

**New York Citywide Council
On Special Education:
2015-16 Annual Report**

New York Citywide Council of Special Education

28-11 Queens Plaza North

Fifth Floor – Room 522

Long Island City, New York 11101

Telephone: 8=718 391-8519

Fax: 718 391-8095

Email: ccse@schools.nyc.gov

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INTRODUCTION

Council Basics

The Citywide Council on Special Education (CCSE) was created by the state law that provided for mayoral control 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.

Sheryl Davis and Pamela Stewart served as co-presidents of the council in the 2015-16 school year. CCSE members were:

Sheryl Davis (co-president)

Pamela Stewart (co-president)

Leslie Caraballo (vice president)

Amalia Alvarez (recording secretary)

Lisa Bennett-Wells (treasurer)

Denise Garcia

Ellen McHugh

Sandy Noel

Michelle Noris

Gina Panico-Devito

Marilyn Vasquez

The law establishing the CCSE requires that the council hold at least one public, open meeting per month, during which the public may discuss issues facing students with disabilities. The law also mandates that the council issue an annual report assessing the effectiveness of the New York City Department of Education (DOE) in providing services to students with disabilities and that the council make recommendations on how the city can improve services. This annual report for 2015-16 is intended to fulfill that requirement.

The Council and the Community

The CCSE seeks to serve students with IEPs, their families and other concerned members of the community by informing them about services, the IEP process and other issues of concern. The council's monthly meetings play a key role in informing the community. In 2015-16 these meetings focused on a number of topics, such as how students with IEPs can find the right high school, helping immigrants navigate the IEP process, discipline and supporting students on the autism spectrum. (For a full list of topics, see Appendix 1.)

In March the council held its annual conference on IEPs for members of Community Education Councils. The well-attended event featured a keynote address by Corinne Rello-Anselmi Deputy Chancellor of the Division of Specialized Instruction and Student Support, and a detailed presentation by Peter W.D. Wright Esq., a prominent attorney who represents children with special needs. (For the conference agenda, see Appendix 2.)

The council also advocates for students with IEPs and their families. In 2015-2016 the CCSE advocated on behalf of Students in Temporary Housing who receive special education services by writing a letter to Mayor Bill de Blasio, Schools Chancellor Carmen Fariña and the Commissioner of the Department of Homeless Services and by testifying on this issue at City Council. Members of the CCSE also testified at a New York State Assembly hearing on mayoral control of the New York City public schools system.

Throughout the year the council wrote other letters. One urged Mayor de Blasio to provide funds to expand free lunch to all students, regardless of family income, so that those getting a free lunch would not feel stigmatized (see Appendix 3). Another letter to Gov. Andrew Cuomo expressed support for his Right Priority Initiative, which the CCSE believed could provide funding for expanded services for students with IEPs (see Appendix 4).

Good News

The 2015-16 school year saw some clear improvements in education for students with IEPs. Almost all high schools, including some of the most selective schools in the city, set aside seats for students with disabilities (SWDs). In addition, many schools now offer open houses and information sessions for prospective students with disabilities.

The high school graduation rate for students with disabilities continued to climb, with 45% of those who entered high school in 2012 graduating in June or August of 2016. This compares with 38% who entered in 2009 and would have been in the class of 2013.

The number of students with IEPs suspended from school has continued to decline, although these students still account for a disproportionate percentage of all suspensions. Between 2013-2014 and 2015-2016, the suspension rate for students with IEPs from 9% to 7%. The citywide suspension rate for all students in 2015-16 was 4%.

After years of personnel turnover at DOE, things stabilized as the de Blasio administration moved into its third year. Corinne Rello-Anselmi remained Deputy Chancellor of the Division of Specialized Instruction and Student Support, which includes services for students with IEPs. In addition, Christina Foti, a former special education teacher, assistant principal and principal of a Brooklyn District 75, continued to serve as Chief Executive Officer of the special education office. The CCSE has seen a marked improvement in its relationship with DOE, including collaboration on policies and better support to families in the evaluation process.

At the same time, the department has provided more information helpful to students with IEPs and their families. This includes a document on the use of assistive technology and the inclusion of information on set-asides for students with IEPs in the annual *High School Directory*. There is increased clarity about specialized programs, such as Horizon and NEST. The department's *Family Guide to Special Education Services for School-Age Children: A Shared Path to Success* is a clear and complete guide to navigating the IEP process. It is available in print and on-line and in all 10 DOE languages. (The English version is available at http://schools.nyc.gov/NR/ronlyres/DBD4EB3A-6D3B-496D-8CB2-C742F9B9AB5C/0/Parent_Guide_for_Students_with_Disabilites_Updated_Web.pdf) The department provides a number of other resources as well. For a listing and links, go to <http://schools.nyc.gov/Academics/SpecialEducation/FamilyResources/GuidesDocuments/default.htm>

Further, to comply with Local Law 27, which was passed by the City Council and signed into law by the mayor in March 2015, DOE began issuing an *Annual Report on Special Education*, with extensive data on students with IEPs, 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 take for a student to be placed in a program with necessary services.

DOE has restored and expanded yearly conferences for parents of students with IEPs. These conferences had been stopped but in 2015-16 the seven new Borough Field Support Centers each offered two of the sessions, with each one attracting about 100 attendees.

Ongoing Issues

2015-16 marked the fourth year of DOE's implementation of the special education reforms that aim to place and educate more children with IEPs in their neighborhood schools and less restrictive environments. Promises and pitfalls remain. Many students are benefiting from Integrated Co-Teaching (ICT) Services or self-contained classes in

a neighborhood school, as evidenced by the data in *Annual Report on Special Education* mandated by Local Law 27. At the same time, anecdotal reports suggest that many teachers still did not have the training they needed to address the needs of students with a range of issues that can affect their learning, including learning disabilities and behavioral problems. DOE has focused on increasing the capacity of schools to provide appropriate supports, by focusing Professional Development in these areas.

Other longstanding problems for students with IEPs remained unresolved:

- Transportation issues continued to present a challenge for many families; and
- DOE's \$130 million Special Education Students Information Service (SEIS) remained a failed system -- unable to provide either citywide data or meaningful, targeted information to individual families. It became the subject of a lawsuit filed by Public Advocate Letitia James in February 2016.

In this report, as in previous ones, the CCSE lays out new recommendations for how the city can better serve students with IEPs. In addition, the council outlines and updates previous recommendations it has made that continue to merit attention. All CCSE recommendations are in italics, with the updates, which follow the recommendations in bold italics.

BACKGROUND

According to DOE, in 2015-16 17% or 190,412 of the 1,133,963 students in the New York City school system had IEPs. The percentage of students with IEPs has remained fairly constant over the past five years, ranging between 17 and 19%.

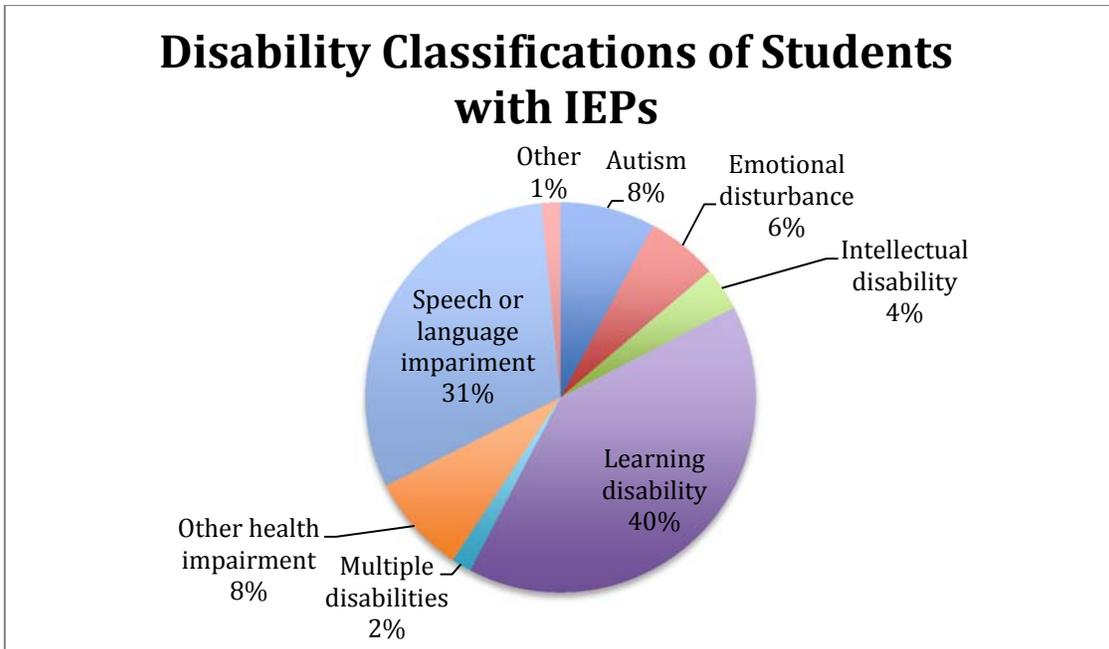
Students with IEPs include children who:

- Spend the majority of their school day in a general education classroom but receive at least three hours a week to as much as half of their day with Special Education Teacher Support Services (SETTS);
- Are in ICT classes, which consist of 60% general education students and 40% special education students, not to exceed 12 students with IEPs;
- Attend self-contained classes in community schools for all or part of their school day;
- Attend District 75 schools, which serve students with a range of physical, neurological, emotional and behavioral challenges, such as autism, deafness, cerebral palsy and have classroom sizes of 6, 8 and 12; or
- Receive placements in either state-supported or private residential and non-residential schools.

