

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

D.L., *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Civil Action No. 05-1437 (RCL)

**DEFENDANTS' AUGUST 31, 2022 REPORT
ON PROGRAMMATIC AND NUMERIC REQUIREMENTS**

I. Introduction

Schools in the District of Columbia, like the rest of the country, continue to address the effects of the global COVID-19 pandemic, the sudden closing of public schools in March 2020, and an unexpected shift to remote instruction and service delivery for the majority of students throughout the 2020–2021 academic year. Although students largely returned to the classroom for the 2021–2022 academic year,¹ the changes necessitated by the public health emergency continue to adversely affect the Defendants' compliance with the metrics in the injunction and the District's programmatic operations. Despite this, the District's performance improved across all three metrics, and the District expects that the numbers will continue on an upward trajectory as was the case before the pandemic.

During this reporting period—July 1, 2021 to June 30, 2022—the Defendants (collectively, the District) have continued to work diligently to address the realities of learning loss during the pandemic and the need for student recovery, with a particular focus on providing special education services, including to members of the Subclasses. Specific actions include:

- The Office of the State Superintendent of Education (OSSE) and District of Columbia Public Schools (DCPS) continued to coordinate closely with the District of Columbia Department of Health (DC Health) and the Office of the Deputy Mayor for Education (DME) to support safe in-person instruction to the greatest extent possible at all District local education agencies (LEAs) for school year 2021–22.

¹ District of Columbia Public Schools and District of Columbia public charter schools resumed full-time in-person instruction on August 30, 2021, with limited exceptions. Students continued to experience intermittent quarantine and school closures due to COVID-19 throughout the 2021–22 school year.

- OSSE continues annual focused monitoring on LEA child find, initial evaluation, and Part C to B transition activities for three- through five-year-olds and held technical assistance sessions with LEAs to improve these activities. As LEAs are in different phases of the technical assistance process, LEAs continue to be engaged in a number of activities including interactive data analysis and developing best-practice improvement strategies.
- OSSE further expanded guidance to LEAs related to the return to in-person education in fall 2022, including guidance on compensatory education and evaluation flexibilities to ensure recovery efforts are aligned across the District in key areas of recovery.
- OSSE additionally dedicated significant recovery resources to establishing partnerships with expert organizations to provide LEAs the guidance, technical assistance, and consultative supports needed to expeditiously problem-solve and operationalize new requirements.
- OSSE continues to make available a learning series for special educators, designed to support LEA accelerated learning and recovery planning with diverse learners at the center, including members of the Subclasses.
- OSSE continued to host monthly webinars with LEA special education leaders and staff to provide technical assistance on IDEA implementation requirements. Sessions discussed guidance issued through the updated OSSE Guiding Principles for Continuous Education and IDEA Part B Consolidated Guidance for Remote and Blended Learning, guidance on specialized instruction-tracking requirements, OSSE focused monitoring activities for three- through five-year-olds, and guidance issuances designed to address student recovery.
- OSSE provided supports to LEAs serving three- through five-year olds through a dedicated training focused on child outcomes, evaluation activities, LEA transition responsibilities, and child find practices.
- OSSE continues to build Charter LEA capacity to serve students transitioning from IDEA Part C to B by enhancing the availability of student data to Charter LEAs for those students who begin the transition process at DCPS Early Stages in the spring or summer but enroll into a Charter LEA for the following school year.
- OSSE continues to guide LEAs through training and use of the early access to students with disabilities data to support LEA planning for students transferring into their LEA or transitioning from Part C to B services.
- OSSE continued to make available to LEAs the professional development series and data-informed decision-making toolkit designed to facilitate LEA development of school-wide and student-specific recovery plans to address the possible loss of educational benefits during distance learning, including to members of the Subclasses.
- OSSE provided LEAs with training on child outcome summary (COS) data collection, which measures the progress of preschool and Pre-K students receiving IEP services.

OSSE's training focused on what, why and how we collect COS data for this monitoring activity.

