

January 30, 2013

Hosanna Mahaley Jones
State Superintendent
Office of the State Superintendent of Education
810 First Street, NE, 9th Floor
Washington, DC 20002

Re: Comments on Implementation of Proposed Revisions to Chapter 22 (Grades, Promotion and Graduation) of Subtitle E of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR)

Dear Ms. Jones:

Thank you for the opportunity to provide input on the proposed revisions to the high school graduation requirements and to aid in the development of meaningful procedures to guide their implementation. I am submitting these comments on behalf of the Children's Law Center (CLC),¹ which represents more than 2,000 low-income children and families in the District of Columbia every year, focusing on children who have been abused and neglected and those with special health or education needs. The majority of the children CLC works with will attend District of Columbia Public Schools (DCPS) at some point in their high school careers. My comments are based on CLC's experience representing these children and their families and as advocates for systemic reform.

Overview

We want to thank the Office of the State Superintendent of Education (OSSE) for providing an updated draft proposal dated December 19, 2012 incorporating feedback received over the past year on the initial draft of proposed requirements. The draft is inclusive and comprehensive, and these comments will therefore focus on an area left out of the initial draft: procedural safeguards that are needed to guide the implementation of the proposed requirements.

The DC Public Schools serves a population of students who are often transient and vulnerable. The approximately 1,500 in the neglect system often move frequently from one foster placement to another, while other clients experience housing instability due to poverty. As a result, these students may change schools frequently, both within the District of Columbia and in neighboring jurisdictions. Beyond housing and family instability, students may have mental health or educational disabilities, which decrease the likelihood they will spend their entire high school careers in DCPS. We ask that OSSE consider the more complex needs and concerns of this transient and vulnerable student population who may be adversely impacted due to homelessness or placement in out-of-district foster homes, non-public schools, and residential facilities during the development of procedural safeguards for the revisions to the graduation requirements. We have crafted the following recommendations to make the process more clear, efficient, and fair.

Procedural Safeguards and Disparate Impact

To assist in the implementation of the proposed graduation requirements, CLC and other stakeholders were asked by OSSE to prepare responses to the following guiding questions:

- a) If a student requests a waiver of graduation requirements and is denied, should the District establish minimum review/hearing procedures for the student? If so, describe the procedures that you would recommend;
- b) If a student is denied graduation, should the District establish minimum review/hearing procedures for the student? If so, describe the procedures that you would recommend.

While other commenters will likely provide specific critique of the proposed requirements, CLC would like to focus on the more broad procedural aspects of the requirements and their potential disparate impact on the many transient and vulnerable students in the District. Researchers have continually found that transience – both through homelessness and interaction with the foster system – challenges students' ability to accrue or, when necessary, recover credits for work done in other school settings and can contribute to students dropping out.²

Disparate Impact

OSSE has found that approximately 1 in 24 (approximately 1,850 total) students attending District of Columbia Public and Public Charter Schools have been identified as homeless.³ There are approximately 1,700 children in the care of CFSA in out of home placements and approximately 900 of them are high school aged.⁴ In total, populations of homeless and neglected students in District of Columbia Public and Public Charter Schools account for as much as 5-10% of the total student population. Beyond the concerns related to homeless students and those students involved in the foster care system, the District of Columbia serves approximately 1,700 special education students in non-public placements.⁵ Recently, DCPS has made a concerted effort to bring special education students in non-public placements back into DCPS schools.⁶ DCPS and Mayor Gray have stated the goal of reducing the number of special education students in non-public placements in half by 2014.⁷ This goal raises additional concerns regarding DCPS's lack of standardized procedures to assess student transcripts upon return to the public system.

