since 2018 and has consistently been identified as a student with a disability entitled to special education pursuant to the Individuals with Disabilities Education Act. B.R.C.'s disabilities substantially limit her major life activities including, but not limited to, learning.

6. As of November 2, 2023, B.R.C. is classified as a Medically Fragile Student and is entitled to receive special education transportation to and from school through the Office of

the State Superintendent for Education's Division of Transportation (OSSE DOT). *See* Exhibit A (IEP, School-Within-School at Goding, 11/2/2023). Her IEP specifies that B.R.C. needs a wheelchair accessible vehicle and requires a nurse to monitor her medical conditions while riding the bus.

7. Due to her complex medical and cognitive needs, B.R.C. requires adult supervision and support at all times. She cannot independently navigate her environment. B.R.C. also requires multiple medications to maintain her health. These medications must be administered in a timely fashion or they become less effective and her risk of seizures increases. When B.R.C. has seizures she can regress in all areas of development and it takes therapy and a long time for her to regain any lost skills.

8. Because of her medical needs, B.R.C. attends school in-person three days a week and receives therapies at home two days a week through the District's Katie Beckett waiver. When B.R.C. attends school in person, the school day starts at 8:45 AM and ends at 3:15 PM. Her bus is scheduled to pick her up from her home at 7:28 AM and drop her off at her home at 4:02 PM.

History of OSSE DOT Failures

9. I have had consistent and ongoing issues with B.R.C.'s busing since she started receiving transportation through OSSE DOT. OSSE DOT has provided unreliable transportation to B.R.C., causing her to arrive late to school and home and, on a few occasions, miss school entirely. Most days that the bus does not arrive or arrives late, I drive B.R.C. to school, though there have been some days when I have not been able to drive her and she missed school entirely.

10. From August 2022 to December 2023, B.R.C.'s bus never arrived approximately 44 times. In the same time period, the bus was late for morning pick-up on approximately 27 days, causing B.R.C. to be late to school on those days.

11. From January 2023 to July 2023, it was particularly bad and there were regular and routine inconsistencies to B.R.C.'s morning pick-ups. During this period, B.R.C.'s bus did not arrive on time or consistently, causing me to drive her at least three times per week.

12. On January 24, 2023, B.R.C.'s bus arrived at approximately 9:45 AM. When I called the Parent Resource Center to inquire about B.R.C.'s pick-up time, I was told that OSSE was short on drivers and having to double route, causing students like B.R.C. to not be picked up until after 9:00 AM. Because the bus was consistently arriving between 9:00 AM and 10:00 AM because of the double routing, I called the Parent Resource Center to resolve the issue. Rather than fixing the late pick-up times, the representative suggested that I cancel transportation from February 6-17, 2023 and resume on February 20, 2023 when the problems would be resolved. OSSE took B.R.C. out of morning transportation services until February 20, 2023 at my request due to the late bus arrivals. The problem was not resolved by February 20, and B.R.C. continued to have late pick-up times throughout the spring and summer. For example, for three days in April 2023, the bus did not arrive until approximately 9:30 AM, two hours after her scheduled pick-up time. On July 27, 2023, the bus picked up B.R.C. over two hours late because OSSE was waiting to have a nurse available for B.R.C. She was not picked up until around 9:48 AM, and I could not take her to school that day because my car was in the shop.

13. B.R.C.'s bus continues to arrive late in the 2023-2024 school year. On the first day of school, B.R.C.'s bus was over an hour late and I did not have any information from OSSE about the estimated time of arrival. On January 9, 2024, B.R.C.'s bus arrived at 9:17 AM; on

January 29, 2024, B.R.C.'s bus arrived at 8:39 AM; on February 7, 2024, B.R.C.'s bus did not arrive.

14. B.R.C.'s IEP requires a nurse on the bus, but there have been repeated issues with OSSE providing reliable and consistent nursing staff. On multiple occasions, the bus has arrived without a nurse. On October 17, 2023, B.R.C.'s bus left the terminal without a nurse. After the bus dropped off the other kids on B.R.C.'s route to school, it picked up the nurse and came back to pick up B.R.C. making her late to school.

15. I do not receive any notifications from OSSE DOT when a nurse is unavailable. B.R.C. cannot ride the bus without a nurse, so I have to drive B.R.C. to school when the bus comes without a nurse, causing a further delay to B.R.C.'s school day and my ability to get to work.

16. On at least one occasion in March 2023, the bus did not come to pick-up B.R.C. at her scheduled pick-up time because there were too many wheelchair users on the first route. I was told there were three wheelchair users on the first route and the bus was at capacity. The bus was not expected to come back to pick up B.R.C. until its second route, around 9:30 AM, so I drove her to school.