OSSE and DCPS continue to collaborate with plaintiffs and key District education personnel to address programmatic barriers to achieving and sustaining compliance with the injunction across the full education sector. This includes the ongoing involvement of a third-party neutral—Clarence Sundram—to work with both Parties to resolve key areas of concern and develop collaborative solutions and data-sharing activities. The District continues to participate in monthly check-in discussions with plaintiffs and regular written communications to resolve questions about data and specific programmatic concerns affecting the Subclasses, review the District's progress on key areas of implementation, and discuss the District's recovery planning and implementation efforts to address past school closures.

The Parties held triannual meetings on September 17, 2021, January 21, 2022, and May 20, 2022, to continue to engage on systemic programmatic challenges and to work to solve barriers to implementation because of the public health emergency. These meetings continue to include the participation of the Public Charter School Board (PCSB) to discuss how District education sector partnerships support public charter schools serving members of the plaintiff class. The triannual meetings focused on charter LEA and DCPS activities to address delayed initial evaluation activities and the delivery of accelerated learning, OSSE focused monitoring outcomes, and steps the District has taken to improve the efficiency for students transitioning from Part C to B.

As of the March 2, 2020 Report on Programmatic Requirements (March 2020 Report) [628-1], the District had resolved the vast majority of the concerns raised by plaintiffs in their Notice Regarding Developments In The Monitoring Of Compliance With The Court's Injunction [601] through extensive technical data review discussions and feedback sessions on LEA-level programmatic functions. The District continues to spend substantial time and resources working to resolve plaintiffs' remaining concerns, which include additional concerns regarding recovery planning and implementation for members of the class affected by school closures because of the public emergency and delays in Part C to B transition. This work frequently includes implementing plaintiffs' proposed programmatic improvements across the full education sector.

In 2019, based in part on recommendations from Mr. Sundram, the District identified four focus areas for system-wide programmatic improvement, beginning during the 2019–20 school year, including: (1) focused LEA monitoring; (2) technical assistance and LEA capacity building; (3) specialized instruction tracking; and (4) developing a data visualization dashboard to support LEA data-informed decision making. All four of these strategies remain in place and continue to be implemented:

- **Focused LEA Monitoring.** OSSE continues to implement a monitoring framework that reviews LEA compliance on Subclass-specific outcomes, provides corresponding supports, and reviews programmatic and student-level improvements year-over-year. OSSE's enhanced focused monitoring ensures a sustainable State oversight system, designed to improve student outcomes by directly linking data to LEA support resources.

- **Specialized Instruction Tracking.** The city-wide tracking of specialized instruction delivery eliminated the use of a “proxy” for receipt of specialized instruction, as reflected in this numeric report to the Court.
- **Subclass Data Visualization Dashboards.** Data dashboards are being used to support focused monitoring activities and to enhance child find efforts, specialized instruction and related service delivery, initial evaluation timeliness, and Part C to B transition activities.
- **Technical Assistance and LEA Capacity Building.** OSSE uses its focused monitoring outcome data to identify LEAs that fail to meet District requirements, and then develops and delivers special education technical assistance to these LEAs to enhance their capacity to serve three- through five-year-olds and to improve child find, initial evaluation, and Part C to B transition practices.

The District regularly consults with plaintiffs regarding these initiatives and includes updates in its regular reporting to the Court. Additional information on the District’s system-wide programmatic work can be found in the Appendix to this Report.