More Stringent Requirements

The proposed revisions to District of Columbia high school graduation requirements do not address several areas of concern with regard to how they would impact resident students attending schools outside of the District. First, the proposed requirements fail to sufficiently align with the requirements of surrounding jurisdictions of Maryland and Virginia, and they exceed the requirements set by both states.⁸ The proposed requirements not only exceed those in surrounding jurisdictions, they are among some of the most rigorous in the nation. In a school district where nearly half of all students do not graduate from high school on time under existing requirements,⁹ raising requirements beyond national standards is inappropriate and would likely create additional unnecessary barriers to high school completion for many of the District's students.

More stringent and additional graduation requirements will particularly affect those students who are struggling with grade level standards or have special needs. Requiring students to complete twenty-six credits significantly reduces the opportunities for students to complete remedial or intervention

courses. Therefore the proposed additional credit requirements in Music and Visual & Performing Arts and Physical and Health Education may substantially impede many students' ability to fulfill the requirements for on-time graduation from District schools. Moreover, the proposed Community Service and College & Career readiness requirements, if implemented, must provide flexibility for students entering DC Public and Public Charter schools at various points in their high school careers.¹⁰

Uniform Transcript Assessment Standards

OSSE's proposed requirements may additionally present significant obstacles to students returning to the District from schools in Maryland and Virginia by imposing difficulties regarding the transfer of credits. This may result in students being required to repeat similar classes or delay their graduation. As such obstacles contribute to a higher probability of a student dropping out of school,¹¹ we recommend that along with procedural safeguards, OSSE establish and publish uniform transcript assessment standards for students transferring into and within DCPS and DC Public Charter Schools.

Neither DCPS nor OSSE has a comprehensive published policy regarding how transcripts from transferring students should be assessed or how graduation requirements can be waived. CLC clients have continually found that transfers from non-public placements, out-of-district schools, and even from one DCPS school to another have been complicated by a lack of procedures for assessing transcripts and transferring credits. Adding more expansive graduation requirements may make this process even more difficult and increase the need for uniform standards and procedural safeguards to be in place.

The current policies for receiving transfer credits and achieving graduation requirements are vague and rely on the subjective judgment of one of the multiple individuals who may be tasked with reviewing a student's record.¹² For example, a student who transfers or returns to DCPS after October of their senior year would need to be granted an exemption by the Regional Superintendent, principal, or "other person in charge of the school or program in which the student is enrolled."¹³ Once this person is identified, the student needs to show that their prior academic record, course work and skill level achievement are "satisfactory."¹⁴ No guidance is given to help students or their families discern what "satisfactory" entails. Additionally, current policies state that transfer credits "may be used" to meet graduation requirements upon verification of successful completion of comparable course work.¹⁵ It is not specified what verification is required, what constitutes "comparable course work," or who is responsible for making these determinations.

In order to illustrate the detriment the current lack of a uniform process and procedural safeguards causes to students we provide the following two examples:

Jamal is a teenager who was incarcerated for a year, in a DCPS run school program, where he completed the 9th grade. He was then placed in a residential treatment center (RTC) for a full school year, where he was monitored by DCPS. He entered residential treatment as a 10th grader, and passed every class he attended. Having successfully completed his treatment and his 10th grade year at the residential facility, Jamal returned to the District and DCPS where he received detrimental news. He not only had to return to school for the remaining two weeks in the DCPS school year, he would return as a 9th grader. When DCPS reviewed his transcript they determined not to award any credits for the courses he had taken at the

RTC, and that, despite passing, he had been placed in the same courses multiple times. No one had noticed that Jamal was continuing to take classes for which he had already completed the credit requirements. This has not only significantly delayed, if not derailed, Jamal's ability to graduate from high school, but impaired his motivation to do so as well.