According to the *Annual Report on Special Education* for the 2015-16 school year male students with IEPs outnumbered female students by almost 2 to 1.

The city recognizes 13 classification of disability, which are defined and described in the Individuals with Disabilities Education Act (IDEA), formerly the Education of the Handicapped Act (EHA) passed in 1975:

- Autism
- Deafness
- Deaf blindness
- Emotional disturbance
- Hearing impairment
- Intellectual disability
- Learning disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment
- Speech or language impairment
- Traumatic brain injury and
- Visual impairment



Outcomes for Students with Disabilities

While an increasing number of students with IEPs graduate from high school, the number still lags far behind the rate for students without disabilities:

Just 45% of students with disabilities from the class of 2016 (those who started high school in 2012) graduated in four years, receiving their diplomas in either June or August, compared with 79% of New York City high school students without an IEP. The rate for students with IEPs represented a gain of almost 20% from the class of 2013, when only 38% of students with disabilities graduated in four years.

Spending more time in high school perhaps enabled many additional students with disabilities to earn a diploma. For the class that started high school in 2011, only 41% of students with IEPs graduated in four years. A year later, however, 48% had earned a high school diploma. Of students with IEPs who entered high school in 2010, 41% received their diplomas by August 2014. By June 2016, though, 51% of that cohort – an additional 1,227 young people – had graduated.

In 2016, students with IEPs scored significantly lower on the annual state standardized tests in English Language Arts (ELA) and Math – administered to students in grades 3 through 8 -- than students without IEPs. Just 9% of students with IEPs met proficiency standards on the ELA exam (a Level 3 or 4) compared with 46% of students without disabilities. Only 11% of students with IEPs were proficient in Math, compared with 43% of students without IEPs.

SPECIAL EDUCATION REFORMS

As of September 2012, DOE instituted special education reforms requiring that every incoming kindergartener, 6th grader and 9th grader -- except for those with the most severe disabilities -- be placed in their locally zoned school, without regard to any disability they might have. This made all schools responsible for providing students with disabilities all legally mandated services outlined on their IEPs. According to DOE, by September 2015, 85% of students with IEPs attended their zoned school -- the highest percentage ever.

As explained in the *Citywide Council on Special Education's 2011-12 Annual Report*, the reforms seek to place students in the least restrictive environment possible. This is intended to:

- Close the achievement gap between students with special needs and their general education peers;
- Increase the access of students with IEPs to general education curriculum;
- Increase the participation of students with disabilities in general education settings with age-appropriate peers, which will help them learn age-appropriate language, engage in age-appropriate social interactions and use age-appropriate materials for learning; and
- Build schools' capacity to serve students with special needs

The implementation of the city's reforms coincided with New York State's efforts to develop policies to move more students with IEPs into less restrictive settings -- an area in which New York State has historically lagged behind the rest of the country. (For the Nov. 9, 2015 New York State "Policy Relating to the Placement of Students with Disabilities in the Least Restrictive Environment," see Appendix 5.)

While the CCSE supports the overall goal of DOE special education reforms, especially inclusion of students with disabilities in classes and other school settings with their peers who do not have IEPs, the council has concerns about the ways in which various policies have been implemented, funded and monitored.

Concern 1: Funding Changes

As it implemented the special education reforms, DOE changed its funding formula to provide funds based on the number of students with disabilities in a school instead of the number of classrooms serving students with disabilities. The money now follows the student. Since funding is no longer tied to a particular setting -- a 12-1-1- class, say -- the school has less of an incentive to provide that service. As a result, a student's IEP

now may be altered to fit what is in the school, rather than the school altering its services to provide the setting called for in the IEP.

Concern 2: Provision of Services

While the council applauds the placement of more students with IEPs in less restrictive settings, it fears that students now do not always get the services they need. Some schools, particularly smaller ones, may not have enough students to provide a robust array of service for students with IEPs. DOE's *Annual Report on Special Education* mandated by Local Law 27 found that, in 2015-16, 41% of all students with IEPs – 72,007 students – did not receive all of the services called for in their IEPs and that 13,887 received none of the mandated services. It remains unclear how much of that was attributable to the special education reforms.

The *Annual Report on Special Education* also looked at how many students referred for re-evaluation had their IEPs changed to reflect a higher level of services and how many to a lower level. In 5,905 cases it was recommended that students spend more time in a specialized class, while in 2,316 cases student were to spend less time. Similarly the IEP recommendations for 1,808 students were switched from neighborhood schools to specialized schools, but only 544 went the other way -- from specialized schools to neighborhood schools. Overall most changes to IEPs are not moving students toward more inclusive environments. This raises concerns that students may not be getting enough supports when they first receive an IEP.

Concern 3: Shortage of Trained Personnel

Under the old system many schools had few students with IEPs, particularly ones with fairly severe disabilities. Now many teachers with no training in special education find themselves teaching students with IEPs. This continues to be a problem as parents report that some general education teachers lack an understanding of disabilities.

Concern 4: After School and Summer

Even when the school can meet the needs of a child with an IEP during the school day, its after-school program may lack teachers and other staff trained to work with students with disabilities. After-school programs are not run by DOE but by community based organizations and other groups that usually don't have expertise in working with children with special needs. There are after-school programs for students with IEPs but many of them accept only children with a particular disability as opposed to offering an inclusive setting.

Afterschool programs have the potential, though, to be enormously beneficial for students with IEPs. A 2014 issue brief by the Afterschool Alliance (http://afterschoolalliance.org/issue_briefs/issue_disabilities_64.pdf) found that, "Afterschool programs have the flexibility to provide an inclusive environment that allows students with disabilities and other special needs to learn and play next to

students without disabilities, explore their interests, develop social and leadership skills and grow friendships.”

Additionally, summer programs that partner with the DOE accept students with IEPs on a case-by-case basis. There are not partnerships geared toward inclusive programming.

Concern 5: Data

DOE rolled out its special education reforms at 265 pilot schools in 2009-10 and 2010-11. It then put them into effect across the city in September 2012 despite a glaring lack of data on the results of the pilot programs. Over the next four years, DOE issued virtually no meaningful data on the effects of the reforms on student learning or achievement. The information it did make public often was not disclosed in a standardized way and/or often conflicted with other DOE data.

In March 2015, the City Council passed Local Law 27 requiring DOE to report annually on its evaluation of students and on the provision of special education services, with information such as:

- How long a student must wait for an evaluation;
- The number of evaluations that result in a determination that a student needs an IEP;
- The number of students receiving special education services; and
- The number and percentage of students receiving the services called for in their IEPs.

On Feb. 29, 2015, the deadline set by Local Law 27, DOE issued its *Annual Report on Special Education* for 2014-15. (For this report, see Appendix 6). In November 2016, DOE released the report for 2015-16. (For this report see Appendix 7.)

These two reports provide baseline information on what happens to students following an initial special education service referral, the results of re-evaluations and the timeliness of evaluations and re-evaluations. The reports disaggregate data by Community School District, race, gender and family income.

In spring 2016, the first cohort of students with disabilities educated under DOE’s special education reforms took the 3rd New York State ELA and Math tests. Of 3rd graders with IEPs, 12% scored proficient on the ELA exam. This represented a substantial improvement from pre-special education reform 3rd graders with IEPs, just 8% of whom scored proficient in on the 2013 exams. However, the students with IEPs still scored lower than their peers without IEPs, 49% of whom were proficient. In Math, 17% of 3rd graders with IEPs scored proficient in spring 2016, compared to 47% of students without IEPs. In 2013, 14% of 3rd grader with IEPs got a Level 3 or 4 on the Math exam.