II. The District’s Response to COVID-19 and Its Effects On Class Members

A. OSSE Response to COVID-19

Under the March 11, 2020 Mayor’s Orders 2020-045² and 2020-046³ declaring a public health emergency, on March 16, 2020 the District’s public schools closed their doors to students and shifted to delivering education through distance learning models to all students, including students with disabilities. In summer 2021, DCPS and some charter schools reopened in a reduced in-person capacity to serve vulnerable student populations, including in some instances students with disabilities. All public schools within the District opened buildings for in-person learning for the start of school year 2021–22 and remained open except in circumstances where classroom or

² District of Columbia Mayor’s Order 2020-045: Declaration of Public Emergency: Coronavirus (COVID-19) (March 11, 2020). (Available at: https://mayor.dc.gov/sites/default/files/dc/sites/mayormb/release_content/attachments/MO.DeclarationofPublicEmergency03.11.20.pdf)

³ District of Columbia Mayor’s Order 2020-046: Declaration of Public Emergency: Coronavirus (COVID-19) (March 11, 2020). (Available at: https://mayor.dc.gov/sites/default/files/dc/sites/mayormb/release_content/attachments/MO.DeclarationofPublicHealthEmergency03.11.20.pdf)

school building closure was required to quarantine students.⁴ LEAs and schools continue to operate in a rapidly changing environment under unprecedented circumstances and are required to modify procedures and instruction to address changing emergency response needs, including unpredictable student and staff quarantine.

In summer 2021, OSSE pivoted from recovery planning and implementation toward supporting LEAs in preparing for return to in-person learning in school year 2021–22. During school year 2021-22, OSSE continued to deploy a virtual professional development series and data-informed decision-making toolkit and provided accompanying technical assistance to support LEA activities for the delivery of accelerated learning to students with disabilities. OSSE additionally required LEAs to submit Continuous Education and Recovery Plan Applications for school year 2021–22, including continued provision of specific information on LEA activities to ensure IDEA service delivery designed to address learning loss. In fall 2021, OSSE collected data on the activities undertaken by all LEAs serving three through five-year-olds to assess student needs. All LEAs established plans to conduct student-level assessments, with 54% (21/39 LEAs) completing 100% of assessment activities by December 1, 2021. In January 2022, 87% (34/39 LEAs) had completed 100% of assessment activities. The remaining 5 LEAs had completed at least 90% of assessment activities and reported being on track to complete 100% within the school year.

On November 2, 2021, OSSE issued updated guidance, *IDEA, Part B Provision of FAPE: Guidance Related to Remote or Blended Learning*, to address key areas of concern raised by stakeholders, including plaintiffs, and to align with recently issued guidance from the U.S. Department of Education (DOE).⁵ The guidance included the medical exemptions for students with disabilities and homebound instruction, LEA obligations upon return to in-person instruction, remote service provision documentation and service delivery requirements, alignment with US DOE guidance on compensatory services, accelerated learning for students with disabilities, and OSSE IDEA monitoring activities for the 2021–22 school year.

On July 20, 2022, OSSE issued additional guidance to LEAs on Compensatory Services Related to COVID-19, including LEA obligations to determine student eligibility for compensatory education, factors IEP teams should consider in making student-specific determinations of need

⁴ The public health emergency ended in the District on July 25, 2021. *See* Mayor’s Order 2021-096 (July 24, 2021) at 2, available at https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Mayors-Order-2021-096.pdf. The public emergency, however, was extended until October 8, 2021 “to continue to authorize government actions to modify procedures, deadlines, and standards authorized during this declared emergency and to thoughtfully and safely respond to COVID-19 and its ongoing impacts.” *Id.*

⁵ OSSE IDEA, Part B Provision of FAPE: Guidance Related to Remote and Blended Learning (November 2, 2021). (Available at: https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/IDEA%20Part%20B%20Guidance%20SY21-22_Nov%202021.pdf).

and service delivery, and parental participation.⁶ In the guidance, OSSE addressed plaintiffs' concerns regarding the availability of IDEA dispute resolution options for students who began experiencing learning loss almost two years ago by requiring LEAs to provide notice to parents regarding decisions of eligibility for compensatory services and issue prior written notices (PWN) as appropriate. This procedure provides parents the requisite notice to inform their decision to exercise their procedural safeguards and seek dispute resolution.

