


NEW YORK CITYWIDE COUNCIL
ON SPECIAL EDUCATION:
2018-2019 ANNUAL REPORT



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Citywide Council on Special Education – 2018-2019 Annual Report

INTRODUCTION

The Citywide Council on Special Education (CCSE) was created by the state law that provided for mayoral control¹ of New York City schools. The council is comprised of 11 voting members, nine of whom are parents of students who have an Individualized Education Program (IEP). These members are chosen in a vote by selected members of the President’s Council for every community school district and borough and for District 75. The New York City Public Advocate selects the two additional voting members. The Public Advocate's two representatives must have extensive experience and knowledge in educating, training or employing individuals with disabilities. A high school senior who has an IEP is selected by the chancellor’s designee to serve as a non-voting member for one year.

The law establishing the CCSE² requires that the council hold at least one public, open meeting per month. The other requirement is that the council issue an annual report assessing the effectiveness of the New York City Department of Education (DOE) in providing special education services to students with disabilities. The report should include recommendations on how these services can be implemented and improved.

¹ New York State Consolidated Laws, Education Law - EDN § 2590-b.

² Ibid.

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SPECIAL EDUCATION IN NEW YORK CITY: **CREATING BETTER OPPORTUNITIES** **FOR ALL OUR STUDENTS**

“The journey of a thousand miles begins with one small step” Lao Tzu

As this report was being finalized, New York City schools, like most schools across the country, were closed because of the corona virus. Switching to remote learning presented enormous difficulties for school administrators and teachers and the city’s approximately 1 million public school students and their families. The challenges confronting students with special needs were even greater as a large number of these children missed essential services, had a particularly hard time adjusting to on-line learning and saw their routines turned upside down. Many of these students receive services, such as speech, occupational and physical therapy, that are extremely difficult and even impossible to deliver remotely. The challenge has been especially acute for students with disabilities who do not speak English.³

As the shutdown continued, teachers were required to create special remote learning plans for students with disabilities, explaining what services the school was actually providing, and were allowed to reduce services that might be difficult to deliver remotely, such as small-group instruction. School also were allowed to delay delivery of services to students who would be receiving that support for the first time.⁴

We do not have a comprehensive picture of how students with special needs are faring during the shutdown nor do we know what the ramifications will be when normal classes resume. It is clear, however that, going forward, the Department of Education (DOE) will need to devote extra attention to ensure that these students will emerge from the corona crisis prepared to face a bright future. “If you’re a struggling student you’re just falling further and further behind,” a Queens special education teacher told *Chalkbeat*. “The gap is just widening every single day.”⁵

TAKEAWAYS FROM THE 2018-19 SCHOOL YEAR

The 2018-19 school year marked Richard Carranza’s first full year as New York City Schools chancellor. Carmen Fariña’s resignation in 2018 set off a tumultuous process to select a new schools chancellor. Mayor Bill de Blasio initially chose Alberto Carvalho of Miami-Dade County Public Schools, but he withdrew his acceptance the day after the mayor announced the appointment.⁶

³ Reema Amin, [“Many of NYCs Bilingual Special Education Students Don’t Get the Right Services. Remote Learning Has Made It Even Harder.”](#) *Chalkbeat New York*, April 30, 2020.

⁴ Eliza Shapiro and Elizabeth Harris, [“This is Schooling Now for 200,000 NYC Children in Special Education.”](#) *New York Times*, April 16, 2020.

⁵ Alex Zimmerman, [“NYC Gives the OK to Shrink Special Education Services Amid Coronavirus Upheaval.”](#) *Chalkbeat New York*, April 8, 2020.

⁶ Patricia Mazzei and Elizabeth Harris, [“Albert Carvalho Backs Out of New York City Schools Job,”](#) *New York Times*, March 1, 2018

After a scramble, Mr. Carranza of the Houston Independent School District accepted the New York City position. Prior to going to Houston, Mr. Carranza had been superintendent of the San Francisco Unified School System for four years. While he was there, the city's schools saw an increase in graduation rates and a decline in student suspensions.⁷

In his first months as New York's Chancellor, Mr. Carranza made few comments on special education and did not issue any new policies in this area. Questions have been raised, however, about Mr. Carranza's approach to special education in Houston. During his time as superintendent there, the Texas State Education Department limited the number of students who could be referred for special education services to 8.5 percent of all students. This artificial cap caused denial of services to thousands of students across the state.⁸ A few months after being named Houston superintendent in fall 2016, Mr. Carranza announced a full review of the manner in which students were assessed and determined eligible for special education services.⁹ Advocates in Houston enthusiastically supported this effort. However, they became increasingly frustrated by the lack of action following that announcement. Mr. Carranza served in Houston for only 18 months before he left to become Chancellor in New York City.

In June 2018, in one of his first moves in New York City, the Chancellor, after a review of the administrative structure of the city DOE, announced a new leadership structure for the department: Nine Executive Superintendents would be chosen to support the 32 district superintendents and the superintendents of District 79 and District 75 as well as the Field Support Centers that provide assistance to principals. These nine new superintendents would report to First Deputy Chancellor Cheryl Watson Harris. Additional changes included the creation of the positions of chief academic officer and deputy chancellor for community empowerment, partnerships and communications.¹⁰ Mr. Carranza also announced the appointment of LaShawn Robinson as deputy chancellor of school climate and wellness and Karin Goldmark as deputy chancellor of school planning and development. The position of deputy chancellor for special education was eliminated and in its stead Mr. Carranza created the position of deputy chief academic officer of special education and student services. The Citywide Council on Special Education, advocates and advocacy organizations such as the ARISE Coalition objected to the change but to no avail.

Mr. Carranza has been chancellor for about two years. During his short tenure, Mr. Carranza has been the center of a lawsuit filed in May 2019 by three white administrators who charge they were improperly demoted and has faced mounting criticism from parts of the Asian-American community in New York City.