Recommendations, 2015-16

- *DOE should report on changes that schools make to students' IEPs after the child is enrolled and report on the changes for every school and Community Education District as well as citywide. Further the city should identify schools with a propensity for changing IEPs and determine whether those schools need additional resources to better support the recommendation in the original IEP.*

Reporting changes are covered by Local Law 27 discussed in further detail on page 9.

Starting in the 2015-16 school year, the DOE created Borough Field Support Centers that are supposed to track changes in IEPs and examine individual schools to detect any patterns in the changes. However it remains unclear what effect, if any, these support centers have had on the delivery of services to students with IEPs.

- *DOE shall offer professional development/training for teachers who have not had any training or professional development in special education but who have students with IEPs in their classrooms. This training shall be aimed at giving those teachers the tools to understand and address the needs of children with disabilities. Such training is especially needed for teachers who provide instruction outside of their certification area. The sessions should take place in communities throughout the city.*
- *Schools need to offer more professional development and on-the-job training to paraprofessionals they do employ. Because many paraprofessionals cannot afford to commute long distances, this training shall take place in communities all over the city. Paraprofessionals shall receive training specific to the students they work with. If DOE cannot find adequate paraprofessional staff within the approved salary range, it shall provide alternative ways to make the position more attractive to prospective applicants.*

The number of professional development sessions geared to paraprofessionals grew from 17 in 2014-15 to 47 in 2015-16. (For the number and type of professional development sessions offered in 2015-16, see Appendix 8.)

In 2016 DOE created the position of Lead Teacher Assistant -- Paraprofessional. This has provided a path for career advancement and increased income for paraprofessionals. (For the posting for this position, see Appendix 9.)

PARENTAL INVOLVEMENT

Parents are equal members of the IEP team, making them equal partners in the development of the IEP, the selection of programs and the approval of placement. Despite this fact, parents have come to believe that an IEP is developed by the school team or the Committee on Special Education (CSE) with limited input from the parents. IEP team meetings are scheduled by the schools teams and CSEs. There is no input

from the parents as to their work schedules, other family obligations or the meeting length the parents feel is needed, unless the parents specifically object to the schedule provided.

After a parent, teacher or other educator requests an evaluation of a child to see what special services, if any, he or she needs, DOE conducts an evaluation of that child and convenes an IEP meeting to develop an educational program for the child. The initial meeting includes teachers, parents, a district representative and a school psychologist. If the child is determined to be eligible and begins to receive services or attend a specific program or school, the team will meet 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.

Parents often find this a frustrating process. In general, parents feel DOE staff does not listen to them. Many parents who attend the IEPs meetings have told the CCSE that their child's IEP team does not respect their concerns. Some parents do not know their rights while others do not understand the IEP process and/or the purpose and structure of the IEP meeting. In some cases, DOE does not provide parents with adequate notice of meetings, copies of reports and other vital information unless parents specifically ask for them.

In the past, DOE made parent members available to help parents understand the process. Although there were complaints about the quality of these representatives, many parents have told the CCSE that having them as a resource was better than nothing. In response, DOE has made an effort to train parents of children who have or previously had an IEP to attend IEP meetings at the request of the parents. Parents must notify the DOE within 72 hours of the meeting if they want the parent member there.

A number of other issues make it difficult for parents to take action on behalf of children with IEPs. Some parents have told the CCSE that school staff often denies requests for group meetings on special education.

Delays plague the IEP process. According to DOE data, in 2015-16, more than 10,000 families had wait more than 60 days from their initial referral for an IEP meeting. The average amount of time between the IEP meeting and the issuing of a placement notice for the child was 7 days, although this varied considerably across the city: It took 12 days in Brooklyn's District 16 (Bedford-Stuyvesant) but just 4 days in District 22, which encompasses a large swath of Brooklyn from Ditmas Park to Jamaica Bay. Further, in 2015-16 more than 22% of all three-year re-evaluations were not completed in a timely fashion.

Parents of children with disabilities have told the CCSE that the absence of information and support leaves them feeling frustrated, depleted, isolated and unsure of how to make sure their children receive the education to which they are legally entitled

As of July 2015, amendments to New York State education law require all public schools to notify parents new to the public school system that their child has the right to

be evaluated and referred for special education services. While an important step forward, this provision appears to lack teeth: All a school has to do to comply is direct parents to information on the state Education Department's website. This is a significant problem for parents who do not have access to the Internet, have limited computer or literacy skills and/or who cannot read English or Spanish.

Access to a child's record varies from school to school. While some schools send the progress reports for students with IEPs home with report cards, others do not. Parents have to specifically request the records and in some cases parents have even had to subpoena their child's record.

Recommendations, 2015-16

- *Before an IEP can go into effect, DOE should provide parents of students with disabilities with a draft copy of their child's IEP, in writing, with enough time for them to read and review the document before they sign it. New York State has defined the format and content of the Prior Written Notice and the state should ensure that schools meet these requirements.*

The city DOE has agreed to discuss providing additional information to help parents understand their rights with respect to the IEP they receive in the mail.

- *The state education department should require that the city DOE mail a letter to all new public school parents, in the 10 common languages, that provides clear, concise information on how to access appropriate supports and services for their children. This could be similar in format to the Title 1 meeting invitation that goes out every year. No action*
- *Students who are enrolled in District 75 programs but attend classes in the community school where their District 75 program is housed should be listed on the roster of the community school so that the students and their parents are informed about the school's activities and receive notices pertinent to their child*

DOE has not provided the council with its memo on this.

- *All schools must send the progress reports and other assessments of students with IEPs home along with the student's report card.*

ADMISSIONS

The issue of admissions is closely tied to the special education reforms. DOE officials often say that special education is a program, not a place and, as a result, can and should be offered in school buildings in all neighborhoods. Many parents of children with IEPs know from their own experience, though, that every school cannot meet the needs of every child. DOE's expansion of enrollment choices for students with IEPs

presents both opportunities and challenges for children with disabilities and their parents.

One significant issue is school building accessibility. In 2015, the office of Preet Bharara, then the U.S. Attorney for the Southern District of New York, issued a report stating that more than 80% of New York City elementary schools are not fully accessible to children with disabilities, putting the city in violation of the Americans with Disabilities Act. The U.S. Attorney's report found that six of the city's 32 Community School Districts did not have a single school that was fully accessible. (For the U.S. Attorney's letter, see Appendix 10.)

DOE rejected the findings, saying the report was inaccurate and erroneous. In an eight-page letter, city legal and education officials stated, "DOE's elementary schools, when viewed in their entirety, provide full program accessibility for all elementary students." The department did agree, however, to "work collaboratively" with federal officials to improve the access of students with disabilities to more classrooms and other facilities. (For the city's letter, see Appendix 11.)

A second challenge facing parents of children with IEPs is an absence of DOE information about programs that are geared toward specific students. For example, the city provides directories for middle school and high school admissions but it does not have a similar resource for children with IEPs. In addition, the DOE website does not provide an easily accessible listing of NEST and Horizon programs, which are designed for children with autism spectrum disorders.

Kindergarten Admissions

Since spring 2013 parents have applied to kindergarten through the online tool Kindergarten Connect. They also can apply on the phone or in person at an enrollment office.

Parents of children with an IEP participate in the kindergarten application process just like other parents. DOE, to its credit, provides a list of accessible schools and urges parents with children who need such a school to take this information into account when applying. DOE also says that children who need an accessible school will get a placement in one.

Families of children who may need but do not yet have an IEP will not have their IEP meeting until after the kindergarten application process. This can result in families applying to schools that may not be suitable for their child's needs. A parent could, in fact, go through the entire kindergarten application process only to discover, at the end, that his or her child requires a District 75 program. (For Chancellor Fariña's timetable for students with IEPs who are turning 5, see Appendix 12.)

Middle and High School Admissions

Students across New York City apply for admission to middle school, either because their neighborhood does not have a zoned middle school or because they want to attend a middle school outside of their neighborhood. The process for middle school admissions varies from one community school district to the next.

All New York City middle school students, except for those with the most severe disabilities, must apply to high school, even if they have a neighborhood zoned high school and wish to go there. While the process is daunting for everyone, it poses particular challenges for students with IEPs.

For years, students who indicated they had IEPs feared that they might not be admitted to desirable middle and high schools. In response, DOE has established set-asides, reserving a certain number of seats at schools for students with special needs, who DOE defines as students “who receive special education instructional programming for more than 20% of their academic program.” The city also has urged 9th graders with IEPs to apply to selective high schools, and these schools have expanded their roster of ICTR classes, which include both students with IEPs and general education students.

