



# Advocates for Children of New York

Protecting every child's right to learn

## Testimony to be delivered to the New York City Council Committee on Education

### Re: Provision of Special Education Services

February 25, 2019

Thank you for the opportunity to speak with you. My name is Randi Levine, and I am Policy Director at Advocates for Children of New York (AFC). For more than 45 years, Advocates for Children has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds.

We are grateful that the City Council is holding a hearing on the important topic of the provision of special education services. Every day, Advocates for Children hears from parents struggling to get their children the special education services they need. In the past two weeks alone, more than 100 parents and professionals contacted us with questions or concerns about the education of students with disabilities in New York City. Here are just a few examples of the children who came to our attention over the past two weeks:

- A preschooler with autism whose Individualized Education Program (IEP) mandates a preschool special education class, but who is sitting at home with no instruction or services and is regressing because of the Department of Education's (DOE's) shortage of preschool special education classes, a shortage that is heartbreaking to explain to families who see signs all over the City for 3-K and Pre-K for All but whose children do not have the preschool special education classes to which they are legally entitled.
- A child with a disability who is in kindergarten for the second time, whose school is asking his parent to pick him up early every day, in violation of the law, instead of providing the support needed to educate him for the full day and ensure he will successfully complete kindergarten this time around.
- An elementary school student with a disability who has already attended four different schools – district and charter – and is now facing expulsion from the charter school where his parent hoped he would finally get the high-quality education he deserves.

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- A student who is currently out of school because the paraprofessional who accompanies the student on the bus resigned and the DOE has not yet assigned a new paraprofessional and will not allow the student to ride the bus without a paraprofessional.
  - A student who received special education services while living in Puerto Rico but, after moving to New York City, waited a full year for his school to complete special education evaluations and recommend services, in violation of the law, and just received a promotion in doubt letter.
  - A child in foster care who desperately needs special education services but whose school is illegally refusing to start evaluations until the child's parent, who lives in a different state, comes in person to the school.
  - A student diagnosed with dyslexia whose parent just wants her child to learn to read and has resorted to looking at private schools because she has not been able to figure out how to get her child effective reading instruction within the public school system.
  - A student whose charter school and zoned school are passing him back and forth, each explaining that they do not have the 12-student special education class his IEP requires, with nobody taking responsibility for ensuring he gets the class he needs.
  - A high school student with a disability classification of emotional disturbance whose school has suspended him three times but has not provided the services mandated by his IEP.
  - A 12<sup>th</sup> grader with a learning disability who passed all of her classes, obtained all needed credits, and passed three Regents exams, but is struggling to pass the final two exams and does not know what her options are and what her future holds.
  - A student whose parent came to this country dreaming of a better life for her children but is unable to understand her child's IEP because it is written in English, a language she is just starting to learn.
  - A student with a significant disability who has been out of school for three years, according to the caseworker who called us seeking help.



This small sample of cases from the past two weeks shows that the DOE must do more to help provide each child with a disability with the programs, services, and supports they need to succeed in school and to ensure that parents of students with disabilities are able to get the help they need navigating the school system. Indeed, the DOE's annual special education report shows that more than 20 percent of students with disabilities—nearly 40,000 students—are going without the full special education instruction they are entitled to receive under the law. Meanwhile, there is a 40-point gap in reading proficiency between students with disabilities and their nondisabled peers and a 35-point gap in math proficiency. Students with disabilities are suspended at disproportionate rates, are more likely to drop out of school, and are less likely to graduate. The City must do more to extend the vision of equity and excellence in education to students with disabilities and to ensure that the needs of students with disabilities are considered and addressed in every DOE policy decision.

In order to address the challenges faced by students with disabilities, it is important to identify where the City falls short. Therefore, Advocates for Children strongly supports all four data reporting bills on today's hearing agenda. We are grateful for the leadership of Chair Treyger, Council Member Dromm, Council Member Kallos, and Council Member Rosenthal for introducing these important bills.

Intro. 1406, the bill to require annual reporting on Early Intervention and preschool special education services, introduced by Council Member Dromm, would fill a major gap in the City's current annual special education data reporting requirements by extending the annual report to cover services provided to zero-to-five-year-old children. At a time when the City is rapidly expanding early childhood education opportunities, it is particularly unacceptable that the City has a shortage of preschool special education classes for children whose IEPs require them. Earlier this month, the New York State Education Department released a memo showing that, even with new preschool special education classes that the DOE is opening mid-year, the City still has a need for around 550 additional preschool special education class seats. While the City has many choices when it comes to expanding and enhancing early childhood education, providing special class seats to preschoolers who require them is not optional. In addition to the shortage of preschool special classes, we often hear from families whose children are not receiving their mandated Early Intervention and preschool special education related services. We need data on Early Intervention and preschool special education to help hold the DOE accountable for providing services to children early in life when these services have the maximum impact.

Intro.559, introduced by Chair Treyger, and Intro. 900, introduced by Council Member Kallos, would provide valuable additional information about service provision for school-aged students with disabilities—allowing us to see school-by-



school breakdowns of service delivery and providing service delivery reports at multiple points in the school year. Currently, the DOE provides only a snapshot of service delivery at the end of the school year, masking the number of students who waited months to receive their mandated special education instruction and services.

Intro. 1380, introduced by Council Member Rosenthal, would require the DOE to report on the timelines for settlements in special education cases. In 2014, Mayor de Blasio announced a new settlement policy to help simplify and expedite the process for families with valid special education claims. As Mayor de Blasio said: “We are cutting red tape, speeding up the process, and reaching outcomes that do right by families.” Unfortunately, we are seeing a lack of adherence to that policy and significant delays in moving forward settlement agreements. In many cases, these delays cause children to go without the services they need. In some cases, we have had to proceed with due process hearings simply because of the delays in the settlement process even though the DOE is not contesting the parent’s claims. In such situations, due process hearings not only are burdensome for families, but waste DOE resources, requiring the DOE to spend time and resources at a hearing and then to pay attorneys’ fees when a parent receives a favorable hearing decision. We hope that Intro. 1380 will help shed light on the need for the DOE to improve the settlement process for families of students with disabilities.

We appreciate the City Council’s leadership in holding this important hearing and look forward to working with you to move these bills forward.

Thank you for the opportunity to speak with you. I would be happy to answer any questions you may have.