In compiling this report, the council has had access to extensive information on special education services. Recent information provided by New York City Council Local Law 27, the City Comptroller's Office, the Independent Budget Office and others shows a mixed bag of results. The

⁷ Elizabeth A. Harris and Manny Fernandez, "[Is Richard Carranza Ready to Run America's Biggest School System?](#)" *New York Times*, March 18, 2018.

⁸ Brian M. Rosenthal, "[Denied: Special Ed Cap Drives Families Out of Public Schools](#)," *Houston Chronicle*, Dec. 29, 2016.

⁹ Brian M. Rosenthal, "[Houston ISD to Review Its Special Education Operations](#)," *Houston Chronicle*, Dec. 29, 2016.

¹⁰ Monica Disare and Alex Zimmerman, "[As School Year Ends, Carranza Announces Major Change at New York City's Education Department](#)," *Chalkbeat New York*, June 27, 2018.

following report, while not all encompassing, is an attempt to comment on both the successes and struggles faced by students with IEPs in the New York City public schools and their parents.

The CCSE acknowledges the collaborative spirit in which the leadership staff from the Special Education Office (SEO) engages with them and the progress that has been made in recent years. For instance, as part of the DOE's commitment to ensure that every student has an appropriate postsecondary plan, the DOE has opened five borough-based Transition and College Access Centers (TCAC). These centers support students with IEPs as they plan for their next steps after high school. As encouraged as we are by such progress, there is more work to do.

Graduation Rates: Recent reports have shown a marked increase in the percentage of New York City public school students who graduate high school in four years, with the rate increasing from 68.4 percent in 2014 to 77.3 percent in 2019. The city also reported gains for students with disabilities, from 50.4 percent in 2018 to 52.6 percent in 2019. Since 2014, graduation rates for students with disabilities in New York City have increased by 12.1 percentage points.¹¹

Proficiency Rates: Although test scores for students with disabilities have risen slightly, these children continue to score well below general education students. In spring 2019, 45.6 percent of all New York City students in grades 3 through 8 were considered “proficient,” on the state math exam and 47.4 percent were proficient on the English language arts tests. Among students with disabilities, however, only 17.5 percent were proficient in math and 16.1 percent in English language arts. Since 2013, the proficiency level for students with IEPs in math increased by 9.1 percentage points. In English, the rate increased by 10.1 percentage points.¹²

AN OVERVIEW OF SPECIAL EDUCATION

There are 1,126,501 students in the New York City school system, the largest school district in the United States. Of those students, 20.2 percent have disabilities meaning there are approximately 228,000 New York City public school students who receive special education services or who should receive special education services.¹³ This is more than the total number of children in the Philadelphia public schools. While many of these New York City students receive exemplary services, the CCSE knows from research, school visits and discussions with parents that special education in New York City falls short in many ways—ways that can affect people for their entire lives.

The idea that students with disabilities have a right to a free and appropriate public education is a relatively new concept in the United States. Up until the last third of the 20th century, few students with disabilities went to public schools. Most were taught at home, attended expensive private schools or received little to no education. Then in 1975 Congress passed the Education for All Handicapped Children Act¹⁴, establishing the right for all children, disabled or not, to have a public education.

¹¹ NYC.gov, “[Mayor de Blasio and Chancellor Carranza Announce Record High Graduation Rate](#),” Jan. 16, 2020.

¹² New York City Department of Education, “2019 New York State Test Results: New York City Grades 3-8,” August 2019.

¹³ New York State Education Department, [Individuals with Disabilities Education Improvement Act 2004](#), Nov. 5, 2015.

¹⁴ [Education for All Handicapped Students Act](#), Pub.L. 94-142.

The Individuals with Disabilities in Education Act (IDEA)¹⁵, enacted in 1990, required that schools provide individualized programs to meet the needs of students with disabilities. In 2004, Congress reauthorized the original IDEA as the Individuals with Disabilities Education Improvement Act (IDEIA)¹⁶. It is this law that governs special education in the United States today.

All public schools in the U.S. that receive public funding must supply a free and appropriate public education to all students with disabilities. The law sets out a series of requirements that must be met by these schools.

Schools must evaluate all students with disabilities or who are thought might have a disability. Parents may also submit evaluations to the school district to support the diagnosis of a disability. Once a child is determined to have a disability, the school district must develop a written Individualized Education Program (IEP) for that student and provide the services called for in that program. The plan must set out specific objectives and goals for the student and methods to track progress. IEPs are legal contracts that are in effect for one year. The act also calls for students to be educated in the least restrictive environment (LRE) and requires that parents be informed of any special education programs available to their child as well as be allowed to sit on their child's IEP team.

The act recognizes 13 categories of disability. They are:

- Autism
- Deaf-blindness
- Deafness
- Emotional disturbance
- Hearing impairment
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment (including ADHD)
- Specific learning disability (including dyslexia, dyscalculia and dysgraphia, and other learning issues)
- Speech or language impairment
- Traumatic brain injury
- Visual impairment, including blindness

Simply having one or more of these conditions does not qualify a child for special services. For a child to have an IEP, the evaluation must establish not only that the child has a disability but that that disability will hamper the child's progress in school unless he/she gets special help.

What Is The 'Least Restrictive Environment'?¹⁷ LRE means that students with disabilities may be placed in special classes, separate schools or otherwise removed from the regular educational

¹⁵ Texas Council for Development Disabilities, [Special Education Public Policy](#), Project Ideal, 2013.

¹⁶ New York State Department of Education, "[Individuals with Disabilities Education Improvement Act 2004](#)," *Special Education*, Nov. 15, 2015.

¹⁷ New York Lawyers for the Public Interest, "Special Education Fact Sheet: Least Restrictive Environment," 2009.

environment only when the nature or severity of their disability is such that, even with the use of supplementary aids and services, the student cannot be satisfactorily educated in a regular classroom. The LRE must:

- Provide the special education services the student needs;
- Provide for the education of the student with other students who do not have disabilities to the maximum extent appropriate to the needs of the student; and
- Be as close as possible to the student's home.