17. When B.R.C. takes the bus in the afternoons, she often arrives home late and her bus ride time is typically around an hour long. In the 2022-2023 school year, including the extended school year, B.R.C. was dropped off late approximately 62 times. In the fall of the 2023-2024 school year, B.R.C. was dropped off late approximately 34 times. In February 2024, she has been dropped off consistently around 5:00 PM.

18. Given B.R.C.'s medical complexities, she requires regularly scheduled medications to control her seizures and prevent neurological instability. One of the medications

she receives is given two times a day, once in the morning and once in the afternoon, and it should be taken eight hours apart, with only an hour of flexibility in that timespan. We give her the first dose in the morning at 7:30 AM and the second dose should be given between 3:30 PM and 4:30 PM.

19. Late afternoon drop-offs jeopardize the timeliness and effectiveness of B.R.C.'s medications. Her scheduled arrival time is 4:02 PM, which theoretically allows me to give B.R.C. her medication before 4:30 PM. Because we give her a dose at 7:30 AM, a dose at 4:30 PM is already outside the 8 hour range, but within the flexible window. However, many days B.R.C. has not arrived home until closer to 5:00 PM causing me to give B.R.C. her medication late. Because this time is outside of the allotted window, the late medication administration can mess with its effectiveness and cause adverse side effects. When she misses the timed administration of her prescribed medication, she could have increased seizure activity, neurostorming, fluctuations in her blood pressure, and anxiety that would result in taking B.R.C. to the hospital. Neurostorming refers to episodes of excessive sympathetic activity in her nervous system, which means increased heart rate and rapid breathing.

20. B.R.C.'s bus sometimes does not have working air conditioning. Given B.R.C.'s medical complexities, she cannot regulate her own body temperature. I worry that long bus rides without proper air conditioning or heat puts B.R.C.'s health and safety at risk.

21. On at least one afternoon, B.R.C. was stranded at school because a bus did not come to bring her home. I never received any communication from OSSE DOT; rather, B.R.C.'s teacher contacted me and told me the bus never arrived. I had to drive and pick B.R.C. up from school.

22. Although B.R.C. receives Extended School Year services through her IEP, OSSE continued to provide unreliable service during the summer of 2023. When the bus was late, I transported B.R.C. to school, even though it meant I would be late to my own job.

23. When B.R.C.'s bus is running late or does not show up, I call the Parent Resource Center. I am immediately placed on hold before I speak to a representative, and I am waiting for approximately 10 to 45 minutes. When I have called the Parent Resource Center to find out the status of B.R.C.'s bus, I have repeatedly been told that OSSE does not have the ability to track her bus and there is no option for parents to track their children on the bus. For example, on January 29, 2024, B.R.C.'s bus was late and I called the Parent Resource Center. The representative stated that the status of her bus was unknown. The bus arrived at 8:39 AM, over an hour past her scheduled pick-up time.

24. I am supposed to get updates from OSSE DOT about when B.R.C.'s bus will arrive, but the texts are inconsistent and the information conveyed is frequently unreliable and inaccurate. For example, on January 9, 2024, B.R.C.'s bus never arrived and I never received a text from OSSE. I called the Parent Resource Center and spent thirty minutes on the phone to find out that the bus had no estimated time of arrival and would be at least an hour out. The bus arrived at 9:17 AM.

25. I also regularly check OSSE DOT's online tracker when B.R.C.'s bus is running late, but it does not provide up-to-date and reliable information about B.R.C.'s route and does not provide an estimate time of arrival.

26. Because OSSE could not provide me accurate information or any information at all, I installed an AirTag on B.R.C.'s wheelchair to locate her while she is on the bus. It gives me

peace of mind to know that B.R.C. is safely on her way to or from school and I can anticipate her expected arrival in the afternoon.

Impact of OSSE DOT's Unreliable Transportation

27. B.R.C.'s education is impacted because of OSSE DOT's failure to pick her up on time. When B.R.C. is late to school, she misses morning circle, breakfast, and instructional time. When B.R.C. misses breakfast in the morning, she eats by herself with an aide and loses the time to interact with her peers.

28. When B.R.C. is late, she also can miss some of her related therapies, including occupational therapy, speech language pathology, and physical therapy. When she misses therapy, she misses opportunities to retrain her brain and regain lost skills.

29. Given her medical complexities, B.R.C. follows and relies on a daily schedule. When she is late to school or late arriving home, B.R.C. will be upset and start crying. On long bus rides without food and water, she will become hungry and thirsty. B.R.C. will get lethargic and fall asleep as a response to not having any food or water. She is agitated when you wake her up to provide food and water, and it can take her thirty minutes to an hour to calm down. To my knowledge, B.R.C. is not provided with water or food on the trips where she is on the bus for an extended period of time.

30. B.R.C. has arrived home on multiple occasions with a soiled diaper. When B.R.C. arrives home with a soiled diaper, she is wet and uncomfortable and immediately needs to be changed.