On July 20, 2022, OSSE also issued guidance on LEA Flexibilities for Completing Special Education Evaluations.⁷ The District experienced the impact of the national evaluator shortage, requiring LEAs to act creatively to address delayed evaluations, an influx of referrals upon return to school in school year 2021-22, and rolling triannual reevaluation timelines. OSSE provided guidance to LEAs on leveraging existing data, growing the LEA's pool of evaluators by training school staff to conduct assessments requiring qualified evaluators and to administer educational assessments. OSSE additionally provided LEAs guidance on the obligation to implement IEPs while awaiting completion of evaluations.

B. DCPS Early Stages Response to COVID-19

After a brief period of closure in March and April 2020 to determine how best to function in a remote context, Early Stages, school-based, and Early Childhood Assessment Team (ECAT) providers implemented a plan designed to conduct the most robust virtual assessments and complete evaluations to the maximum extent possible.

During fall 2020, DCPS increased its ability to conduct evaluations virtually, by aligning assessment activities to the nation-wide emergence of new practices designed to address limitations created by circumstances related to the public health emergency. In January 2021, Early Stages began providing in-person evaluation appointments in a limited capacity. **By the end of April 2021, all but one child who had an open referral originating in 2020 had completed evaluations and been scheduled for an eligibility meeting, and the remaining child was scheduled for evaluation.**

During August 2021, Early Stages reopened both centers and resumed offering in-person evaluations as the primary evaluation method. The option of virtual evaluation appointments continued to be available for families with documented medical conditions or for when families or other IEP team members faced COVID-related restrictions, which allowed for appointments to proceed to the maximum extent possible, despite the continued impact of the virus. This continued through the remainder 2021.

⁶ OSSE Special Education Non-Regulatory Guidance: Compensatory Services Related to COVID-19 (July 2022) (Available at: https://osse.dc.gov/sites/default/files/dc/sites/osse/service_content/attachments/OSSE%20NonRegulatory%20Guidance_Compensatory%20Service%20Due%20to%20COVID19%20%28July%202022%29.pdf)

⁷ OSSE Special Education Non-Regulatory Guidance: Flexibilities for Completing Special Education Evaluations (July 2022) (Available at: https://osse.dc.gov/sites/default/files/dc/sites/osse/service_content/attachments/OSSE%20NonRegulatory%20Guidance_Evaluation%20Flexibilities%20%28July%202022%29.pdf)

During January 2022, the high level of contagiousness associated with the Omicron variant required Early Stages to adjust its operations once more and return to the pre-August practices of conducting virtual appointments for all but those children who required in-person evaluations. No evaluations were put on hold during this time, only the method of evaluation changed. Additionally, Early Stages implemented a COVID rapid-testing protocol for staff and visiting families, providing in-person home delivery of testing kits to families prior to their arrival at an evaluation center.

Beginning in March 2022, Early Stages resumed primarily in-person evaluations. However, virtual evaluation practices remain an essential tool to maintain compliance with required timelines when family and staff are required to quarantine or are unable to be on site due to medical concerns. In short, the COVID-19 pandemic has necessitated that Early Stages flexibly deploy both in-person and virtual evaluation procedures as a matter of standard practice.

C. The Effects of COVID-19 On the District's Compliance with the Injunction

The effects of the public health emergency were seen in the District's reporting on all Subclasses in FFY2019, FFY2020, and continued in FFY2021. The unexpected use of distance and hybrid learning models to deliver education to students from March 16, 2020 through summer 2021 required a focus on developing and deploying distance-learning structures, coordinating instructional efforts, addressing recovery of the loss of education benefit for students, and supporting return to in-person learning in limited capacity during summer 2021 and full-capacity for school year 2021–22. OSSE continues to be engaged in Subclass-specific focused monitoring activities as described in the Appendix to ensure LEAs are addressing student recovery with fidelity. OSSE continues to implement plaintiffs' recommendation (that schools present referral information to families in poster format) into its child-find technical assistance to schools.