In addition, IDEIA outlines procedural safeguards that must be followed and sets forth appropriate discipline measures for students with disabilities.

Qualifying evaluations for each disability are defined in Part B of IDEIA. Students must re-qualify for special education services every three years. To determine eligibility, the special education team must use more than a single assessment, including but not limited to an intelligence test and a test of academic achievement.¹⁸

Schools in New York State provide a range of services¹⁹ to meet the needs of these students. Starting from the least and going to the most restrictive they are:

- General education program with no special services;
- General education program with some support, such as testing accommodations and management needs;
- General education program with related services such as Special Education Teacher Support Services (SETSS) for a minimum of 2.5 periods per week. This can mean a special education teacher working with the child or working with the child's teacher so that that teacher can better meet the child's needs. If the child receives the services directly, he/she may meet with a teacher individually or in a group.
- Integrated co-teaching services. These are classes with two teachers, one of whom is a special education teacher, and a mix of general education students and students with disabilities. They usually have 20 general education children to 12 special education children. Some smaller co-teaching classes for students with autism are offered in conjunction with NYU. These are commonly referred to as ASD Nest/Horizon classes.²⁰
- Self-contained classes in regular schools. These are classes where all the students have IEPs though they may not have the same disability. These classes may have 6, 8 or 12 students and can include children whose ages span three years
- Self-contained programs for students with more severe disabilities, commonly referred to in New York City as District 75. These programs offer classes for students who are on the autism spectrum, have significant cognitive delays, are severely emotionally challenged, have sensory impairment or are multiply disabled. These programs can be in district school buildings, in specialized schools and, in some cases, in hospitals or other agencies.

¹⁸ ---, "[Individuals with Disabilities Improvement Act \(IDEA\)](#)" *Special Education News*.

¹⁹ University of the State of New York, State Education Department, Office of P-12 Education: Office of Special Education, [Continuum of Special Education Services for School-Age Children with Disabilities](#), April 2008 (updated November 2013).

²⁰ Metropolitan Center for Research on Equity and the Transformation of Schools, "[About the NYU ASD Nest Support Project](#)."

- Outside placements. These are given to a small percentage of students whose needs cannot be met by a district program. These students attend a private school or other setting at public expense. The district may agree that its programs are inadequate to meet the needs of the child or a hearing officer may determine that a child requires such a placement.

PARENTS AND THE IEP PROCESS

Parents are an integral part of the IEP process. A parent, as well as a teacher or other educator, can request that a child be evaluated. After that evaluation, the parent is invited to attend the IEP meeting, along with teachers, a district representative and a school psychologist, to determine if the child is eligible for special education services and, if so, what those services should be. The IDEA sets a specific timeline for completion of the initial evaluation and the offering of services and/or a placement for the child. Under New York State regulation 200.4(b)(7) the initial evaluation must be completed within 60 days of receiving parental consent (because the type of day is not specified, this has been interpreted to mean calendar days). Under 200.4(d) the district is required to arrange appropriate special education programs and services within 60 school days of receipt of consent to evaluate.²¹

In New York State, parents may request to have a “parent member” at the IEP meeting. The parent members, who exist only in New York State, are parents with a child who is currently has an IEP or who recently had one and is now a student or graduated within the past five years. These members must attend a training session, and they receive a modest fee for attending the meetings.²² DOE has contracted with local organizations, such as Include NYC, Sinergia and Advocates for Children, to train parent members. Parents must request a parent member at least 72 hours before the IEP meeting, but, because many parents receive notice of a meeting five business days or less before it is scheduled to take place, asking for a parent member can be problematic. Although there have been complaints about the quality of these representatives, many parents have told the CCSE that having them as a resource is better than nothing.

If a child is determined to be eligible for services and begins to receive them, the IEP team meets annually to review and revise the student’s plan as needed. A three-year evaluation, also called a triennial, is conducted to determine whether there is a continuing need for special education services.

At its calendar meetings and during one-on-one encounters with parents, the CCSE has learned that parents feel strongly that the IEP teams do not respect their concerns or seriously consider their suggestions regarding their child’s services. Meetings are often scheduled without consulting parents on the date or time.

Parents also often lack the information they need to fully participate in the process. The DOE has created a *Family Guide to Special Education Services*,²³ which has information about the IEP process. Many parents, though, do not see the guide until they are far along in the process. So, for example, the guide tells parents that the CSE/IEP team will invite them “to attend a CSE/IEP

²¹ New York State Education Department, [Regulations of the Commissioner of Education-Parts 200 and 201](#), Jan. 12, 2018.

²² New York City Department of Education, “[Parent Members](#).”

²³ New York City Department of Education, [Family Guide to Special Education Services](#).

meeting at a mutually agreeable date and time.” Often, though, the parent does not have the guide until after that meeting has taken place. In addition, CSE/IEP teams do not regularly provide parents with copies of reports and other vital information unless parents ask for them. This has been a longstanding issue despite federal regulation CFR 34 300.613,²⁴ which states that parents are entitled “to inspect and review any education records relating to their children” and that the government must comply with parents’ requests for those records.

Parents have told the CCSE that this lack of information and support leaves them feeling frustrated, depleted and isolated. They are uncertain how to proceed to ensure that their children receive the education to which they are legally entitled. Parent Counseling and Training, a Related Service to help parents understand their child’s needs and “support implementation of their child’s individualized education program,” can be added to an IEP. We have been unable to ascertain how often this service is recommended on an individual’s IEP, but we believe that adding Parent Counseling and Training would help parents who struggle to understand their child’s special needs and have little or no information regarding the diagnosis.