31. Because of the late afternoon arrivals, it is difficult to schedule service providers and nursing for B.R.C. B.R.C. receives nursing services under the DC Katie Beckett waiver program. B.R.C.'s nurse comes at 2:30 PM, with the expectation that she arrives home around

3:30 PM. However, because B.R.C. has consistently been dropped off late, her nurses are sitting around waiting. Such delays have created issues with the nursing agency and Medicaid billing. It is hard to maintain her nursing schedule without a predictable schedule.

32. The unpredictable schedule has also created issues with my job. Because I am required to drive B.R.C. to and from school when the bus is late or does not show up, it has become difficult to maintain my full-time job under the unpredictable circumstances created by OSSE DOT and I am now on the brink of termination. I have had to take leave under the Family Medical Leave Act to care for B.R.C. and have flexibility in my day to take B.R.C. to and from school when necessary.

33. I have tried to submit reimbursement for the times I have taken B.R.C. to school but the process is cumbersome and unnecessarily complicated. For example, when I submitted a reimbursement in March 2023, it was not processed because it said I had an invalid signature and required me to provide copies of B.R.C.'s attendance records. When I submitted a reimbursement request in or around May 2023, I did not receive reimbursement until October 2023.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

34. Because of the ongoing problems with B.R.C.'s transportation, I filed a Due Process Complaint with OSSE's Office of Dispute Resolution on December 19, 2023, regarding OSSE's failure to provide consistent and reliable transportation. A hearing will be held on March 19, 2024, and I will receive a decision from the Hearing Officer within the mandated timeline.

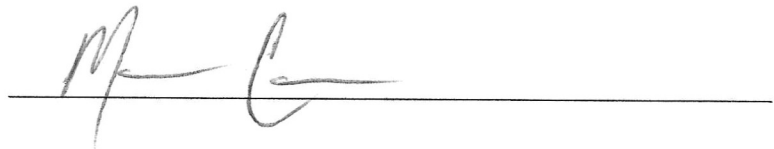
35. I am seeking that OSSE DOT provide reliable and timely transportation for B.R.C., including on-time pick-ups and drop-offs and a fully trained nurse available on all bus

rides for B.R.C. I am also seeking that OSSE DOT provide regular and accurate communication about the location of my daughter and estimated pick-up and drop-off times. I am seeking compensatory education, including tutoring and related services, to compensate for the hours B.R.C. has missed or been late to school. B.R.C. requires this in order to receive FAPE and to have equal access to her education and to ensure she is not unnecessarily segregated from her peers.

36. My attorneys have informed me of the responsibilities of a class representative, and I am willing to protect the interests of the class.

37. I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated this 5th day of March, 2024 at Washington, District of Columbia.

A handwritten signature in black ink, appearing to read 'M-C', is written over a horizontal line.

Marcia Cannon-Clark, Plaintiff

EXHIBIT 4

DECLARATION OF OANN McCRA

COMES NOW, Joann McCray, and pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

1. My name is Joann McCray, and I am over 18 years old. I have personal knowledge of the facts stated herein.

2. I am the parent of J.C., a 12-year-old student enrolled in seventh grade at The Children's Guild DC Public Charter School (The Children's Guild PCS).

3. J.C. and I are both residents of the District of Columbia.

4. My family and I are members of The Arc of the United States and we benefit from the advocacy The Arc does related to special education and integration of students with disabilities.

5. J.C. was diagnosed with autism when he was three years old.

6. J.C. has had an Individualized Education Plan (IEP) since 2015, each of which have identified him as a student with a disability under the Individuals with Disabilities Education Act and classify him as a student with autism. J.C.'s disability substantially limits his major life activities including, but not limited to, learning.

7. Each of J.C.'s IEPs since 2015, including his current IEP, require that the Office of the State Superintendent for Education's Division of Transportation (OSSE DOT) provide him with special education transportation to and from school. *See* Exhibit A (Amended Individualized Education Program (IEP), The Children's Guild PCS, 06/28/2023).

8. I have had consistent and ongoing issues with J.C.'s bus since J.C. started receiving transportation through OSSE DOT.

9. Like other children with autism, J.C. requires a regular and consistent routine for his emotional and mental wellbeing. J.C. requires a consistent schedule and advanced notice of any changes to prevent tantrums. When J.C.'s schedule changes unexpectedly, he will become agitated and harm himself or others by hitting or pinching. When he is in an agitated state, he can take up to thirty minutes to calm him down.

10. J.C.'s routine his significantly disrupted by OSSE DOT's failure to provide reliable and timely transportation, which in turn disrupts his schedule at school, leaving him dysregulated and limited in his ability to fully participate in his education.

11. J.C. loves school and wants to attend school but cannot do so regularly because of OSSE DOT's failure to provide reliable and timely transportation.

