

**Via email: [grace.chien@dc.gov](mailto:grace.chien@dc.gov)**

July 2, 2013

Grace Chien  
Director of Policy  
Division of Specialized Education  
Office of the State Superintendent of Education  
810 First Street, NE, 9<sup>th</sup> Floor  
Washington, DC 20002

Re: Comments on Proposed IEP Implementation for Transfer Students Policy

Dear Ms. Chien:

Thank you for the opportunity to comment on the proposed Individualized Education Program (IEP) Implementation for Transfer Students Policy. I am submitting these comments on behalf of Children's Law Center (CLC),<sup>i</sup> which represents more than 2,000 low-income children and families in the District of Columbia every year. Many of the children we work with are eligible for special education. Our comments are based on our experience representing these children and their families.

This is a necessary and important policy. In our experience, local education agencies (LEAs) are often ignorant of their responsibilities with regard to children with disabilities who transfer in from another LEA. This policy clearly outlines their responsibilities. We expect it will lead to more children receiving timely evaluations and services.

We do have several recommendations for improving the policy, as outlined below.

#### Timeline for Initiation of Comparable Services

When a child with an IEP transfers into a new LEA, that LEA must provide the child with comparable services in the interim before the LEA adopts or revises the transfer IEP. The policy as drafted gives LEAs 20 days before the comparable services need to be in place.<sup>ii</sup> This means that students with disabilities could go for three weeks without receiving any of the specialized instruction or related services that they need.

We do understand that it may take some time for the new LEA to receive the IEP from the previous LEA and for the new LEA to make a plan to provide comparable services. However, students are especially vulnerable at times of transition and going without essential services like counseling or physical therapy for three weeks could set a child back considerably. Therefore, we recommend that the policy be revised to require that LEA implement comparable services “as soon as possible, and at the latest within twenty (20) calendar days of enrollment.”

### Comparable Services for Children who Transfer Over the Summer

The draft policy only requires LEAs to provide comparable services when students transfer from one LEA to another “within the same school year.” For students who transfer LEAs over the summer, there is no requirement that the receiving LEA provide comparable services until the IEP is adopted or revised. While federal law also only requires comparable services when students transfer within the same school year, DC can and should go farther to guarantee comparable services regardless of what time of year students transfer. If anything, it is even more important to make sure that students starting at new schools in the fall have the supports they need to begin the new school year in a positive way.

### Option to Provide Special Education Services Pending Evaluation

The draft policy explains that if the new LEA cannot obtain the student’s previous IEP from the previous LEA or the parent, then the LEA still has a responsibility to evaluate the student if the LEA suspects the student has a disability. The policy should go farther to give LEAs the option of providing special education services while the evaluation is pending, as long as the parent consents. The Office of Special Education and Rehabilitative Services affirms this option, stating that “nothing in the IDEA or its implementing regulations would prevent the new public agency from providing special education services to the child while the evaluation is pending, subject to an agreement between the parent and the new public agency.”<sup>iii</sup> The draft policy should be revised to explicitly include this option.

### Timeline for Developing New IEP

The draft policy is unclear about how long LEAs have to develop a new IEP for a student who transfers from one DC LEA to another DC LEA. In one sentence, the policy says that LEAs have 30 days to “develop and implement a new IEP,”<sup>iv</sup> while in another sentence the policy states that “a new LEA that determines that it is appropriate to develop a new IEP shall finalize the IEP within sixty (60) calendar days of enrollment.”<sup>v</sup>

We recommend that the policy clearly state that when students transfer LEAs within DC, any necessary revisions to their IEPs must be completed within 30 days.

### Within-LEA Transfers

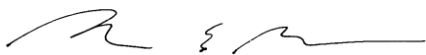
Because many charter schools use DCPS as their LEA for special education purposes, many students transfer between charter schools and DCPS while technically staying within the same LEA. For students who transfer between DCPS and a DCPS dependent charter, or who transfer between two DCPS dependent charters, the process should be quick and seamless. It should not be necessary for the new school to reevaluate the student or revise the IEP. It should be assumed that the new school can provide the same level of services as the previous school since both are part of the same LEA. Students who transfer schools but stay in the same LEA should have their IEPs implemented immediately upon enrollment. The last paragraph of page five (5) of the draft policy should be revised to state that when a student transfers schools within the same LEA, the new school must immediately implement the IEP.

### Conclusion

Thank you for the opportunity to comment on this proposed policy.

If you have any questions, please do not hesitate to contact me at (202) 467-4900, ext. 565 or [sgreer@childrenslawncenter.org](mailto:sgreer@childrenslawncenter.org).

Respectfully,



Sharra E. Greer  
Policy Director

Cc: Amy Maisterra, Assistant Superintendent of Special Education  
Virginia Crisman, General Counsel

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<sup>1</sup> 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-

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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](http://www.childrenslawcenter.org).

<sup>ii</sup> Draft policy at 3.

<sup>iii</sup> 54 IDELR 297, 110 LRP 35823, *Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations*, Office of Special Education and Rehabilitative Services, June 1, 2010.

<sup>iv</sup> Draft policy at 3.

<sup>v</sup> Draft policy at 4.