Delays plague the IEP process. According to a review by the Office of the New York State Comptroller, 5,102 students, or 29 percent of those requesting evaluations, had to wait more than the required 60-day maximum for an IEP meeting after an initial evaluation during the 2016–17 school year. For those students, the evaluations took an average of 96 calendar days to be completed. The length of the wait ranged considerably across the city. In Community School District 13, which includes Brooklyn Heights, Fort Greene and parts of Bedford-Stuyvesant, 48 percent of families referred had to wait more than 60 days for a meeting, but in District 11 in the northeast Bronx, only 15 percent of families had to wait that long.²⁵

Parents who are seeking special education services for their children or an outside placement may take their case to an impartial hearing officer. The impartial hearing is a due process right afforded to a parent by federal and state law. The parent may request an impartial hearing with respect to the identification, placement, evaluation, classification and appropriateness or timeliness of a recommended program.

All requests for a due process hearing, also known as an impartial hearing, must be submitted in writing. “The school/Committee on Special Education (CSE) must make every attempt to resolve disputes with parents, including through meetings, mediation and bringing in supervisors for support with complex issues,” the DOE manual states.²⁶ For their part, the parent must agree to meet with the school district to try to resolve the problem before the hearing begins, unless both parties agree it would not be a judicious usage of time and the matter can only be resolved with the assistance of an impartial hearing officer. The meeting, also called a resolution session, must occur within 15 days after the school district receives the parent’s due process complaint notice.

Most parents must wait months to receive a hearing. As noted in an article in *The City*, “The process is supposed to take no longer than 75 days, though it stretched to 225 days on average last school year,

²⁴ [Individuals with Disabilities Education Act Sec.300.613 Access Rights.](#)

²⁵ Office of the New York State Comptroller, “[New York City Department of Education Compliance With Special Education Requirements – Evaluations.](#)” May, 16, 2019.

²⁶ New York City Department of Education, [Special Education Standard Operating Procedures Manual](#), March 23, 2018.

according to a state report released in February.”²⁷

One problem has been an acute shortage of officers to conduct the hearings. Lawyers who represent families have called this shortage unprecedented, alarming and a violation of students’ civil rights. DOE is supposed to assign a case to a hearing officer within two days of it being filed, but lawyers and others report there is now a waiting list, owing to a rising number of complaints and fewer hearing officers willing to take on new cases. The officers have complained of low pay, delays in payment and not being reimbursed for expenses. DOE must take steps to rectify this situation.

Recently there has been talk of allowing people who are not attorneys to conduct such hearings, but this would be an unfortunate solution to an already stressful situation. Under federal law, the process and the hearing officer must comply with the rules set out in 34 CFR § 300.511 - Impartial due process hearing.²⁸

Recommendations:

- ◇ Before an IEP meeting takes place, DOE should provide parents of students with disabilities with all necessary documents used to determine the child’s special education needs, including but not limited to evaluations, observations and assessments, in the parents’ language of choice.
- ◇ Before every IEP meeting and attached to the notice of the meeting, DOE should provide parents with all necessary information regarding the child’s progress, including but not limited to any classroom assessments, progress reports, evaluations or observations.
- ◇ Parents and guardians should leave every IEP meeting knowing what services their child will receive and knowing that these services are in place.
- ◇ The DOE shall mail a letter to all new public-school parents that provides clear, concise information on how to access appropriate supports and services for their children. That letter should be available in all DOE’s covered languages.
- ◇ DOE should assign parent members to IEP/CSE teams on a rotating basis so that, if requested, they can be present at IEP/CSE offices to provide parents with information and referrals as well as to attend IEP/CSE meetings.
- ◇ Parent Counseling and Training, a Related Service to help parents understand their child’s needs and services, shall be offered on every initial IEP developed at the Committee on Preschool Education or the CSE.
- ◇ All schools must send progress reports and other assessments of students with IEPs to their homes along with the student’s report card.
- ◇ At the end of the IEP meeting, all parents should be given a list of free legal services and a notice explaining their rights to request an impartial hearing in English and the preferred language of communication if at all possible, including but not limited to Spanish, Russian, Chinese, Arabic etc.

²⁷ Yoav Gonen, “[Special Education Cases Face ‘Alarming’ Delays as Kids Wait for Help](#),” *The City*, Dec. 2, 2019.

²⁸ Legal Information Institute, [34 CFR § 300.511 - Impartial due process hearing](#), Cornell Law School.

- ◇ Ensure that only attorneys are hired as impartial hearing officers as they understand the basic due process rights as well as the concepts of hearsay etc.
- ◇ Hire qualified impartial hearing officers, who are attorneys, to conduct these very necessary hearings, and provide incentives such as continuing legal education credits for those attorneys who are interested but lack the fundamental understanding of special education law.

GIFTED AND TALENTED WITH IEPs

Some children are gifted and talented--and have IEPs. Although a number of New York City students fall into this category, New York City has no programs targeted specifically to these students. The absence of such services forces many parents to choose the program that will address one of their child's needs, sometimes at the expense of the other. For example, a gifted student who needs occupational therapy (OT) may attend a gifted and talented program that does not offer OT. Another student may enroll in a special education program that is not geared to an individual with his or her extremely high level of intelligence.

As it stands now, a student's IEP reflects only his or her weaknesses and not strengths. As a result, twice-exceptional students often fail to receive services tailored to their intelligence or reasoning skills. A listserv, Parents of Twice-Exceptional Kids, surveyed parents of these children in 2018, receiving 503 responses. A sizable number said that standard assessments often miss their child's strengths because the child's disability may mask his or her talents. Many parents noted that students with special education needs often do not take the gifted and talented tests, which are used to screen students for elementary and middle school gifted and talented program.

Recommendations:

- ◇ Principals of schools with gifted and talented programs should receive training to more fully understand and better work with twice-exceptional students.
- ◇ A student's IEP should include goals reflecting his/her strengths as well as problem areas.
- ◇ DOE should have an active committee of experts to develop and define twice-exceptional students. This committee would also identify gifted education opportunities for students with IEPs including but not limited to G&T testing and identification practices for disabled students.
- ◇ DOE should follow state law and have a handbook for parents concerning gifted students for grades K-5 that includes testing accommodations for students with IEPs and, at the very least, acknowledges that students with IEPs may also be gifted.