History of OSSE DOT Failures

2021-2022 School Year

12. During the 2021-2022 school year, J.C. attended Beers Elementary, a District of Columbia Public School. The start of the school day was 8:40 AM.

13. J.C.'s special education transportation was late or cancelled on multiple occasions. Throughout the school year, J.C. was late to school forty times, causing a significant disruption to his morning school routine. The bus would arrive at school well after the bell time on multiple occasions arriving after 10:00 AM, over an hour after bell time.

14. The delayed arrivals to school caused him to become upset and have tantrums.

2022-2023 School Year

15. During the 2022-2023 school year, J.C. attended Hardy Middle School. The start of the school day was approximately 8:45 AM and ended at 3:15 PM.

16. J.C.'s transportation continued to be unreliable and caused him to be late for school.

17. When J.C. transferred to Hardy Middle School, OSSE did not provide transportation to J.C for the first two weeks of school. From August 29, 2022 until the second week of September, I had to arrange alternate transportation for J.C. or have him miss school entirely.

18. Because I did not have a car at this time, I had to order rideshare to and from the school and ride with J.C. to make sure he got to school on time. This costs 20 one-way. I had to ride with J.C. to school, ride home, then ride back to school to pick J.C. up and ride back home with him. For a total round trip to take J.C. to and from school in both the morning and afternoons, I was spending 80 a day.

19. During this time, I also relied on J.C.'s godfather to help take him to school. He did not receive reimbursement because OSSE DOT's policy will not allow these costs to be reimbursed to a non-parent/guardian.

20. I contacted the Parent Resource Center, but they were not able to tell me why the bus was not coming. On September 1, 2022, I received an email from the OSSE Associate Director for Customer Engagement at OSSE DOT apologizing for their service failures, but they still did not pick-up J.C. for school until days later.

21. When J.C.'s transportation did start coming, his morning bus continued to be late or failed to show up at all. In the fall of 2022, J.C.'s bus was late dropping him off at Hardy Middle School at least sixteen times. Again, J.C. was dropped off multiple times after 10:00 AM, over an hour after bell time.

22. Around December 9, 2022, I transferred J.C. to The Children's Guild DC Public Charter School. Breakfast started at 8:10 AM, followed by a morning circle at 8:30 AM, and classes started at around 8:45 AM.

23. J.C. did not have transportation to The Children's Guild PCS until a month after I transferred him. I was told by OSSE DOT that a transportation transfer request typically takes ten days. However, J.C.'s bus did not come until the second week of January 2023, which was more than ten days after I initiated the transfer request.

24. I spent significant time and energy working with the school and OSSE DOT to get J.C.'s bus to start coming in January 2023. I contacted the Parent Resource Center, Michael Riley, Director of Student Transportation Services at OSSE DOT, Tameka Estep, Associate Director for Customer Engagement at OSSE DOT, Mayor Muriel Bowser's office, and the District of Columbia City Council. I was informed from the Parent Resource Center that J.C.'s stop was not loaded into their system, despite the school claiming they had done so.

25. After J.C.'s stop was finally put in OSSE DOT's system, the bus was still not timely. The bus continued to pick up J.C. late from our house and he often arrived at school after 9:00 AM. When J.C. was late to school, he missed breakfast, morning circle, and his instruction.

26. During spring 2023, J.C.'s bus dropped him off late to school 88 times 96 of the time. On numerous occasions, the bus also arrived early to our home to pick him up and, instead of waiting until the scheduled pickup time, it departed early without waiting for him. For example, on the morning of March 27, 2023, the bus came early and left without him. J.C. chased the bus down the street screaming and crying because the bus left him. I had to arrange alternative transportation for J.C. to get to school.

27. Because of OSSE DOT's consistently inconsistent transportation, and the repeated disruptions to J.C.'s routine, I had no choice but to purchase a car in April 2023 so that I could take J.C. to school if needed, instead of paying nearly \$80 a day for a ridesharing service or arranging for others to take him. When I take J.C. myself, it takes 40 minutes round trip to get J.C. to and from The Children's Guild PCS.

28. For the Extended School Year (ESY) in 2023, J.C.'s IEP included transportation to and from school. But J.C. did not receive transportation from OSSE DOT until the final week of the summer session. Despite the service being outlined in his IEP, OSSE never provided transportation and J.C. had to be transported to and from ESY by his teacher from The Children's Guild PCS. His teacher does not work for OSSE DOT. I paid his teacher gas money to compensate for the gas used to take him. I could not receive reimbursement from OSSE DOT for the miles she drove to take J.C. to and from school because OSSE DOT's policy only allows reimbursement when parents and guardians drive their children.