In preparation for the start of school year 2021–22, LEAs submitted Continuous Learning Plans to OSSE with information on how LEAs will assess students upon return to school to determine the nature and extent of the effects of interrupted instruction on receipt of education benefit and update IEPs as appropriate to ensure supports designed to ensure access to accelerated learning. LEA plans also outlined how the LEA will ensure equitable access to educational opportunity across learning environments, including how the LEA will ensure that students with disabilities receive equal access to interventions and least restrictive environments (LREs) and that accelerated or distance learning due to medical exemption is not used to segregate students with disabilities from their non-disabled peers. LEAs continued to implement activities identified in these plans throughout school year 2021–22. OSSE reviewed special education metrics for three topic areas relevant here: accelerated learning planning, least restrictive environment, and students in non-public schools. For accelerated learning, OSSE collected benchmark assessment completion by LEAs to ensure LEAs collected the information necessary to implement accelerated learning for students with disabilities, including technical assistance to ensure the revision of IEPs where appropriate to meet the needs of students with disabilities. For least restrictive environment, OSSE reviewed federally reported LRE data and non-public placement rates. For students in non-public schools, OSSE reviewed IEP annual review data and related services delivery data. OSSE provided technical assistance to LEAs as needed as data was collected and reviewed during ongoing and targeted monitoring.

The effects of the public emergency continue to have an impact on the number of initial evaluation referrals for students within Subclass I and OSSE continues to take steps to address this through child find activities discussed below in Appendix 1.B.a. on child find monitoring. The District continues to implement plaintiffs' recommended strategy to develop and display a poster in school buildings, at the front door or other area easily viewable by parents, reminding families of the availability of free screening and special education services for eligible students. **The District is encouraged to see a sustained recovery of referrals to Early Stages. During the reporting period, DCPS referral rates have rebounded to 96% of what they were in the two years prior to the pandemic.** OSSE believes this represents a full recovery of the referral rate, taking into account a 6.9% drop in the District's three- through five-year-old population.

During the reporting period, the public health emergency also continued to impact the availability of assessment activities resulting in delayed initial evaluations for students within Subclass III. The quarantine of students and staff and intermittent closure of school buildings presented barriers to completion of timely initial evaluations. In many instances, safety practices that were mandated by COVID-19 and the concerns of families continued to present challenges in evaluating these children, meaning the evaluation could not be conducted within required timelines or student and staff availability to meet required timelines was delayed.⁸ In such circumstances, LEAs continue to issue prior written notice documents in accordance with OSSE guidelines. Additionally, while Early Stages was able to fully reopen its centers in August 2021, there were still many evaluations that had to be conducted virtually due to COVID-related restrictions for families and IEP team members. Virtual evaluations took longer on average to complete for several reasons including technology training, parent availability to facilitate student assessment, and the need for multiple assessment sessions for younger children. These additional steps were and continue to be a critical component to ensuring accurate, robust and comprehensive virtual evaluations but they have a cumulative negative impact on overall timeliness.

Additionally, the emergence of the Omicron variant in winter 2021-2022 had a significant impact on staff and family availability for evaluations. Many families cancelled appointments out of concern for their personal health. Even more significantly, both families and staff were negatively impacted by infections and quarantining restrictions. During the month of January 2022, for example, several of the Early Stages staff tested positive for COVID and needed to quarantine, and many others were required to be out of the office due to quarantining required of their own children or school and child-care closures. These situations often required Early Stages to reschedule appointments or, at the very least, required individual evaluators to schedule additional, follow up appointments that are not a typical part of the process and impacted timelines. The emergence of new COVID-19 variants in spring 2022 caused a recurrence of all these same challenges, which continue to impact the timeliness of evaluations at the time of this report. DCPS continues to navigate staffing challenges like those experienced nationally. To meet its needs, DCPS has dedicated substantial resources to recruitment, hiring, procurement of supplemental