ENGLISH LANGUAGE LEARNERS

English Language Learners (ELLs) speak a language other than English at home and scored below proficient on an English language assessment they took when they entered the city public school system. These students are sometimes overlooked for IEPs. On the other hand, their lack of knowledge of English can be misdiagnosed as a learning disability. Of the 1,126,501 students in the NYC school system, 13.2 percent are English Language Learners.

While all parents face obstacles to becoming involved in the IEP process, the ones confronting parents who are not fluent in English are particularly daunting. Parents may go to the IEP meeting only to find the meeting is not in a language they can speak or understand. In some cases, even when the parent can communicate with the team, the members do not give adequate consideration to what the parent has said or recommended. Parents who do not speak English find it particularly difficult to advocate for their children because their child's IEP is not available in the family's home language. Furthermore, school staff often do not consider cultural differences.

Asian and Latino students with disabilities are more often determined to have speech or language impairments than Black and White students with disabilities. The difference may be driven in part by the fact that students who are ELLs are sometimes misdiagnosed as having speech or language impairments. There has been a reported shortage of qualified bi-lingual psychologists to assist in the proper evaluation of Asian and Latino students in New York City, with Latino students being overrepresented in special education classes.²⁹ It must be determined whether a disproportionate number of Latino students have IEPs because Spanish is their preferred language or because of other social, emotional and cultural reasons.

In fall 2014, the city signed a memorandum of understanding with the New York State Education Department requiring, among other things, that interpretation services be available at IEP meetings and that DOE translate documents including IEPs. The CCSE has heard varying reports on translation of IEPs.

Recommendations:

- ◇ DOE should provide every parent with their child's IEP in the family's home language.
- ◇ Parents who need or want translation services should be provided with them, as well as with a parent member, at the IEP meeting.
- ◇ The DOE should report the number of Language Proficiency Team (LPT) meetings that take place per year for every school.

SEGIS

DOE's Special Education Student Information System (SEGIS) is an electronic system that is supposed to provide information on whether a child is getting services along with notes on the child and other records. Launched in 2011, SEGIS cost the city at least \$130 million to develop and millions more to fix, but never did what it was supposed to.³⁰ Parents have not had access to SEGIS and even DOE staff could not use it to get needed information.

By 2013, DOE was aware the system was not working. The failure was costly; in February 2016, then Public Advocate Letitia James charged that SEGIS had cost the city \$60 million a year in lost Medicaid reimbursements. DOE found searches would time out as often as 3,100 times in a single

²⁹ Cheri Fancasli, "[Special Education in New York City: Understanding the Landscape](#)," Research Alliance for New York City Schools NYU Steinhardt, August 2019.

³⁰ Alex Zimmerman, "[New York City Reveals New Plans to Upgrade Its Dysfunctional Special Education Data System](#)," *Chalkbeat New York*, Nov. 18, 2016.

day and one type of inquiry on IEPs failed about 800,000 times a day. This took so much time that the city was required to reimburse teachers \$33 million for hours they spent outside the workday trying to use SESIS.

In response to the complaints, DOE in 2016 conducted a review of SESIS and said it would spend \$6.4 million over five years to upgrade and maintain the system. A few months later, the figure mushroomed to more than \$16 million.³¹ Then, in February 2019, DOE finally announced it would eliminate SESIS and replace it with a new system.³² In the meantime, though, no system is in place and DOE continues to use SESIS.

It remains to be seen what the replacement system will look like, but we hope DOE is requesting feedback from the people who use SESIS and will use its successor, such as school psychologists, principals and special education teachers. DOE should give parents access to the new version of SESIS so that parents can monitor their child's progress. Most importantly, the DOE should correct the problems with SESIS identified in 2013: "SEGIS is not meeting its overall goal, which is to provide its users with an efficient and reliable system that meets court-mandated state and federal reporting requirements. Moreover, DOE did not take necessary steps to ensure that the SESIS system and its data are protected and secured."³³

Recommendations:

- ◇ DOE should assemble a forum of actual users such as principals from each borough, school psychologists, ICT teachers, parent advocacy groups and most importantly District 75 parents and other parents with children who are in receipt of services.
- ◇ The new program must ensure that parents are able to ascertain that their children are receiving services.
- ◇ The new program should ensure that data is protected and secure.
- ◇ The new program should have a designation for English language learners.
- ◇ DOE currently provides a portal for parents of general education students to access information about their children; there needs to be a similar access point for parents of students with IEPs.
- ◇ The new system should be easily integrated with other systems.

STUDENTS IN TEMPORARY HOUSING

An increasing number of New Yorkers are struggling to find permanent and stable housing. About 10 percent of all New York City district and charter school students--114,085 children--were in temporary housing at some point during the 2018-19 year, according to state Education Department data compiled

³¹Eliza Shapiro, "[De Blasio to Propose \\$17M to Upgrade Data System for Tracking Special Needs Students](#)," *Politico*, Jan. 24, 2017.

³² Alex Zimmerman, "[Sayonara, SESIS: New York City to Scrap its Beleaguered Special Education Data System](#)," *Chalkbeat New York*, Feb. 22, 2019.

³³ New York City Comptroller Scott Stringer, [Audit Report on the Department of Education's Special Education Information System](#), July 22, 2013.

by Advocates for Children.³⁴

Many of these students have IEPs. An analysis of homeless students in 2013-14 issued by the Independent Budget Office in 2016 found that 28 percent of students in shelters received special education services. This compared to 14 percent of students who were doubled up (living with relatives or friends) and 18 percent of those in permanent housing.³⁵

While an uncertain housing situation puts stress on all families, the situation can be even more dire for those that include a student with an IEP. Parents of students requiring special education services must navigate multiple city systems to meet their children's needs and often these city systems do not work well together. This directly affects the services these students receive. In its report, the IBO noted, "The IEP is supposed to travel with the child but there can be a gap in services when a student moves from one school to another and the new school lacks the resources to provide the required services and supports." For example, a student who was in a self-contained class may move to a school where the 12-1-1 classroom is full or the new school may not have a therapist that the student needs.