2023-2024 School Year

29. OSSE DOT continues to provide unreliable and inconsistent transportation. In the morning, J.C.'s bus rarely arrives on time—it is either late or arrives so early that J.C. has not had time to complete his morning routine. I had to make an informal agreement with J.C.'s bus driver to pick him up at 7:15 AM, which is not his scheduled pick-up time, to make sure J.C. arrives to school on time for breakfast and morning circle.

30. Despite this arrangement, in Fall 2023, J.C.'s bus dropped him off late to school 28 times over 58 of the time.

31. When J.C. takes the bus in the afternoons, he often arrives home late, sometimes as many as two hours late. On numerous occasions, J.C. has not arrived home until after 5:00

P.M., more than an hour after his scheduled drop-off time. Between August 2023 and October 2023, J.C. arrived home late thirty times.

32. Although The Children's Guild PCS ends at 3:15 PM, J.C. has been pulled from class early to get on the afternoon bus. From August to October 2023, J.C. was pulled multiple times before the bell time and missed instructional time.

33. For two days in November 2023, the bus failed to arrive to J.C.'s school to pick him up. For those two days, his teacher drove him either to our house or I met them at a local gas station to bring him home. I only found out J.C.'s bus was not coming when his teacher called me; I did not receive any communication from OSSE DOT that the bus was not coming. When I called the Parent Resource Center, they could not provide an estimated time that the bus would arrive to his school.

Impact of OSSE DOT's Unreliable Transportation

34. J.C.'s education is significantly impacted because of OSSE DOT's failure to pick him up on time. When OSSE DOT transportation shows up late, J.C. misses his morning classes and he does not receive extra instruction to get caught up on what he missed.

35. When J.C. arrives late to The Children's Guild PCS, he misses breakfast, the morning song at school, and his instruction. He loses time to socialize with his peers and further his social and emotional goals in his IEP. *See Exhibit A at 9-11*

36. Because J.C. relies on routine, this disruption causes him to have a tantrum and it takes longer for him to focus when he knows his schedule is off. When his bus is late or fails to show up, J.C. has tantrums, during which he screams, cries, and flails his body. J.C.'s teachers try to redirect him and calm him down, but when they cannot, they call me to assist calming J.C.

down over the phone. Because of the late arrivals and time it takes for J.C. to calm down, he misses instructional time.

37. The impact to J.C.'s education is evident in his report cards. Because J.C. is often late and takes time to adjust after getting to school, his grades are worse in his morning classes. For example, on his 2022-2023 Report Card, J.C. earned A's and B's in his afternoon classes but C's in his morning classes. The transportation issues cause him to miss instruction and contribute to his lower grades. It is the same for the 2023-2024 school year his grades in his afternoon classes are higher than his morning classes.

38. J.C. really wants to attend school and is distraught each time he misses school or is late arriving to school.

39. I have been unable to attend classes to advance my own education, attend job fairs, and maintain a job because of the unreliability of J.C.'s bus. I want to work, but it is difficult for me to hold a job and provide stability and income to my family when I cannot predict J.C.'s bus schedule.

40. I am panicked and distressed when J.C. is not at home on time because I do know where he is and the Parent Resource Center cannot provide information on where his bus is or his expected arrival time. Because he cannot navigate independently, it is important to me that I know J.C. is safe and on his way home.

Exhaustion of Administrative Remedies

41. Because of the ongoing problems with J.C.'s transportation and my concerns of OSSE DOT's ability to implement viable long-term solutions, I filed a Due Process Complaint with OSSE's Office of Dispute Resolution on November 2, 2023. A hearing was held on December 20, 2023, and I received a decision from the Hearing Officer on January 10, 2024.

42. The Hearing Officer Decision found that J.C. was denied a FAPE for the 2021-2022, 2022-2023, and 2023-2024 school years because of OSSE's failure to implement J.C.'s IEPs. J.C. was awarded 127.5 hours in compensatory education, and OSSE was ordered to reimburse my transportation expenses when I had to drive or order rideshare for J.C. to/from school. *See Exhibit B (Hearing Officer Determination, January 10, 2024).*

43. Because the hearing officer did not order OSSE to prospectively comply with J.C.'s IEP, J.C. is at risk of continued FAPE deprivation. OSSE continues to fail to provide reliable communication about transportation for J.C. I worry that J.C. is not dropped off to school within 10 minutes of the bell time to allow him to settle in and transition to learning.

44. I am seeking that OSSE DOT provide reliable transportation, including sufficient staffed bus drivers, so J.C. can have on-time pick-ups and drop-offs, a reasonable amount of time on the bus, and bussing as promised in his IEP during the extended school year. I also am seeking that OSSE DOT provide reliable and effective communication with me, including a fully staffed Parent Resource Center with limited to no wait times, an accurate tracking system for me to know where J.C.'s bus is, and accurate daily text messages, calls, and emails that notify me of any changes to J.C.'s route. J.C. requires this in order to receive FAPE and to have equal access to his education and to ensure he is not unnecessarily segregated from his peers.