As a result of these efforts, the number of students with disabilities enrolled at 25 top high schools in 2015-16 increased 96% from 2012, to 1,059 students. (The schools do not include the Specialized High Schools, which admit students solely on the basis of their score on the Specialized High School Admissions Test [SHSAT] and which do not have set-asides.) According to a report by education consultant David Rubel, 10 of these schools now offer team teaching classes in the four major academic subjects. The selective schools with the highest percentage of students with IEPs were New York City Lab School, Professional Performing Arts High School, Leon Goldstein High School, Baruch College Campus High School and Manhattan Hunter Science High School. (For David Rubel’s report, see Appendix 13).

Problems remain, however. As previously discussed, some schools lack trained staff to provide students with disabilities with the services they need. In addition, even with DOE’s set asides, students with IEPs account for less than 2% of enrollment at four of the selective high schools (not including specialized high schools). And while the number of students with IEPs has increased at the schools, Mr. Rubel has estimated that approximately 2,000 additional students with IEPs have test scores high enough for the selective schools but are not attending them.

A lack of information presents a barrier. The city’s high school and middle school directories indicate whether or not a school is “accessible” to people with mobility issues, but most entries offer little or no further information about the facility’s and/or program’s suitability for students with various special needs. Often the only ways parents can find out about a school’s suitability for their child is to call the school or attend its open house, which is simply not possible for many working parents. The task can be especially daunting for parents whose children already require additional time and support.

High School and College Admissions Tests

Students with IEPs often are not informed about the SHSAT, which is the sole determinant for admission to eight academically elite specialized high schools, or the SAT, which is required by many colleges. These students also often are not notified of prep classes for these exams.

General Recommendation, 2015-16

- *DOE should create a directory of schools that provides comprehensive information on what programs every school offers students with disabilities. This directory should cover all grade levels and include specialized schools and programs. It would include, for example, a list of NEST and Horizon programs and of Academic, Career and Essential Skills (ACES) programs, which serve students with intellectual disabilities who are alternatively assessed. DOE has shared much of this information with the CCSE but needs to make it available to parents and publicize it.*

DOE says it has collected more detailed information about high school accessibility, such as physical amenities the school offers and whether particular rooms and entrances are accessible. According to Chalkbeat (<http://www.chalkbeat.org/posts/ny/2017/02/24/how-accessible-are-new-york-citys-high-schools-students-with-physical-disabilities-are-about-to-find-out/>), the department will include some of this information in the High School Directory and is figuring out how to make all of it accessible to students and their families.

Kindergarten Admissions Recommendation, 2013-14

- *The local Committee on Preschool Special Education (CPSE) should have an initial meeting before the IEP meeting to help families determine how to approach the kindergarten admission process. The CPSE should offer parents an overview of specialized programs, including those in District 75, at this meeting. In addition, DOE should send information packets to all parents inviting them to an orientation session on the general education kindergarten admission process.*

Parents of students with IEPs receive a referral notice and an invitation to 20 information sessions directed at families of children with IEPs entering kindergarten. Parents also may attend general information sessions for all parents whose child is entering pre-k or kindergarten. However DOE still does not offer a meeting on special education before the kindergarten application process begins. As a result many parents who could benefit from the 20 information sessions are not aware of them or do not know that their child will have an IEP.

Kindergarten Admissions Recommendation, 2014-15

- *DOE should consider allowing students with a developmental delay,*

particularly those born late in the calendar year, to repeat pre-K at the request of their parent. (Parents used to be able to delay their child's kindergarten admission for a year if they felt this was in the best interest of the child. This became more difficult in 2013, with chancellor's regulation A101 stating, "Children whose 5th birthday falls within the calendar year of admission are required to attend and must be admitted to kindergarten. ... Children whose 6th birthday falls within the calendar year of admission must be admitted to the 1st grade.")

DOE urges parents who may want to delay their child's entry into kindergarten to contact the Office of Special Education.

Middle and High School Admissions Recommendation, 2013-14

- *DOE should assign an admissions coordinator to all students with IEPs to help them navigate the transition from elementary to middle school and from middle to high school. The coordinator should provide information and guidance on specialized programs as well as the availability of test accommodations for SHSAT. To encourage students with IEPs to apply to high-ranking high schools, the coordinator should explain high school set-asides for student with disabilities and clarify that they do not apply to the Specialized High Schools.*

The 2016-17 middle and high school directories clearly explained the set asides and provided data about the number of seats at each school set aside for students with disabilities and the number of applicants for those seats.

Middle and High School Admissions Recommendation, 2014-15

- *Beginning at the 6th grade IEP meeting, DOE should discuss the high school admissions process with parents and encourage them to start visiting schools. At the 7th grade IEP meeting, DOE should provide parents and students with suggested questions to help them start identifying the best program for their child. (The Individuals with Disabilities Education Act requires that a transition plan for students with IEPs be in place in the school year the student turns 15. Planning can begin as early as age 12 when a Level One Interest Inventory is administered to help determine the student's possible aims and goals.)*

DOE created its 6-7-8 pamphlet "Roadmap; Transition to High School" to encourage families to begin investigating high schools when their child is in 6th grade. The pamphlet is available here:

http://schools.nyc.gov/NR/rdonlyres/40B378F0-0B67-44DC-938B-8392F8AF14B5/0/678Roadmap_English.pdf

Middle and High School Admissions Recommendation, 2015-16

- *Students who received related services, but do not have a special education placement, should be eligible for the high school enrollment set-asides for students with disabilities.*

High School and College Admissions Test Recommendations, 2013-14

- *DOE should provide students with IEPs with timely information about the SHSAT and SAT, related preparation classes and accommodations for these tests.*

The 2016-17 SHSAT information booklet clearly explained how to get test accommodations for the SHSAT.

- *DOE should award grants to community based organizations (CBOs) to develop SAT test prep for students with IEPs that address students' accommodation needs.*

All schools in the city's Renewal program for struggling schools are supposed to provide expanded learning time, sometimes in conjunction with CBOs. Schools have been directed to provide all accommodations and supports so every student can access this expanded learning time.

DOE does not provide any test prep directly to students, however through the College Access for All initiative, DOE provides schools with funding so they can offer SAT or ACT test prep to all students, including students with disabilities. DOE has offered professional development for teachers who wish to be trained to administer SAT test prep, and co-facilitated instructional sessions for all interested teachers including special education teachers, which provide participants with a deep understanding of the specific content and skills assessed on the redesigned SAT. Participants learn interdisciplinary instructional practices, review sample test questions and explore a variety of free online resources, including the College Board's educator reporting tools. To date, 179 staff members have participated in these trainings. Fourteen registered as either "special education" teachers or "paraprofessionals." Ninety-five participants registered as "teachers, without providing information on their license areas or current teaching assignments. There are two remaining training dates, which will train an additional 70 people by the end of the school year.

- *Test accommodations shall be on the 9th grade IEP, to insure they are accepted for the SAT/ACT etc.*

High School and College Admissions Test Recommendation, 2014-15

- *DOE should provide eligible students with IEPs with information about DREAM -- the Specialized High Schools Institute, a 22-month program that prepares students from low-income families for the SHSAT.*

In summer 2016, DOE instituted a new, intensive DREAM program aimed at students entering 8th grade. The department also announced that it would be providing wraparound services for DREAM participants. It is unclear what effect this will have on students with IEPs.

In 2016 DOE offered the SHSAT during school hours in seven schools.

DBN	School Name
01M839	Tompkins Square Park Middle School
08X071	P.S. 071 Rose E. Scala
14K577	Conselyea Preparatory School
22K278	J.H.S. 278 Marine Park
24Q073	I.S. 73 - The Frank Sansivieri Int. School
28Q157	J.H.S. 157 Stephen A. Halsey
31R051	I.S. 051 Edwin Markham

These schools were selected as higher-needs schools. The percentage of students with IEPs in these schools ranges from 15% to 31%. All of these schools also ran an afterschool programs to help prepare students for the SHSAT.

In addition, DOE runs programs to provide students with services in line with their IEPs, including expanded DREAM-SHSI and about 30 of the 45 SHSAT prep programs that are DOE-run.

HIGH SCHOOL GRADUATION

The transition from high school to college or career poses challenges for all students but particularly for those with IEPs and their families. For these students and parents, problems often arise long before graduation day.

Many students with IEPs do not know when they are behind in accumulating credits, and lack both the supports they need to succeed in high school and information they will need to plan for life after graduation.