Students in temporary housing, particularly in the shelter system, are far more likely to miss school than their counterparts in permanent housing. One analysis found that, during the 2016-17 school year, 36 percent of New York City's homeless students were chronically absent, meaning they missed 10 percent or more of the year. This compares to around 25 percent for all New York City students. The same analysis found that 13 percent of homeless students—or some 13,000 children—missed 40 or more days of school. Of those students, only 5 percent were able to score at grade level on the state standardized math test and only 20 percent graduated on time.³⁶ The report did not break out the numbers for students with IEPs.

The Department of Homeless Services' (DHS) requirement that all family members, including children, attend certain appointments forces children to miss school days. DHS often places families in shelters far from children's home schools and does not consider proximity to the home school when pushing families to move in with relatives. As a result, parents either travel long distances so their children can remain in their old school or transfer their children to a closer school, which can disrupt or delay delivery of services.

The McKinley-Vento Act³⁷ is the federal law that promotes enrollment and educational stability for homeless youth. In short, it says that:

- Homeless students who move have the right to remain in their schools of origin (i.e., the school the student attended when permanently housed or in which the student was last enrolled, including preschools) if that is in the student's best interest.
- Transportation must be provided to or from the student's school of origin, at the request of a

³⁴ Reema Amin, "[At 114K, Number of Homeless NYC Students Remains Stubbornly High](#)," *Chalkbeat New York*, Oct. 28, 2019.

³⁵ Liz Pappas, [Not Reaching the Door: Homeless Students Face Many Obstacles on the Way to School](#), New York City Independent Budget Office, October 2016.

³⁶ ---, "Homeless Students: Where Housing and School Instability Meet," [Institute for Children, Poverty and Homelessness](#), Sept, 25, 2019.

³⁷ [§11431: Part B—Education for Homeless Children and Youths](#)

- parent, guardian or, in the case of an unaccompanied youth, the local liaison.
- If it is in their best interest to change schools, homeless students must be immediately enrolled in their new schools, even if they do not have the records normally required for enrollment.
 - Homeless students must have access to all programs and services for which they are eligible, including special education services, language assistance for English language learners and before and after-school care.
 - Unaccompanied youths must be accorded specific protections, including immediate enrollment in school without proof of guardianship.
 - Parents, guardians and unaccompanied youths have the right to dispute an eligibility, school selection or enrollment decision.
 - The school district must provide a “homeless/education liaison,” called an LEA liaison, who must inform parents of their right to have their children stay in their school and other rights. This service is especially important for children with IEPs, who are at risk of missing services because of their housing instability or travel concerns, with some children being on the bus for over an hour.

The Department of Education says it has 22 regional managers to assist students in temporary housing. Despite that, CCSE has learned anecdotally that LEA liaisons often are not available. Some parents in shelters have no idea that liaisons are available or were never informed of this resource.

Like all students with IEPs, those in temporary housing are entitled to busing if it is called for on their IEPs. Doubled up elementary school students also get busing if a route exists. Any student in temporary housing who is not riding a yellow school bus is entitled to a free MetroCard.

It is possible for families of students with IEPs to ask for a fair hearing at which they can request that, for medical reasons involving the student, the family would like to stay in their home borough. It is uncertain whether such cases ever succeed but nevertheless it is an option parents should know about.

Recommendations:

- ◇ Hire more LEA liaisons with training in special education processes. For instance, LEA liaisons should know the difference between District 75 students and students with IEPs, have a fundamental understanding of the importance of having these children stay in their schools and consequently help them stay in their home boroughs.
- ◇ The DOE should immediately release figures regarding its compliance with the McKinley Vento regulations.

TRANSPORATION

All too often students with disabilities cope with long bus rides, unreliable transportation and uncomfortable or even unsafe conditions on buses.

In 2019-20, the city had 5,803 routes for special education students, according to the “Student Transportation Update for the 2019-2020 School Year” presented by Kevin Moran, DOE’s senior

advisor for transportation. Of these routes, 78 percent were 10 miles or less, 18 percent were 10 to 20 miles and 4 percent were over 20 miles, with some as long as 30 miles. General education routes do not exceed five miles. In addition to being two to three times as long as general education routes, the special education routes can make as many as 12 unique door-to-door stops and travel on major thoroughfares, as opposed to just local roads.³⁸

In September 2019, there were an average of 631 delays per day, slightly more than for the same month the previous year. The number of delays in September 2019 totaled 10,553 with the average delay being 28 minutes. Most of the delays were attributed to heavy traffic.³⁹ An analysis of DOE data found that delays in buses transporting children with IEPs nearly doubled between September 2015 and September 2019. The analysis also found that, over the first 24 days of the 2019-2020 school year, 12,060 yellow buses transporting special needs students were delayed going to or from school.⁴⁰

Delays and extended travel times (over two hours each way) result in loss of precious instructional time due to late arrivals and early dismissals to accommodate scheduled pick-ups. Buses not showing up at all have been a constant issue, resulting in unnecessary school absences or parents having to pay for alternate transportation to get their child to school.

These problems are long-standing and a constant source of stress and concern for many special education students and their families. The New York State Department of Education has determined⁴¹ that trips as long as one and a half hours are not unreasonable in some situations. This kind of commute puts a huge burden on students and can cause them to miss classroom time or afterschool activities.

In 2019, two incidents were reported where a student was dropped off at the wrong school. The commute for these both children exceeded 2 hours. Both instances could have been avoided with proper training of drivers and dry runs prior to the beginning of the school year.

