



Advocates for Children of New York
Protecting every child's right to learn since 1971

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

Re: Meeting the Needs of Students with Disabilities in the COVID Era

November 18, 2021

Thank you for the opportunity to speak with you today about meeting the needs of students with disabilities. My name is Randi Levine, and I am the Policy Director at Advocates for Children of New York (AFC). For 50 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. Every year, we help thousands of New York City parents and students navigate the education system. We focus on students whose needs are often overlooked, such as students with disabilities, English Language Learners, students who are homeless, students facing discipline, and students with involvement in the child welfare or juvenile or criminal justice systems.

Throughout the pandemic, Advocates for Children has heard from hundreds of families of students with disabilities whose needs were going unmet despite the hard work of many educators and DOE staff. We heard from families whose children had to wait months for a remote learning device; were unable to sit and focus in front of a screen; had services that did not translate over the screen; were not assigned the special education teacher, service provider, or paraprofessional mandated by their Individualized Education Program (IEP); were assigned to a class with more students than the maximum on their IEPs; did not receive needed evaluations; or were turned away from the Learning Bridges child care program due to their disabilities. This school year, challenges have continued, as we heard from numerous families about school buses not showing up at all or getting their children to school late; students waiting for the DOE to assign staff, including the IEP-mandated one-on-one paraprofessionals and nurses needed for children to attend school safely; students not receiving their mandated class or services; students not receiving instruction or related services while ordered to quarantine due to COVID exposure; and students suspended from school following the trauma of the pandemic and often for behavior related to their disability.

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With our limited time today, we will discuss the initiatives where the DOE is allocating federal COVID-19 relief funding specifically to address the needs of students with disabilities.

While we appreciate that the DOE has allocated funding to provide “recovery services” for students with disabilities after school or on Saturdays, we have significant concerns about the implementation and the sufficiency of these services. Among other concerns, we are troubled that the start date for recovery services has been pushed back; that schools are now allowed to provide recovery services remotely—when, for many students, the need for make-up services stems from the ineffectiveness of remote learning to meet their needs; that parents have received insufficient communication; and that the DOE has not yet committed to providing bus service for recovery services for students who rely on busing to get to school.

Moreover, the recovery services will not be sufficient to provide all students with disabilities with the *compensatory services* they have a legal right to receive to make up for what they missed during the pandemic. Some students will need a different set of services, bilingual services, services at a different time of day, or a different number of sessions than the school can offer through the recovery services program. Furthermore, recovery services are available only to students attending DOE schools, but the DOE has a legal obligation to provide compensatory services to students with disabilities regardless of the type of school they attend – including students in charter schools, preschools, and state-approved non-public schools. The DOE must issue clear guidance requiring IEP teams, which include school staff and parents, to determine whether each student with a disability needs compensatory services beyond the recovery services their school is offering and, if so, ensure that students receive those services in a timely manner. The DOE must also develop a non-adversarial pathway for parents to get help if they disagree with the decision of their school representative, and they must provide oversight and monitoring to ensure every student gets the compensatory services they need. Families should not be forced to file administrative hearings in an already overburdened and delayed special education hearing system in order to get the compensatory services to which they are entitled in cases where recovery services are insufficient or inaccessible.

We are very pleased that the DOE is also using federal COVID-19 funding to launch a contract enhancement for preschool special education programs next year, to bring these programs into the 3-K and Pre-K for All program and provide them with fiscal and programmatic support to help address the shortage of preschool special education classes that has left children sitting at home in violation of their legal rights. However, we are concerned that the City has not yet committed to providing salary parity to teachers or other staff at these programs. The City’s initiative will not be successful if community-based organizations running preschool special education classes cannot recruit and retain teachers for their current classes, not to mention new classes. Teachers and staff at preschool



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special education programs work over the 12-month school year and serve young children with the most intensive needs in the City; the City must commit to paying them on par with their DOE counterparts.

Since schools reopened, we have been receiving request after request to represent students with disabilities in suspension hearings. We are deeply concerned that schools are punishing and excluding students from school, often for behavior related to students' disabilities, resulting in days and weeks of missed class instruction. We urge the City to systemically monitor school requests for suspensions to borough hearing offices to ensure that schools use progressive discipline, positive behavioral supports and interventions, and restorative and trauma-informed approaches that address the root causes of behavior and keep students in school learning.

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