While the CCSE applauds DOE for increasing the overall four-year graduation rate, students with disabilities continue to graduate at significantly lower rates than their general education peers. A January 2016 report by America’s Promise Alliance found that, in most states, students with IEPs are significantly less likely to graduate than their counterparts without IEPs. In New York City the gap in the graduation rate between students with EPs and those not having them is 34 percentage points.

In May 2016, the New York State Department of Education issued new rules that eased the graduation requirement for some students with IEPs. The new guidelines will enable local superintendents to allow some students with IEPs who took Regents classes but may not have passed every Regents exam required for graduation to receive a local diploma. The superintendent would review student's grade, course work, tests

and class participation to determine if he or she has met the learning standards for a given course. The students would still have to pass the English Regents and a math Regents and take, though not necessarily pass, three other Regents exams. (For the state's announcement of the change, see Appendix 14.)

This change received a mixed response. On the one hand student who were close to receiving a diploma could graduate, allowing them increased opportunities after high school. Others worried that it would encourage schools to push students who were entitled to stay until 21, to leave earlier.

New regulations were issued in 2017 that mandate that a parent must request the superintendent's review. For New York State's most recent guidance on superintendents' determinations regarding the awarding of Local Diploma for students with IEPs, see Appendix 15 or go to

<http://www.p12.nysed.gov/specialed/publications/2017-memos/superintendent-determination-of-graduation-with-a-local-diploma-updated.htm>

Alternatives to the Diploma

The state also allows students with disabilities to earn one of two "non-diploma high school exiting credentials." One, the "Skills and Achievement Commencement Credential," is available to students with severe disabilities who have attended school and been assessed using an alternative system during their high school years.

The Career and Development Occupational Studies Commencement Credential (CDOS), which was first issued in 2015, is available to all students with IEPs who have not had the alternative assessment, whether or not they receive a diploma. It indicates the recipient is prepared for an entry-level job. It requires a student to have developed a career plan and completed 216 hours of career and technical education classes and/or "work-based learning experience." The student also must meet "criteria for a national work readiness credential."

This credential raises a number of concerns. The work-based program must be supervised by a state-certified work-based learning coordinator, and some schools may not have teachers who can do this. A student must have an individualized "employability profile," but it is not clear how staff will find the significant time to write these recommendations.

Neither of these two credentials alone is "a regular high school diploma in accordance with state standards or for federal accountability purposes," but parents may not be aware of that. While engaging with parents and school staff, the CCSE has learned that many parents and students do not understand alternate assessments and how getting a one of these certifications instead of a diploma could affect a student's future. The credential, for example, is not considered a diploma by the military and many colleges and employers.

The council has heard from parents and school staff that some parents are agreeing to alternate assessment on their child's IEP in elementary and middle school, then

becoming frustrated when their child enters high school and they learn their child will not get a high school diploma.

Recommendation, 2013-14

- *DOE should provide clear information to parents regarding their child's high school diploma eligibility in advance of students' enrollment in alternative assessment programs. Parents and students should be aware that students in alternate assessment programs will not receive a high school diploma and so will not be high school graduates. Parents and students should also be clearly informed of possible ramifications that not having a high school diploma could have on the student's future. **No action***

Recommendations, 2015-16

- *DOE should report in the high school directory the number of CDOS's awarded with and without a diploma.*

The 2017 High School Directory does not include this information.

- *DOE should work to ensure that both classroom work and work-related experience required for the CDOS meet the demands of the workplace.*
- *DOE should provide guidance counselors and transition experts to address the specific concerns of students with IEPs and to advise those students.*

ATHLETICS

In 2013, the U.S. Department of Education issued a memo reminding schools that they are required to include students with IEPs not only in academic programs but in extracurricular activities and particularly athletics as well. The extent to which New York City schools comply with this mandate varies from school to school. The CCSE applauds Francis Lewis High School in Queens for including all of its students in a wide range of extracurricular activities.

Recommendation, 2014-15

- *All schools should include students with IEPs in extracurricular activities, including athletics. Schools should work to make these programs accessible to all students and encourage students with IEPs to participate in them.*

In 2016, the State Education Commissioner issued updated regulations to Part 200 of the state education law, which addresses students with disabilities. The new rules require school districts to establish policies and procedures to ensure that students with disabilities be able to participate in non-academic and extracurricular activities,

including athletics “to the maximum extent appropriate to the needs of the student.” (For the relevant portion of those regulations, see Appendix 16.)

The state also has issued rules on granting waivers to students with IEPs so they can participate in high school sports even if they do not meet the usual eligibility requirements. A student with a disability, for example, could be allowed to compete for more than the usual four years. (For the waiver rules, see Appendix 17.)

TWICE-EXCEPTIONAL STUDENTS

Some children are both 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 toward these students. The absence of such services forces many parents to choose the program that will address one of their child’s pressing 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 toward 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 for their extraordinary intelligence or high-powered reasoning skills.

Recommendation, 2013-14

- *Principals of schools with gifted and talented programs should receive professional development training to more fully understand and better work with twice-exceptional students. **No action***

Recommendation, 2014-15

- *A student's IEP should include goals reflecting his/her strengths as well as problem areas. **No action***

SPECIALIZED PROGRAMS AND NEEDS

The city offers two programs for students with autism spectrum disorders. The NEST program places these students with general education students in team teaching classes. The Horizon program is aimed at children with more serious disorders and provides small classes and a specialized curriculum. Both programs are aimed at improving graduation and college and career readiness among these students.

All students seen as struggling in school are supposed to receive additional support in small groups or even individually under the Response to Intervention or RTI. These may be particularly useful for some students with IEPs.

Recommendations, 2014-15

- *DOE should distribute any new and additional NEST and Horizon classes throughout the five boroughs, particularly in lower income neighborhoods and in schools serving children with greater social and academic needs. No action*
- *DOE should establish NEST-like programs for students with dyslexia that are focused on literacy. These programs should be staffed by teachers trained in Orton-Gillingham or similar programs. Parents of students with dyslexia, dysgraphia, dyscalculia or apraxia should receive written information on these programs. No action*
- *DOE should establish Centers of Excellence programs in all 13 categories of disability. Each program should be located in a team-teaching environment in a community schools. These programs should be resources for teachers and other staff in schools where staff may not be knowledgeable about the students' diagnoses or trained to meet their needs. A resources person such as a Resources and Methods Resident should be assigned to each school to assist staff. No action*

Recommendation, 2015-16

- *DOE needs to determine whether the RTI is effective. If it is not, particularly for students with IEPs, the department needs to go about determining why it is not helping students who struggle academically and what could be done to improve it.*

CURRICULUM

Many of the curriculum materials the city has obtained to help students meet state standards and prepare for standardized tests do not meet the Universal Design for Learning (UDL) requirements that would make them accessible to most students with IEPs. This problem is particularly acute for, though not limited to, students with cognitive disabilities, who may find it hard to master the demanding curriculum without special accommodations. The CCSE is particularly concerned that the curricula may set requirements that some students with IEPs cannot meet,

The CCSE wants to praise educators who strive to prepare students with IEPs to meet increasingly rigorous requirements. One such educator is Superintendent Lenon Murray in Community School District 29, who is making it a goal for all schools in his district to not only support students with IEPs but to also ensure they are prepared for rigorous academic instruction.

The curricula are inextricably tied to standardized tests that seek to determine whether students meet standards. As tests became longer and the stakes higher, they challenged all students, particularly many with IEPs. In response to widespread concerns, the state lifted time constraints for standardized state tests and reduced the number of questions

on the English and math tests. (For the state memo on test changes, see Appendix 18.) This has proved beneficial to all students, including those with IEPs.

Recommendation, 2013-14

- *All curricula shall be properly adapted for students with IEPs either through the UDL framework or similar approach. **No action***

Recommendation, 2014-2015

- *DOE should create a division within the Special Education Office that spot-checks materials to see if they are UDL compliant and have been adapted for students with IEPs. Results of these spot checks should be reported on a school, district and citywide basis. This division could, for example, randomly select 5% of all students with IEPs in every school and review the children's textbooks, workbooks and homework to confirm that the materials they are using comply with the accommodations and modifications indicated on each child's IEP.*

The Office of Special Education is meeting with the Quality Review Office to look at materials for UDL compliance.

OUTSIDE PLACEMENTS

Some children have special needs that cannot be addressed in programs run by the city DOE. These students are placed in private facilities and the city and state pay their tuition. The Central Based Support Team (CBST) provides a list of the independent providers who run such facilities. Sometimes, though, contrary to expectations, the selected program does not provide a child with the services, education and help he or she needs. Although parents can call 311, the Committee on Special Education or the Office of Specialized Instruction if they are concerned that the non-public school is not complying with the IEP, they may find that they have little recourse for their child in the middle of the school year.