High turnover in bus drivers contributes to the problem. In January 2020, Governor Andrew Cuomo vetoed a bill that would have restored seniority rights to school bus drivers and attendants, guaranteeing they would retain their jobs and compensation levels when a route was taken over by a new company.⁴² This would have addressed some of the turnover among school bus staff. The union representing the drivers has said that some school bus companies experience up to 30 percent turnover rates due to the sharp decline in drivers' salaries and benefits and that this has created a shortage of drivers.⁴³

There are safety concerns as well. Attendants are on buses to ensure that students remain safe as they travel to and from school. Although these attendants have personal contact with students in what can be a stressful environment, they may be ill-prepared to deal with the crises that can occur. The attendants

³⁸ Kevin Moran, *Student Transportation Update; 2019-2020 School Year*, New York City Department of Education, October 2019.

³⁹ New York City Council, *School Bus Delays*.

⁴⁰ Amy Zimmer and Yoav Gonen, "Rising School Bus Woes Plague Special Needs Students," *The City*, Oct. 17, 2019.

⁴¹ New York State Department of Education, *Pupil Transportation: Maximum Time that a Pupil May Spend on a School Bus*, Sept. 8, 2009.

⁴² Michael Elsen-Rooney, "Gov. Cuomo Vetoes Bill that Would Promise Jobs for More Experienced NYC School Bus Drivers," *The Daily News*, Dec. 27, 2019.

⁴³ Crystal Lewis, "Councilmen Rap Governor Over Not Restoring School-Bus EPP," *The Chief*, April 8, 2019.

typically do not have access to student IEPs and may not have the training to deal with specific issues that may arise on long bus trips, such as behavioral and medical problems.

Parents of very young children or children who cannot express themselves understandably worry that incidents could take place during long bus rides that the parent would have no way of knowing about. This could include bullying by students or unprofessional behavior by a bus driver or attendant. Although the DOE was supposed to test a program with cameras on buses, progress has been slow.

Students and parents have long complained of overheated buses in the summer but the issue gained prominence in July 2014 when Aljaah Jewett, a District 75 student, said that her bus was so hot she needed to go to the hospital for medical treatment. Monitoring after this incident indicated that the problem of overheated buses persisted, with parents saying⁴⁴ some buses were as hot as 91 degrees. Air-conditioned buses are rolling out but very slowly. They were originally scheduled to be in place by the start of summer school in 2020.

Whatever the shortcomings of yellow bus service, though, families rely on it. All students in grades kindergarten through 2, whether or not they have an IEP, get free yellow bus service if they live more than a half mile from school, and those in grades 3 through 6 qualify for school bus service if they live more than a mile away. In 7th grade, however, students living far enough from their schools to qualify for transportation get free or reduced-price Metro Cards instead of yellow bus service. This change often comes as a shock to parents of students with IEPs who can ride a school bus with no problems but cannot navigate public transportation. To get yellow bus service for their children in grades 7 through 12, parents need to request it, but many families do not know that.

In 2019, the CCSE saw an increase in reports by parents of bullying and physical assault on trips where a single bus carried students ranging from elementary age to high school age. The DOE confirmed the problems did exist. Parents voiced serious concerns about having middle school and high school age students riding with children in kindergarten and 1st grade. The special education routes tend to have more than 16 students on a small bus with only one attendant. The presence of so many students of varying ages along with long travel times result in behavior problems including bullying and assault.

In June 2019, the city Panel for Educational Policy approved Chancellor's Regulation A-802⁴⁵ to address some of these issues. It required that all bus companies with DOE transportation contracts after June 1, 2019 allow the installation of GPS navigational equipment and software on their buses and that all bus staff receive GPS training. A law passed by City Council in February 2019 had required that DOE make real-time GPS data available to parents at the start of the 2019-20 school year.

Parents encountered major problems with the system in September 2019, with many unable to get information on where their child's bus was. Among other problems, many drivers apparently had not turned on the navigation systems. DOE has said it plans to roll out the new system for the 2020-21 school year.⁴⁶

⁴⁴ Eliza Shapiro, "[James to Sue DOE over Lack of Air Conditioning on School Buses.](#)" *Politico*, Aug. 18, 2015.

⁴⁵ New York City Department of Education, "[Chancellor's Regulation A-802, GPS Equipment Installation and Training and Dry-Runs of Bus Routes.](#)" June 20, 2019.

⁴⁶ Michael Elsen-Rooney, "[City Lawmakers Demand Answers from Education Dept. on Delayed School Bus GPS Tech.](#)" *The Daily News*, Nov. 18, 2019.

DOE has said it will collaborate with VIA, a rideshare app, on the Student Transportation Ridership Information and Data Enterprise System that will include:

- A state-of-the-art comprehensive, integrated automated school bus routing, tracking and communication platform;
- A single, integrated system of student routing data;
- Automated and dynamic vehicle routing;
- Real-time student and driver tracking;
- A parent mobile application and administrative console;
- Streamlining DOE contracts with approximately 60 bus companies into one system to allow for better tracking and information sharing;
- Installation of devices on all NYC school buses;
- Providing families with busing schedules, bus location, ridership tracking and service alerts in real time.⁴⁷

DOE already launched a transportation module in the NYC Schools Account (NYCSA) that provides parents with transportation information and busing scheduled for each student. Parents sign up for NYCSA at their school

DOE has also said it would work to strengthen accountability and oversight of bus companies. In 2018, it negotiated five-year contract extensions with 80 percent of existing bus vendors to provide more stability and continuity of bus service. The department had been adding to its training requirement for bus company employees and requiring more dry runs before students use a bus route. It was improving its ability to capture service problems and issue violations from the first date of service. Whether this will be affected by any disruptions from the spring 2020 shutdown of schools remains unclear.