Taylor is a young adult who has been in the foster care system for many years. She has learning and emotional disabilities and was unsuccessful in the many public schools she attended. DCPS placed Taylor in a non-public special education school, but that school later closed causing her to transfer to another non-public school. Taylor then attended an out of state group home focusing on independent living skills where she attended school on campus, and where DCPS was responsible for monitoring her education. When Taylor returned to the District DCPS placed her in a full-time public special education program. Taylor met with her school counselor to determine when she would graduate and received a letter of understanding indicating that she had less than a year remaining. However, when CLC obtained all of Taylor's various transcripts and provided them to the compliance office for an official transcript audit, DCPS determined that Taylor was still a Freshman. DCPS would not accept ¼ credits she had received at several schools and also denied credit for several courses completed at out of district schools, even those she was placed at by DCPS. Since there was no mechanism available for Taylor to challenge the decision, and she did not wish to be a 19 year old freshman, Taylor dropped out of school a few months later.

Waiver Requirements

No official process is currently in place for a student to request a waiver of graduation requirements. DCPS acknowledges that their current standards create challenges, especially for their transient student population.¹⁶ With DCPS's recent adoption of the Common Core State Standards (CCSS)¹⁷, DCPS should automatically accept credits obtained in states that have also adopted the same standards, including Maryland and Virginia. Because DCPS is keying its graduation requirements to the CCSS, and because the CCSS are nearly universally adopted across the country, the need for waivers should be limited. Creation of an approved course transfer list, consisting of credits that meet graduation requirements, will aide in the seamless transition of new students and further reduce the need for waiver requests. This list should, at minimum, include courses from non-public schools and residential facilities with OSSE certificates of approval (COA) and school districts of neighboring counties. DCPS has recently entered into a similar agreement with DYRS for committed youth attending New Beginnings.¹⁸

Even with the adoption of an approved transfer list, a process to request waiver of graduation requirements is necessary for students who wish to pursue a specialty, transfer students not from neighboring states, and those with disabilities that may prevent them from meeting one or more of the required standards. For example, a student with a physical handicap may need to waive a physical education course and substitute an additional health course, or an English Language Learner or a student with a severe speech and language disability may need to request a waiver of the foreign language requirement. Twenty three states currently allow similar waivers for students with disabilities to achieve a standard diploma by completing alternate or modified courses.^{19,20} Waivers of required courses should be possible for those students who wish to pursue advanced career or technical education specialties. The waiver process would include the substitution of an alternate,

equally rigorous, course. Possible examples include an internship or co-op experience, independent studies

Process and Procedural Safeguards

The same procedural process should be created and used for the waiver of graduation requirements and the assessment of transfer credits not on the approved list. It is crucial that assessments and determinations not be performed on an ad-hoc basis at the school level. Rather, a systemically, trustworthy, and uniform policy needs to be established and published that students, parents and school employees can refer to and rely on. This policy should outline what is required by both the student and the school district before transfer credits, waiver requests and graduation eligibility would be determined. It should also specify the individual(s) charged with making this determination. Guidelines should be outlined for the awarding of credit for courses required for graduation and permissible alternatives. These guidelines should allow for the transfer of credits in quarter (.25) units and outline how final grades will be calculated.²¹ A review and appeals process should be established that would provide assistance to the student or the school district in case of disagreement on the initial review. This appeals team should be responsible for reviewing the decision in light of the established policy and any extenuating circumstances. Only in the case of a denial of graduation should a student be entitled to an administrative hearing.

Five days before a student returns to DCPS from a non-public or residential placement²², five days after a change in placement is initiated by DCPS, or within ten days of a student enrolling in a DCPS high school, the student's transcript should be analyzed and a letter of understanding prepared by the principal's designee, preferably the professional school counselor in consultation with relevant faculty members. The designee needs to be familiar with the DCPS graduation requirements, transfer policies and waiver requirements. Part of this analysis should include an interview with the student and parent/guardian or appropriate caregiver. Decisions to award transfer credit should also include consideration of whether the course at issue is of comparable scope and quality that would have been completed in the equivalent DCPS course.²³ Once enrolled, the transcript of each DCPS student should be reviewed annually and a Letter of Understanding signed.