45. My attorneys have informed me of the responsibilities of a class representative, and I am willing to protect the interests of the class.

46. I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated this 7th day of March, 2024 at Washington, District of Columbia.

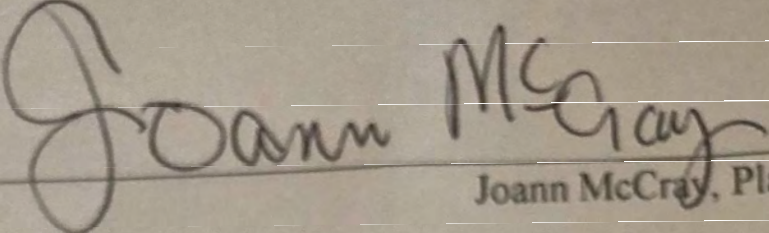

Joann McCray, Plaintiff

EXHIBIT 5

DECLARATION OF CRYSTAL ROBERTSON

COMES NOW, Crystal Robertson and pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

1. My name is Crystal Robertson, and I am over 18 years old and a DC resident. I have personal knowledge of the facts stated herein.

2. I am the aunt and legal guardian of D.R., who is an 11-year-old District resident and a student at Ludlow-Taylor Elementary School.

3. My family and I are members of The Arc of the United States and we benefit from the advocacy The Arc does related to special education and integration of students with disabilities.

4. D.R. was diagnosed with autism when he was three years old.

5. D.R. is identified as a student with a disability under the Individuals with Disabilities Education Act as a student with autism. D.R.'s disability substantially limits his major life activities including, but not limited to, learning.

6. D.R. has had an Individualized Education Plan (IEP) since 2015. Every IEP since 2015, including D.R.'s most recent IEP for the 2023-2024 school year, has required that the Office of the State Superintendent for Education's Department of Transportation (OSSE DOT) provide him with special education transportation to and from school. *See* Exhibit A (IEP, Ludlow-Taylor Elementary School, 03/30/2023).

7. Because of his disability, D.R. needs to know exactly what his schedule will be and becomes anxious when he is not following a routine. If his schedule is not in order, he can start panicking, pacing back and forth, and repeating words. It can be difficult to redirect him if his schedule changes unexpectedly. For example, if we have dinner even five minutes late, he

will become upset and ask why we are not eating because it is after 6:30. D.R. will be upset for 10-30 minutes when there is a small interruption to his routine, and he can be upset for up to 1-3 hours when there is a large interruption to his routine, even if a familiar person is working with him to soothe him. When D.R. is upset, he cannot concentrate or take in new information. He becomes very focused on the change in routine and gets very agitated or even panicked about why things are different than he expected.

8. D.R. loves to go to school, it is where he sees children his age and he loves learning, so the bus failing to come or coming late is especially distressing to him. When the school bus does not arrive on time or fails to arrive, D.R. experiences distress and panic. He paces back and forth, repeatedly asks when the bus is coming, and is unable to focus on anything else.

9. Since I got custody of D.R. after his mother's death in 2020, we have had issues with transportation being reliable. During the 2022 Extended School Year and 2022-2023 and 2023-2024 school years, OSSE DOT has consistently picked up D.R. late in the morning and dropped him off at home past the scheduled drop-off time. OSSE DOT has also taken D.R. to the wrong school and on at least one occasion dropped D.R. off at his deceased mother's home. Although things have improved recently, I am afraid that these issues could start again at any moment based on my past experiences.

History of OSSE DOT Failures

2022 Extended School Year

10. In July 2022, I had to pull D.R. from the Extended School Year program because of my continuous issues with OSSE DOT, which included the fact that they did not have the

right information on who could take custody of D.R. when I was unavailable and would not allow me to update that information.

11. In July 2022, I was at work when I received a call from my son saying that the bus attendant would not allow D.R. to get off the bus to my son's care. I tried to speak with the bus attendant to verbally give permission to release D.R. to my son but was unsuccessful. After 30 minutes, a representative from OSSE DOT called the bus attendant and confirmed that D.R. could be released to my son. D.R. was anxious and upset during this time because of the uncertainty of the situation.

12. In July 2022, I was at work when I received a call from D.R.'s sister saying the bus attendant would not drop off D.R. at home to her care. I again tried to explain to the bus attendant how family and relatives of D.R. help with drop-off because I am at work, but was told it would be better for D.R. to be released to the next-door neighbor who has no relationship with D.R.

13. I contacted the Parent Call Center to attempt to remedy this situation and explain that I work and need other people to receive him, but they would not allow me to update the list and they did not tell me how to do so.