Recommendation, 2013-14

- *The CBST should do a midyear check to see if the school is providing promised services. **No action***

Recommendation, 2014-15

- *Social workers need to be more specific and direct when meeting with private schools about placements to learn how the school will meet the individual child's needs. Parents should be given a name and phone number of a DOE contact they can approach if they have concerns in the middle of the year. **No action.***

Recommendation, 2015-16

- *DOE should reach out to and provide families with information on the process for their children returning from non-public schools to district schools if the special placement does not work out.*

RELATED SERVICES

Related services are services, such as speech and language instruction, occupational therapy, physical therapy and counseling that are provided to students to help support and assist their participation 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 (RSA) that allows them to use a certified independent provider at no cost to them.

Unfortunately, some children do not receive the services that they need and are entitled to. According to DOE's *Annual Report on Special Education* for 2015-16, the city was supposed to provide 271,913 related services. Of those, only 12,462 were never delivered. This would imply DOE provides related services in about 95% of cases. However, the report considers a service as having been delivered if the child has just one encounter with the provider. "Due to incompleteness of available data, frequency of service is not reflected," the report says. This could mean that many children are not receiving the services they need on an ongoing basis.

CCSE members know that there are 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 between the student and provider, it does not indicate whether there have been any disruptions in the service.

Recommendations, 2013-14

- *The Blue Book formula, used to determine whether a DOE building is at, under or over capacity, should take into account the space needed to provide mandated services to students with IEPs based on the number of sessions and the space required for each of the various services. **No action***
- *The need for space for related services should be defined in the following way, similar to existing recommendations from multiple government agencies: Every therapy session, with the exception of physical therapy, must be conducted in a space that has a minimum of 150 square feet per concurrent therapy session, with an additional 50 square feet allocated for each additional student in a group session. Every physical therapy session must be in a space that has a minimum of 300 square feet per concurrent therapy session, with an additional*

*75 square feet allocated for each additional student in a group therapy session. In addition to treatment space, for every 25 sessions of therapy in a school, 200 square feet must be allocated for writing reports and maintaining records. **No action***

- *No therapy of any kind shall be performed in a space that does not have light, ventilation, access and physical dimensions required by the New York City Building Code. All allocated therapy spaces shall have a wall between the therapy space and the exit path. This means a school corridor cannot serve as a therapy room, although a student could leave the allocated therapy space, at the therapist's recommendation, and use a hallway or stairwell for a therapeutic purpose. **No action***

Recommendation, 2015-16

- *DOE should figure out how to get Medicaid reimbursement for related services. This money is urgently needed to provide services to students with IEPs.*

TRANSPORTATION ISSUES

The Office of Pupil Transportation (OPT) reports that in 2015-2016 there were 5,131 specialized bus routes for New York City students with IEPs. This does not include students with IEPs who do not require specialized transportation.

Longstanding problems with the transportation system create arduous trips for students with disabilities, cause them to miss classroom time and are a source of stress for families. While the OPT has dramatically improved its turnaround time for returning calls to 24 hours, challenging issues remain.

Long trips: Students with IEPs tend to spend extended periods of time on the bus. The New York State Department of Education has determined that trips as long as one and a half hours are not unreasonable in some situations.

The switching of routes creates confusion at the beginning of the year, causing some students to arrive at school late during the first weeks of school.

Overheated buses: The New York City Administrative Code (section 19-605) requires, "Any bus or other motor vehicle transporting a child with a disability to and from a school in the city pursuant to any agreement or contract shall be air-conditioned when the ambient outside temperature exceeds 70 degrees Fahrenheit." Students and parents have long complained of over-heated 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.

In response in summer 2015, Public Advocate Letitia James said her office would provide clip-on thermometers to every parent who requested one so parents would

know what the temperature was on their child's bus and could report any problems to DOE. The 10 thermometers provided indicated that the problem of overheated buses persisted, with one parent reporting temperatures in excess of 85 degrees Fahrenheit on the bus.

In August 2015, Ms. James' office filed suit against DOE for failing to provide adequate air conditioning on buses carrying District 75 students. (For the Public Advocate's announcement of the suit, see Appendix 19.) The de Blasio administration sought to have the suit dismissed, claiming that Ms. James did not have the right to sue. In August 2016, a state Supreme Court judge ruled against the city, finding that the public advocate has "an obligation to explore a serious health problem affecting disabled children of the City and attempt, with the help of the Court, to remedy that problem." The city said it would appeal. (For the public advocate's statement on the court ruling, see Appendix 20.)

School Bus Attendant Training: One consistent failing of special education in New York City is that the people who have the most personal contact with children with IEPs often have the least training. This is true of some paraprofessionals in classrooms and also of some bus attendants. The attendants typically do not have access to the student's IEP and may not have the training to deal with specific issues that may arise on long bus trips, such as behavioral issues and medical problems.

Parent access to information: Parents of very young children or children who cannot express themselves are understandably anxious that incidents could take place during long bus rides that they would have no way of knowing about. This could include bullying by students or unprofessional behavior by a bus driver or attendant.

Lack of bus service for some middle school students: 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. This enables many students with IEPs to ride the same bus as general education students through the end of 6th grade.

In 7th grade, students living far enough from their schools to qualify for transportation get free or reduced-price MetroCards instead of yellow bus service. This change often comes as a shock to parents of students with IEPs who rode the general education bus with no problems but who cannot use public transportation. While children with an IEP may still qualify for yellow bus service, parents do not know they need to request specialized transportation.

Recommendations, 2013-14

- *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.*

In 2015-16 drivers and attendants received re-training from approved training centers and DOE in securing wheelchairs, child passenger safety including car seats, and behavior and student management.

- *While drivers and escorts should not have unfettered access to children's IEPs, the CCSE urges that they be better trained and be informed of any needs or problems regarding individual children as it relates to busing.*

Transportation providers are related service providers under the federal Individuals with Disabilities Education Act and state education regulations. As such they may view student IEPs if warranted. School based related services providers are tasked with communicating relevant information to transportation staff. It is unclear how often this occurs.

- *The city should require that all buses used in transporting students with IEPs be equipped with cameras.*

In 2015 DOE announced it would conduct a pilot program placing cameras on buses in Brooklyn. OPT would solicit proposals and demonstrate cameras in 2015, with the plan to have cameras on 100 buses in 2016-2017 as a pilot program. However, as of December 2016, the pilot program had not gone into effect.

- *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.*

DOE plans to develop a checklist of specific issues by grade to be discussed at IEP meetings, with 7th grade busing being one of them.

Recommendation, 2015-16

- *All school buses used in the summer should have air conditioning, just as any MTA bus for adults does.*

STUDENT SAFETY

In August 2014, the City Council unanimously passed a law named for Avonte Oquendo, a teenager with autism who died after disappearing from his Queens school in 2013. It calls for DOE to survey schools to determine where cameras and door alarms would be "appropriate for safety purposes," to set a schedule for installation of the devices and to report on training personnel on "student safety protocols." The measure falls far short of initial plans by some City Council members to require audible door alarms in elementary schools and schools with severely disabled students.

Recommendation, 2013-14

- *DOE should issue a public report every quarter about its progress in installing*

cameras and alarms, including the number of schools it has surveyed, what the survey found, how many schools will receive alarms and/or cameras and when the devices will be installed.

Despite multiple requests, the CCSE has received no information about the progress on the surveys.

Recommendations, 2014-2015

- *The police and fire departments should be notified of students with disabilities in each school building. **No action***
- *DOE should confirm that the Fire Department's evacuation route for students in wheelchairs on the first floor is fully accessible and not blocked. For students on the upper floors, DOE must confirm, and monitor conditions in Safe Rooms, which are used by students who have limited mobility/use wheelchair. That should include a communication system as well as a floor monitor or fire warden to ensure that these students are safely escorted to the properly equipped Safe Rooms. This should be covered in the Building Condition Assessment Survey. **No action***

DISCIPLINE

Schools suspensions continued to decline in 2015, falling by almost 16% from the previous school year and by 46% since 2011-12. However while the number of students with IEPs who were suspended dropped, they still accounted for a disproportionate share of the suspensions. Some 39% of students suspended in 2015-16 have IEPs. In general, students with IEPs are about twice as likely to be suspended as their general education peers.

The publication Chalkbeat (<http://www.chalkbeat.org/posts/ny/2016/11/04/five-top-10s-that-show-which-new-york-city-schools-suspend-the-most-students/>) found that the following schools had the highest suspension rates for students with IEP in 2015-16, defined as the number of suspensions per 100 students with special needs. (Some students may be suspended for two or more times.)