The Office of Pupil Transportation had also pledged to improve its MetroCard program. In partnership with the MTA, it said it would eliminate the half-fare MetroCard program and provide full fare cards to all students residing a half mile or more from school. It would also improve the delivery of MetroCards for charter schools that start the academic year before district schools do and support providing MetroCards to students and families residing in shelters

Recommendations:

- ◇ DOE should report to the parents of individual children and to the CCSE on the dates and types of mandated training that drivers and attendants have received.
- ◇ While drivers and escorts should not have unfettered access to children's IEPs, they should be better trained and be informed of any needs or problems regarding individual children as it relates to busing.
- ◇ Bus attendants and drivers should receive professional development training twice a year to help them better de-escalate situations and communicate with the students.
- ◇ The city should require that all buses used in transporting students with IEPs be equipped with cameras.

⁴⁷ Moran op. cit.

- ◇ All students with specialized transportation busing services should be offered an attendance check-in meeting in May to review absences or tardiness that might be due to busing issues. These absences should not carry any academic repercussions or affect a student’s chances of advancement.
- ◇ DOE should make parents aware of changes in transportation arrangements well before students enter 7th grade. This issue should be on the 6th grade IEP meeting checklist for every child who might be affected.
- ◇ All school buses used in the summer should have air conditioning, just as any MTA bus for adults does.
- ◇ DOE should engage parents in the rollout and monitoring of the VIA program to modernize the bus system, improve routes and track buses.
- ◇ DOE should provide a parent survey at end of term to evaluate the service and provide feedback on how and where service can be approved and then hold the bus companies responsible for carrying out necessary changes.
- ◇ Office of Pupil Transportation should make it priority to limit the number of students on the small buses to and to keep elementary school-aged students on their own bus routes separate from middle school and high school students whenever possible.
- ◇ DOE should make a commitment to provide more specialized programs (i.e. District 75) in each community school district to cut down the need for routes exceeding 10 miles and so cutting travel time.

LACK OF SERVICES

While it is well and good for a student’s IEP to call for robust and appropriate services, the best plan in the world is of little use if it is not implemented. During the 2018-19 school year, only 84 percent of city public school students with IEPs “fully received” their recommended services, while 14 percent only “partially” received services and 2 percent received none at all, according to DOE’s *Annual Special Education Data Report*. This represents a substantial improvement from 2015-16 when 41 percent of students did not receive all—or in some cases any—of their services.. But local special education advocates say that the number is still far too low.⁴⁸

A gap also exists in provision of related services. These are services, such as speech and language instruction, occupational therapy, physical therapy and counseling, that are provided to students to help them participate in their school program. These services must be recommended on the student's IEP and are to be provided to the student individually or in groups of no more than five children. DOE can provide these services directly, either with its own staff or the staff of associated agencies. If the department cannot provide the services, parents receive a Related Services Authorization that allows them to use a certified independent provider at no cost to them.

According to the Local Law 27 report, 96 percent of students who were supposed to receive a related service had at least one encounter with the service provider. The report does not indicate how many students receive the number of sessions called for in their IEP.

The report almost certainly understates the problem because DOE counts a service as having been delivered if a child has only one encounter with the provider. CCSE members know that there are

⁴⁸ New York City Department of Education, *Annual Special Education Data Report: School Year 2018-19*, Nov. 1, 2019.

frequent disruptions in the provision of these services when a provider becomes ill, goes on maternity leave, is redirected to cover a staff absence by a school principal or is otherwise unavailable. Because the DOE annual report only reflects a single encounter, it does not indicate whether there have been any disruptions in the service.

Discrepancies also exist in which students are recommended for services. A study by the Independent Budget Office found the likelihood that a student's IEP would call for a paraprofessional varied according to the student's borough of residence and disability. In general, students from Staten Island were most likely to receive a recommendation for a paraprofessional, with about 13 percent of IEPs for students in that borough having that recommendation. IEPs for Queens students, though, only recommended a paraprofessional in 6.6 percent of cases. In terms of disability, students on the autism spectrum were most likely to receive a recommendation for a teaching assistant.⁴⁹

LACK OF PSYCHOLOGISTS

Because of a shortage of school psychologists, schools must share them. This creates delays in evaluation of students, which, in turn, means that a child may not receive services until the end of the school year or the start of the next school. This can put the onus on the parents to engage in a game of what can only be described as phone tag between the school officials and a child's parents or legal guardians of children.

TRANSPARENCY

Since Local Law 27 was passed by the City Council and signed into law by the mayor in 2015, DOE has had to provide more information on special education, including the number of students receiving special education referrals; the number of students with IEPs by Community Education District, race, ethnicity and economic status; and the average length of time it takes for a student to be placed in a program with necessary services. However, much information is still not available.

Recommendations:

- ◇ The department should provide staffing breakdowns for administration, enrollment, classroom teachers and other service providers including aides, related service providers and various support staff.
- ◇ The department needs to make attendance rates for student with IEPs compared to general population easily accessible
- ◇ It's unclear what percentage of students with IEPs attends their zoned schools. The placing of more students with IEPs in their neighborhood schools is a key goal of the special education reforms, so the public needs to know how successful the reforms have been in achieving this. DOE needs to release numbers on what percentage of students with IEPs attend their neighborhood school.

⁴⁹ Liza Pappas, "[Are Some Students with Disabilities More Likely to Receive a Recommendation for a Paraprofessional?](#)" New York City Independent Budget Office, March 30, 2018.

CONCLUSION

The Citywide Council on Special Education firmly believes that the Department of Education is on the correct path to help our children with IEPs and District 75 children. There is, however, room for improvement and we urge DOE officials to take the time to read our recommendations and work with us on making them a reality.

We hope that the biggest takeaway from this report is that the IEP process is complicated and leaves parents feeling frustrated and ignored. We hope that this will change. We also believe that hiring people who are not attorneys as Impartial Hearing Officers is a bad idea that would only add another layer of complexity to an already complex process and so should not be pursued.

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