School Year 2022-2023

14. D.R. attended Ludlow-Taylor Elementary School in the 2022-2023 school year and was in the fourth grade.

15. During the 2022-2023 school year, D.R.'s bus was scheduled to pick him up between 7:15 AM and 7:45 AM to arrive at school by 8:30 AM, but the bus almost never arrived within the scheduled window.

16. During the 2022-2023 school year, the bus dropped D.R. off late to school on 84 out of 149 days, causing D.R. to be anxious and upset by the disruption to his routine.

17. On the first day of fourth grade, a bus showed up and took D.R. to the wrong school. D.R. was missing for approximately three hours before he was brought to Ludlow-Taylor by an OSSE bus and Ludlow-Taylor staff located him and notified me. D.R. did not arrive at Ludlow-Taylor until around 1:00 PM. D.R. was upset and confused by the incident because it was outside of his normal routine. I called OSSE and the school to try and find out where D.R. was. I also sent my son to look for him at Ludlow-Taylor. To this day, I have no idea where he was brought or what happened during this incident even though I have asked OSSE about it.

18. The very next day of school, no bus ever arrived to pick up D.R.

19. From the end of August 2022 until the end of September, 2022, OSSE DOT did not send a bus to pick up D.R. in the morning or drop him off at home in the afternoon. D.R. often missed full days of school when the bus did not come. I tried to coordinate with a staff member at DCPS to order rideshare for D.R. or drive him myself when I could. Because D.R. could not ride in an Uber by himself, I often had my adult son ride with him. This impacted my son's work schedule.

20. I called OSSE DOT's Parent Resource Center once or twice a day until the problem was resolved. I was on hold for approximately 45 minutes for each call. This was especially challenging because I had to be at work in the mornings during pick up and I was often on hold while I was at work and also trying to coordinate a ride for D.R. with my adult children, friends, and family.

21. I realized later the bus that picked up the first day must not have been his bus at all because after that first day, for at least the next two weeks, OSSE had the wrong address in

the system. I do not know how this was possible because they had the correct address during the summer Extended School Year and the prior school year, and I had not requested any change.

22. When the bus finally did start coming, it was late and inconsistent. At one point, OSSE DOT attempted to improve the situation and assured me that the morning bus would arrive at 6:00 or 6:15 AM. Despite these assurances, the bus continued to arrive late or not at all. Because it was not coming at the expected arrival time, D.R. would get upset and become fixated on the disruption to his schedule.

23. In the fall of 2022, OSSE DOT dropped D.R. off at his deceased mother's home. When D.R. did not arrive home after school, I got a call from D.R.'s aide that it was 4:00 PM and he was not home. I called OSSE and the school to try and find out where he was dropped off. My mom went to my deceased sister's house and was there when D.R. got off the bus. I don't know how or why D.R. was dropped off at this address because OSSE DOT had been transporting him to my home for the prior two years.

24. This event was very upsetting for my family. D.R. was excited because he was at his old home and thought he could see his mom. Because of his disability, he has trouble understanding time passing and he did not understand that she was deceased. He became upset and confused about why he could not see her. It took him a significant amount of time to calm down.

25. During the 2022-2023 school year, I worked in Bethesda, Maryland, well over an hour and a half away from Ludlow-Taylor. I had to be at work by 6:00 AM. Because of my work schedule, I was not always able to transport D.R. to or from school and had to rely on my adult children and niece for assistance. When the bus failed to arrive on time, I drove D.R. to school or ordered an Uber or Lyft for a family member to take with him. I would also have to pay for

the Uber or Lyft for the family member to get home from dropping him off as well. Because of D.R.'s disability, there were very few people who he could safely ride with, so if one of them was not available to ride with him, I was required to leave work to arrange D.R.'s transportation or to stay home with him.

26. In the 2022-2023 school year, D.R. was absent at least 30 times because of OSSE DOT's failures. When D.R. had to miss school because of the bus, I called the school and let them know. I received a letter from his school noting D.R.'s absences and reminded them that D.R. was missing school because of our issues with the bus.

27. In the afternoons, D.R. was consistently dropped off late. On multiple occasions, I received phone calls from Ludlow-Taylor staff notifying me that D.R.'s bus did not pick him up from school. If there is no bus service in the afternoon, either myself or D.R.'s aide retrieved him from school. On the days I picked him up from work, D.R. would not get home until approximately 7:00 PM.

2023-2024 School Year

28. At the start of the 2023-24 school year, OSSE once again had the wrong address in the system for him. D.R. did not have bus service at the start of the school year. I have no idea how the address was changed in the system because I did not request any change and I have lived at the same address for many years.

29. He did not get assigned a bus route until after the first week of school. Because I changed jobs during the summer of 2023, I was able to drive D.R. to school during this time, although it did make me late to work. I drove him the hour to school and then drove an hour back from SE DC (Capitol Hill) to my job at Catholic University in rush hour for the first two weeks of school.