DBN	School Name	Score
M282	Urban Assembly Maker Academy	91.6
K429	Brooklyn School for Global Studies*	88.4
X305	Pablo Neruda Academy	71
M860	Frederick Douglass Academy II Secondary School	68.1
K568	Brownsville Academy High School	65.6
K764	The Urban Assembly School for Collaborative Health	65.2
Q250	I.S. 250 The Robert F. Kennedy Community Middle School	64
K617	High School for Innovation in Advertising and Media	63.8
X265	Bronx Lab School	62.5
K351	Urban Assembly Unison School	58.1

* Now Digital Arts and Cinema Technology High School

Since Dr. Fariña became chancellor in January 2014, DOE has taken a number of steps to reduce the number of student suspensions. In November 2015, Mayor de Blasio announced what he called a “roadmap” to “end overly punitive school discipline,” particularly the disproportionate number of suspensions of students of color and students with disabilities. Involving both DOE and the Police Department, the program included expansion of “de-escalation training” for school safety agents; extra training for school safety agents at schools serving “students with more intensive special needs”; and training for teachers and safety agents on the differences between a school discipline issue and a law enforcement issue. (For the announcement of the “roadmap,” see Appendix 21.)

More recently, the city said it would no longer allow suspensions of students in grades K to 2. Last year, 801 suspensions were given out to students in the lowest grades. Many schools never suspend students that young, and, according to *Chalkbeat*, 19% of schools accounted for 87% of suspensions of students in grade K through 2.

Instead of suspension, DOE has moved toward so-called “restorative practices” to maintain discipline and safety. These aim to make it clear to students what is expected of them, try to get at the causes of misbehavior, build community and bring together those affected by the misbehavior to resolve problems. The department has said it will increase training for teachers in meeting behavioral challenges and providing social and emotional support to students.

New York State requires that students with IEPs who evidence problem behaviors undergo an assessment, known as a Functional Behavioral Assessment or FBA, and that, if necessary, the assessment team may develop a Behavior Intervention Plan. According to the state education department, the plan “includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs, and intervention strategies that include positive behavioral supports and services to address the behavior.” When problems arise, a teacher or other staff member

is supposed to follow this plan. Many, teachers, however, fail to do that. This is particularly likely when the teacher involved is not the student's classroom teacher but a so-called cluster teacher, such as a music or physical education instructor, or other school staff.

Many of the city and state policies on discipline do not apply to publicly funded, privately run charter schools, which can adopt their own discipline policies as long as they comply with federal and state law. A February 2015 report by Advocates for Children found that many charter schools have policies that do not meet this requirement. In particular, it noted, the law prohibits charter schools from suspending or expelling a student because of his or her disability. However the report found, "36 of the 164 NYC charter school discipline policies we reviewed fail to include any additional procedures for suspending or expelling students with disabilities, in violation of federal and state law."

A national study by the by the Center for Civil Rights Remedies at the University of California, Los Angeles, found that students with IEPs in charter schools were two to three times more likely to be suspended than students without disabilities.

Recommendation, 2013-14

- *DOE should provide all school employees with professional development on Behavior Intervention Plans. This training should include information on how to respond to students in accordance with the plans, specific interventions that might be appropriate in various circumstance and what a teacher can do if he or she is unable to handle the problem.*

In 2015-2016 there were 91 professional development sessions geared toward understanding and implementing behavior intervention plans, as well as other behavior support strategies. This represented a sharp increase from the previous year, when there were 39. (For the number and type of professional development sessions offered in 2015-16, see Appendix 8.)

Recommendation, 2014-15

- *Authorizers of charter schools should ensure that the charter schools they approve follow state and federal law with regard to disciplining students with IEPs. No action*

CHARTER SCHOOLS

The growing number of publicly financed, privately run charter schools in the city has raised a number of issues related to children with IEPs. About 106,600 city children attend 216 charter schools in the five boroughs.

The issue of whether charter schools exclude students with IEPs has been the subject of

heated debate and warring statistics. According to the Independent Budget Office, in 2014-15, traditional public schools had a higher percentage of students with IEPs than charter schools did. In grades K-5, for example, students with IEPs accounted for 14% of charter school students and 21% of students in traditional public schools.

Success Academy, New York City's largest charter operator, has come under particular attack for allegedly excluding students with disabilities. In January 2016, a group of parents filed a complaint with the U.S. Office of Civil Rights charging that Success would not provide students with IEPs with their legally required services and tried to induce parents of students with IEPs to take their children out of the school. Public Advocate Letitia James, City Council Education Committee Chairperson Daniel Dromm and several advocacy and legal aid groups joined in the complaint. (For the complaint, see Appendix 22.)

There are a number of explanations for why charters could have fewer students with IEPs than their district counterparts. Significantly fewer students with severe disabilities enter the kindergarten lottery to apply to a charter school. Charter schools are less likely than district schools to classify a student who may have a disability as needing an IEP.

Although, like traditional public schools, charters are supposed to be open to students with IEPs, many cannot accommodate students with special needs and/or are reluctant to provide the services they need. In addition, some charter schools have policies, such as strict discipline and longer school days, that may have a deleterious effect on some children with special needs.

Many charter schools in New York City are housed in DOE buildings and share space with district schools and/or other charters. A number of these so-called co-locations have cut into space previously designated for Related Services and other programs for student with IEPs. In a fall 2014 report, the city's School Space Working Group found that co-locations had a serious impact on some District 75 programs serving children with severe disabilities. The group found that District 75 students "should be shielded to the greatest extent possible from upsets that may be caused by forced site changes" and recommended that, when allocating space, DOE minimize movement between buildings for District 75 students and consider physical accessibility for children with mobility issues.

Recommendations, 2013-14

- *New York State's charter authorizers should require that, as publicly funded schools, charter schools provide all programs and services mandated in the IEPs of their students. **No action***
- *When charter schools are up for renewal, all New York State charter school authorizers should make publicly available data including but not limited to: the number of applicants to the school with IEPs, diversity of applicants, student attrition, graduation rates and provision of related services. In*

situations where mandated services were not provided, the school in question should be required to thoroughly explain why and set out what steps it took to obtain the services. Schools should compile a list of all students who transfer out of the charter school, why the child transferred and where he/she transferred.

Unfortunately Local Law 27 does not cover charter schools, so no data is available about charter schools’ compliance with law. As publicly funded, privately managed entities, they have not been required to release the same information that traditional public schools do. If a student attending a charter school is not receiving his or her mandated related services, the parent should contact the Committee on Special Education. This is not clear to many parents, who think the school is responsible. This should be clarified in the IEP meeting each year.

CAPITAL PLANNING

DOE’s amendment to its 2015-2019 Capital Plan calls for spending \$13.46 billion, of which about \$100 million is slated for improving accessibility. A complete list of these projects and their status as of fall 2016 is in Appendix 23.

Trailers and “Temporary” Classrooms

A number of District 75 schools that share space with other schools are located, not in permanent, regular classrooms, but in trailers on the grounds of those schools. Many schools throughout the city have trailers for some classes.

While trailers are not desirable for any student, they pose particular problems for students with IEPs, isolating them from general education students and limiting the ability to include students with IEPs in age-appropriate classes, school activities or assemblies. The logistics of moving from the trailer into the main building for physical education, lunch and the like can create difficulties for students with IEPs in terms of putting on coats and getting to the main building. The city’s School Space Working Group has called for minimizing movement between buildings for students in District 75 programs.

In 2104, DOE announced plans to remove all temporary classroom/trailers by 2020. At that time, it estimated that estimated 354 trailers serving as classrooms for about 7,000 students. The 2015-2019 Capital Plan amendment issued in spring 2015 allocated \$480 million for this project. This is the status of the projects, according to DOE:

TCU Status	In process	Remaining	Removed	Grand Total
Total	104	156	94	354

Recommendation, 2013-14

- *DOE should house all District 75 programs should in the main school building or a permanent annex built to be integral to school buildings*

DOE has said it is committed to removing all trailers and temporary buildings but says it cannot provide a definite date for completion of this project.

Recommendation, 2014-15

- *DOE should provide a timeline and budget for all projects it has slated for improving school building accessibility.*

This has been done.

SPECIAL EDUCATION STUDENTS INFORMATION SYSTEM

DOE's Special Education Students Information System (SEGIS) provides information on whether a child is getting services, notes on the child and other records. Parents have not had access to SEGIS and no data from it has ever been provided.