If the student or parent is dissatisfied with the determinations made they may appeal the decision via written complaint to the principal or superintendent's designee, who will meet with the parties and provide a written decision. If the student or parent wishes to appeal the principal's decision, the Student Grievance Procedure outlined in 5 DCMR 2405.4(f-i) should be followed. It is advisable that hearing officers designated for this purpose be trained in the DCPS curriculum, graduation and waiver requirements and the transfer process.²⁴ The decision of the hearing officer should be the final authority and be implemented within five days.

Additional Concerns

A uniform process also needs to be established for exceptions to the time in residence requirements of 5 DCMR 2202.7 as has been done in neighboring districts. As discussed above, the current process involves extremely vague and subjective standards and reviews. Prince George's County Public Schools, which only have a one-semester requirement, allow for an exception if an undue hardship is created for a transferring student or for special education students in state-approved, non-public programs.²⁵ The state of Maryland waives locally established graduation requirements for a student who enters a local school system in their senior year unless the student chooses to fulfill the requirements.²⁶ Virginia requirements state that "every opportunity should be

given to earn a diploma” for students who transfer during the 12th grade. If not possible, a waiver request of the credit requirement is permitted.²⁷

All relevant policies and procedures should be provided to students at enrollment. Additionally, we suggest that OSSE and DCPS’s website have updated contact information for the instructional superintendent assigned to each high school, for the designee responsible for the appeal and review process, and have copies of any complaint forms necessary to initiate a review. Transparency has been an ongoing concern with DC’s education system, so increased communication and access to information will help give parents, students and DCPS staff sufficient information about what procedures and policies are appropriate for the specific situation faced.

Due to the significant and increasing percentage of District students attending charter schools, uniform procedural requirements and protections should be adopted by all District schools. Charter schools should accept credits earned at DCPS, or at a minimum clearly state in a location accessible to parents and students the designated courses they have determined will also meet their graduation requirements. This will aide in the knowledgeable selection or transfer of schools for high school aged students.

Conclusion

Thank you for the opportunity to provide input on the proposed revisions to the high school graduation requirements and to aid in the development of meaningful procedures to guide their implementation.

If you have any questions, please do not hesitate to contact me at (202) 467-4900, ext. 589 or ddavis@childrenslawcenter.org.

Respectfully,



D.D. Davis
Education Staff Attorney

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

² See, Nat’l Ass’n for the Education of Homeless Children and Youth & National Law Center on Homelessness and Poverty, *Reauthorizing No Child Left Behind: The Education of Homeless Children and Youth*, available at <http://www.nlchp.org/content/pubs/Final%20MV%20Reauth%20Recs1.pdf>.

³ See, OSSE *Guidance Regarding Graduation Fees for Students in Transitory Housing*, available at <http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Graduation%20Guidance%20October%202012.pdf>.

⁴ See LaShawn A. vs. Gray Progress Report for the period January 1-June 30, 2012, pgs. 99-10, November 21, 2012.

⁵ See, Washington Post, More D.C. Special Education Students Attending Public Schools, July 16, 2012, available at http://articles.washingtonpost.com/2012-07-16/local/35487773_1_public-schools-special-education-nonpublic-placements.

⁶ See, *A Capital Commitment*, DCPS Strategic Plan: 2017, available at <http://dc.gov/DCPS/Files/downloads/ABOUT%20DCPS/Strategic-Plan/DCPS-Capital-Commitment-Strategic-Plan-April-2012.pdf>.

⁷ See, *General Questions: DCPS FY2013 Budget*, available at:

http://www.dccouncil.us/files/user_uploads/budget_responses/fy13_budget_dcps_addrresponses.pdf; *Mayor's Priorities: Quality Education*, available at <http://mayor.dc.gov/page/quality-education>.

⁸ See COMAR 13A.03.02.04; See Standard Diploma: Minimum Course and Credit Requirements, <http://www.doe.virginia.gov/instruction/graduation/standard.shtml>

⁹ See, District of Columbia Public Schools, *Facts and Statistics: 2011-2012*, available at:

<http://dc.gov/DCPS/About+DCPS/Who+We+Are/Facts+and+Statistics> (noting a 56% graduation rate for the 2011-12 school year and at 53% graduation rate for the 2010-12 school year).