30. Even after the bus started coming to our home, it continued to arrive late in the morning and disrupted D.R.'s schedule.

31. When I call OSSE DOT, I am placed on hold for 45 minutes to one hour before speaking to an OSSE representative. I have to call OSSE DOT at least three to four times per week regarding busing failures.

32. In end of October/early November 2023, OSSE DOT began sending a private van service instead of the school bus. Since then, the van has consistently picked up D.R. and allowed him to relax about transportation. D.R. is very insistent that the van, not a bus, will pick him up in the morning and I can tell from the way he talked about the van that he is much happier and less anxious about the transportation. I am not sure why OSSE changed D.R.'s transportation to a van.

33. Without the van, I worry that D.R. will have to rely on OSSE DOT's unreliable bus service again. I worry this would increase his anxiety both because it would be unreliable and simply because he will remember how unreliable it has been in the past.

Impact of OSSE DOT's Unreliable Transportation

34. When D.R. is late to school, he misses school-provided breakfast and morning instructional time. The change in his routine increases his anxiety and detracts from his ability to focus. Because D.R. relies on having breakfast at school as part of his schedule, he cannot easily reorient himself to eat breakfast at home when the bus is running late. He eats breakfast in the cafeteria with his general education peers when he arrives at school on time. He misses this opportunity to interact with his peers when he arrives to school late. Instead, he eats in the classroom when he arrives late and this puts him further behind in the daily schedule and makes him miss more instructional time.

35. Late arrivals home in the afternoon also cause D.R. distress and anxiety because of the changes to his afterschool routine.

36. OSSE's failure to provide adequate transportation severely impacts my family. When D.R.'s bus was inconsistent and late, we were terrified, distressed, and panicked about whether D.R. will get to and from school and whether he would actually be dropped off at home. If D.R.'s bus did not arrive, or did not arrive on time, D.R. had increased panic and stress and would be upset for hours.

37. The delays also made D.R.'s sister late to school when she would wait with D.R. in the morning while I was at work.

38. I have incurred costs from the times D.R. could not take the bus because it was late or never came. These costs include the times D.R. took rideshare. I have not received any reimbursement for these fees from OSSE DOT. On the days I was able to provide transportation to D.R., I incurred the cost of gas and lost time from work. I attempted to submit for reimbursement around January of 2023 but it was rejected. I did not understand the website and found it confusing how to resubmit so I was unable to do so.

39. Because OSSE DOT also does not provide transportation for afterschool activities, D.R. cannot participate in the afterschool basketball program. D.R. loves basketball and I would like to enroll him, but transportation makes it difficult to do so.

40. OSSE's failures have also negatively impacted D.R.'s therapy and other routines at home.

Exhaustion of Administrative Remedies

41. Because of the ongoing problems with D.R.'s transportation and my concerns about OSSE DOT's ability to implement viable long-term solutions, I filed a Due Process

Complaint with OSSE's Office of Dispute Resolution on October 17, 2023. A hearing was held on January 26, 2024, and I received a decision from the Hearing Officer on February 1, 2024.

42. In the February 1, 2024 Hearing Officer Decision, it was held that D.R. was denied a FAPE for the 2022-2023 and 2023-2024 school years by OSSE DOT's failure to implement D.R.'s IEPs. It was ordered that OSSE must provide consistent, reliable, and appropriate transportation to and from school according to D.R.'s IEP and notify me of any changes to his transportation, including changes to route, delays, and cancellations. D.R. was awarded 240 hours in compensatory education and 6 hours of speech-language services. *See* Exhibit B (Hearing Officer Determination, February 1, 2024).

43. Despite this hearing decision, I am worried that D.R. is at risk of continued FAPE deprivation. Because the private van was never written into D.R.'s IEP, I worry that the van service could be taken away at any moment and disrupt D.R.'s routine. I also worry that we will lose van service or that the van service could change and become unreliable due to our long history of problems with OSSE transportation.

44. I am requesting that OSSE DOT provide safe, reliable, and consistent transportation for D.R. and for all children with disabilities in the District. OSSE DOT plays a very important role in D.R.'s life because they are responsible for getting him to school. He is happy and excited when he goes to school and the bus shows up on time. He relies on his schedule and calendar for his emotional wellbeing, and I am requested that OSSE DOT honor the schedule they provide. No family should have to wonder if their child will even be able to get to school to be educated or if they will make it home safely. D.R. requires this in order to receive FAPE and to have equal access to his education and to ensure he is not unnecessarily segregated from his peers.

45. My attorneys have informed me of the responsibilities of a class representative, and I am willing to protect the interests of the class.

46. I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated this 6 day of March, 2024 at Washington, District of Columbia.

Crystal Robertson

Crystal Robertson, Plaintiff