In 2015, DOE announced that it would abandon SEGIS. In its own *Annual Report on Special Education*, mandated by Local Law 27, DOE acknowledged problems with SEGIS, stating, "Major deficiencies in SEGIS' design for capturing, processing, and storing information continue to affect the DOE's ability to reliably report specific compliance metrics (e.g., timeliness of evaluations)."

In February 2016, Public Advocate Letitia James filed suit against the city, charging that SEGIS' failures – and the subsequent failure of the city to adequately track students with IEPs – had both deprived students of needed services and deprived the city of Medicaid revenue. The lawsuit sees to compel the city to develop a plan to address SEGIS' problems. (For the public advocate's complaint suit, see Appendix 24.)

In 2016-2017 the DOE decided to invest in computer system integration to make SEGIS work with other systems and share data more readily.

Recommendation, 2014-15

- *DOE needs to have an accurate, visible, user-friendly system of presenting information on every child with an IEP to that child's parent. This is required by federal and state laws that allow parents to see and have a copy of their child's records if they request them. **No action***

ASSISTIVE TECHNOLOGY

Assistive technology (AT), devices that enable people with disabilities to do tasks that they might otherwise have difficulty doing or be unable to do, has made a huge difference in education for students with IEPs. It includes simple technologies such as audio books as well as more advanced technologies.

Many students' IEPs call for AT, but children, teachers and parents often do not receive training on how to use it. This makes it difficult for parents to find out what devices would work for their child and how to use them. Students who rely on AT devices often have no official means of keeping them once they leave high school.

In the last year, DOE has made some positive changes in the area of assistive technology. DOE has changed the time frame for the AT assessment, requiring that it be done in 30 days instead of 80. The department reports that in 2015-16 it conducted 2,000 assessments to determine whether and what type of assistive technology would benefit a student with an IEP.

In addition, DOE has created a “family guide” in the 10 languages on AT with information about what AT is and how the assessment process used for AT assignment works. (The guide in English is available at http://schools.nyc.gov/NR/ronlyres/BDA701A7-347A-44F2-B888-FEECACC3A5C0/0/FINALATFGFormattedUpdateDraft5_31_16.pdf) The department reports that it has examined where assistive technology is being used and is targeting areas where there is low usage to increase student awareness of this technology and to encourage parents and school staff to use it.

The CCSE supports and praises DOE for all of these steps and for recognizing that more information about AT needs to be shared with parents.

Recommendations, 2013-14

- *DOE should provide students and teachers training on the use of Assistive Technology.*

In 2014-2015 there were 7 professional development sessions focused on assistive technology. In 2015-2016 there were 11 professional development sessions focused on AT.

- *All students who are not functionally speaking by 2nd grade should be evaluated to see if they would benefit from assistive technology.*

The city DOE plans to develop a checklist of specific issues by grade to be discussed at IEP meetings, with this being one of them.

Recommendations 2014-15

- *All IEPs should spell out what, if any, assistive technology every student needs, based on the February 2015 memo issued by the state education department. Assistive technology, as defined by the state, encompasses many technologies not offered by the city. This includes wheelchairs, standers, orthotics, etc. **No action***
- *Transfer of any AT device must be part of a transition plan for all students using AT when they graduate from high school. No students should be asked to return a device because they graduate from high school. **No action***

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.

Even though DOE says it is important for parents to attend IEP meetings, the proceedings may not be in a language the parent can speak or understand. In some cases, even when the parent can communicate with the team, the members do not give adequate consideration to the parent's contributions. 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.

In fall 2014, the city signed a memorandum of understanding with the state education department requiring, among other things, that interpretation services be available at IEP meetings and that it translate documents including IEP.

Recommendations, 2013-14

- *DOE should provide every parent with their child's IEP in the family's home language.*

The memo of understanding regarding ELL students appears to address this, but it is important that this be monitored to ensure DOE compliance. The CCSE has heard varying reports on translation of IEPs. The CCSE commends District 6 in Upper Manhattan, where having the IEP translated is considered a given.

- *Parents who need or want translation services should be provided with them at the IEP meeting.*

Some districts have made progress on this, particularly District 6.

STUDENTS IN TEMPORARY HOUSING

An increasing number of New Yorkers are struggling to maintain permanent and stable housing. Almost 9% of all New York City public school students — more than 98,574 children — were in temporary housing during 2015-16, according to the New York City Independent Budget Office. About 40% of these students were in city shelters; the remainder were “doubled up” with family or friends. The lack of a permanent home, to say nothing of life in a shelter or doubled up in an apartment puts a particular strain on children especially those with IEPs.

Many of these students have IEPs. According to an analysis of 2013-14 (<http://www.ibo.nyc.ny.us/iboreports/not-reaching-the-door-homeless-students-face-many-hurdles-on-the-way-to-school.pdf>) issued by the Independent Budget Office in 2016, 28% of students in shelters received special education services. This compared to 14% of students who were doubled up and 18% of those in permanent housing. (For the relevant excerpt of the IBOs report, see Appendix 25.)

Children with IEPs in shelters had lower rates of attendance, with only 30% having a good attendance rate, compared to 64% of the doubled up students with IEPs and 53% in permanent housing. (These figures do not include students in District 75 programs.)

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 the children’s home schools and does not consider proximity to the school when pushing families to move in with relatives. As a result, parents either travel long distances so their child can remain in their old school or to transfer their child to a closer school, which can disrupt or delay delivery of services.

Students with IEPs in temporary housing are entitled to busing if it is called for on their IEP. In addition all children in shelters in grades K through 6 are to be provided with busing so they can remain in their original school at least for the remainder to the school year. 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.

While an uncertain housing situation puts stress on all children, the situation can be even more dire for those with IEPs. 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, the reports, states, the 12-1-1 classroom may already be full or the new school may not have a therapist that the student needs. The situation is

exacerbated by DOE's lack of a good data system for tracking students with IEPs, the budget office added.

Recently the Institute for Children, Poverty and Homelessness found that students in temporary housing are overlooked for special education assessments and evaluations because their unstable housing situation may lead to multiple school transfers in a single school year. According to the institute, "Just 41% of homeless students with special education needs had an IEP by the end of kindergarten, compared to 55% of housed students." The homeless students who were late in getting an IEP were more likely to have to repeat kindergarten than those with IEPs, were more likely to be suspended and scored lower on their 3rd grade state standardized tests than the homeless students who got IEPs before kindergarten. The institute also determined that students in temporary housing with IEPs were likely to do better if they remained in the same school for the entire school year. (For the institute's report, see Appendix 26.)

In an effort to improve delivery of services to students in temporary housing, DOE has reported that it is working to develop a traveling related services team.

Recommendations, 2015-16

- *City, state and federal officials should provide more funding to address the needs of students living in temporary housing.*
- *DOE has created a new position of family worker to help provide support services to students/families residing in temporary housing, such as helping students enrolls in school, monitoring student attendance and arranging transportation. This person should have training in special education issues, such as the IEP process, placement, related services and busing.*

MENTAL HEALTH ISSUES

Mental health is a key issue in New York City public schools. According to city data, 18% of children ages 17 and under experience two or more adverse events such as divorce, domestic violence, or family financial strain – events that can contribute to mental health problems later in life. In addition, 27% of public high school students in the city report said that they felt sad or hopeless for much of the previous two weeks. In response, the administration created Thrive NYC, a program aimed at supporting students' mental health needs by, among other things, hiring 100 school mental health consultants, social workers and counselors to work with and help city schools connect students with appropriate mental health care.

Beginning in 2017, the city will assess the needs for mental health services at 52 schools it considers "high needs." Selected middle and high school staff will be taught Youth Mental Health First Aid, aimed at assessing, identifying and helping youth in crisis. School staff will receive training in a suicide prevention models and all full-time

school employees will be able to take an on-line training on how to recognize psychological distress and connect students with help to address it.

Recommendations, 2015-16

- *Just as DOE provides a listing of accessible sites, it should offer a listing of schools with onsite mental health clinics and the presence of a mental health clinic should be included in the middle school and high school directories.*
- *Students needing mental health services should be screened by a school psychologist. The psychologist should have professional development in special education.*

PORTAGE FOR STUDENTS IN WHEELCHAIRS

Some students with mobility constraints, including students who use wheelchairs, live in non-accessible housing. DOE is in the process of revising its policy with regard to the provision of porter service.

Recommendation, 2014-15

- *DOE should provide portage to any child who needs it to attend school.*

OPT says it has had a policy for students who may require porter service. Now, though, it has created a process allowing for OPT to conduct residential inspections with the families on site to address accessibility needs.