¹⁰ Virginia has a graduated scale of requirements for transfer students that could easily be implemented in DC as well. See generally, VDOE:: Information for Transfer Students, available at

http://www.doe.virginia.gov/instruction/graduation/student_transfers.shtml.

¹¹ John M. Bridgeland Et. Al., *The Silent Epidemic: Perspectives of High School Dropouts*, 8 (2006), available at:

<http://www.ignitelearning.com/pdf/TheSilentEpidemic3-06FINAL.pdf>.

¹² 5 DCMR § E2202.7-8.

¹³ 5 DCMR § E2202.7

¹⁴ Id.

¹⁵ 5 DCMR § E2202.8.

¹⁶ See, *DCPS Common Core State Standards, Why I it important for DCPS to adopt the CCSS?*, available at:

<http://dc.gov/DCPS/In+the+Classroom/What+Students+Are+Learning/DCPS+Common+Core+State+Standards>

¹⁷ See *In the Classroom: What your child is learning and expected to know in grades K-12*, available at:

<http://dc.gov/DCPS/In+the+Classroom/What+Students+Are+Learning/What+your+child+is+learning+and+expected+to+know+in+grades+K-12>.

¹⁸ Memorandum of Agreement between Department Office of the State Superintendent of Education, The Department of Youth Rehabilitative Services, and the District of Columbia Public Schools, effective November 20, 2012.

¹⁹ See *Diploma Options, Graduation Requirements and Exit Exams for Youth with Disabilities: 2011 National Study*, National Center on Educational Outcomes Technical Report 62, Pages 21-25, Table 6, available at

<http://www.cebdu.edu/NCEO/OnlinePubs/Tech62/TechnicalReport62.pdf>.

²⁰ See generally, Michigan Revised School Code 380.1278b, Award of high school diploma; credit requirements; personal curriculum; annual report available at:

<http://www.legislature.mi.gov/%28S%28xs5nr4i50bg0c1jhjo2pye55%29%29/mileg.aspx?page=getobject&objectname=mcl-380-1278b>; Graduation Handbook 2010 ; Graduation Requirements for Students in Missouri Public Schools available at http://dese.mo.gov/divimprove/sia/documents/Graduation_Handbook_2010.pdf; Texas Administrative Code 74.72, Texas Education Agency Curriculum Requirements, Graduation Requirements, Minimum High School Requirements available at

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=74&rl=72](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=74&rl=72).

²¹ At minimum, a quarter credit should be recognized if it is combined with another quarter of a credit in the same subject area to equal one half credit. See *The Evaluation of High School Transcripts and the Awarding of Course Credits for Students Transferring from Non-PGCPS*, Administrative Procedure 6150.2 IV(J)(4), 2011.

²² See Memorandum of Agreement *supra* note 16.

²³ See *Generally*, New York City high School academic Policy Reference Guide, Page 21.

²⁴ The Student Placement Office may be the appropriate office to handle this responsibility as they ostensibly already offer a transcript review services. See *Non-traditional and Transfer Student Placement* available at

<http://dc.gov/DCPS/Learn+About+Schools/Step+1+-+Get+Ready/Non-Traditional+and+Transfer+Student+Placement>.

²⁵ See, *The Evaluation of High School Transcripts and the Awarding of Course Credits for Students Transferring from Non-PGCPS*, Administrative Procedure 6150.2 IV(K)(6), 2011; *Transfer Students*, COMAR 13A.03.02.12B(1) T; <http://www.pgcps.org/~procedur/6000/6150.pdf>, Page 105.

²⁶ COMAR 13A.03.02.12

²⁷ See *Standard Diploma Verified Credit Requirements (8 VAC 20-131-60.G.1&H)*, available at

http://www.doe.virginia.gov/instruction/graduation/student_transfers.shtml.