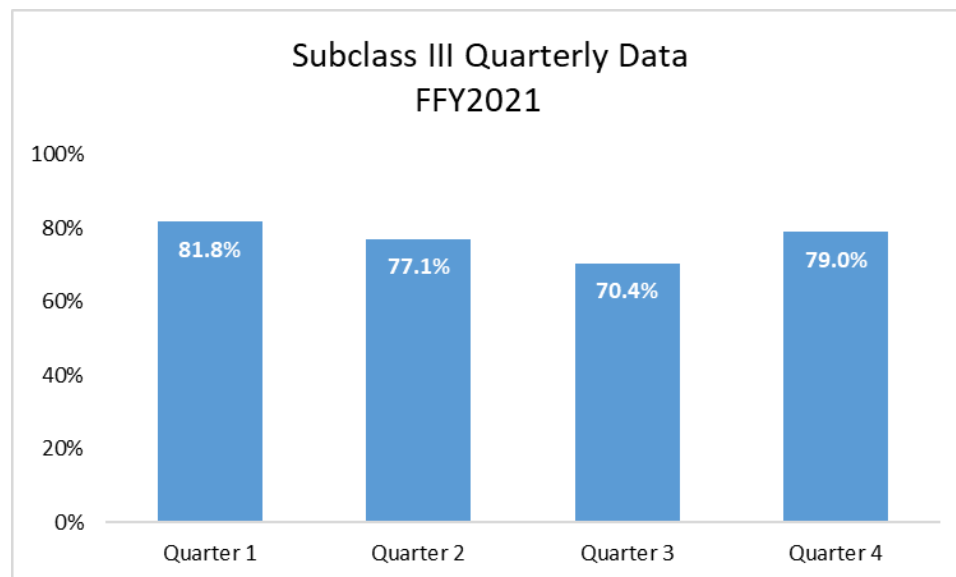
⁸ U.S. Department of Education Q & A on Providing Services to Students With Disabilities During the Coronavirus Disease 2019 Outbreak (March 2020) (Available at: <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>) and U.S. Department of Education Supplemental Fact Sheet (March 21, 2020) (Available at: <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>)

contracted substitute services, and conscription of existing employees into new roles across the agency. The Charter LEA sector experienced similar impacts due to the Omicron variant in winter 2021-2022, resulting in limitations on staff and family availability, ultimately impacting the timeliness of evaluation activities.

OSSE continually reviews DCPS and charter LEA initial evaluation data at the student-level and provides direct support to LEAs to ensure timeliness requirements are met to the greatest extent possible. LEAs work to keep students in school and receiving virtual learning while experiencing quarantine or school closure. The District reports routinely to plaintiffs on this progress to ensure that all referrals and initial evaluations are moving ahead for students within the Subclass and is pleased to report that all eligible students continue to receive initial evaluation services.

OSSE remains committed to ensuring that all LEAs maintain strong recovery-service delivery implementation, as discussed below.

FFY 2021 Quarterly Performance for Subclass III



Subclass III quarterly data for FFY2021 data shows an overall increase in timeliness from FFY2020 and less variability between quarters. The dip in timeliness rates in Quarter 3 was due to staff and student limitations resulting from the effects of the Omicron variant.

In addition, the Part C to B transition activities for Subclass IV remain disrupted by the COVID-19 pandemic. As previously reported, OSSE Strong Start began delivering services via telehealth to children needing intervention services in April 2020. Beginning in June 2021, Strong Start reinstated in-person delivery of services. Further, in light of the continued impact of the public health emergency, Strong Start continued the delivery of Part C services to children who would typically transition from Part C to B, but whose transition was delayed because of COVID-19 closures and restrictions. At the time of this report, there are fewer than ten children who continue to receive Part C services while awaiting Part B eligibility determinations. The District remains committed to ensuring a smooth and effective transition for these students and will continue to

deliver Part C services to students transitioning who are awaiting Part B eligibility determinations until in-person evaluation activities return to full-scale operations.

OSSE remains committed to ensuring that all LEAs maintain strong recovery-service delivery implementation, as discussed below.

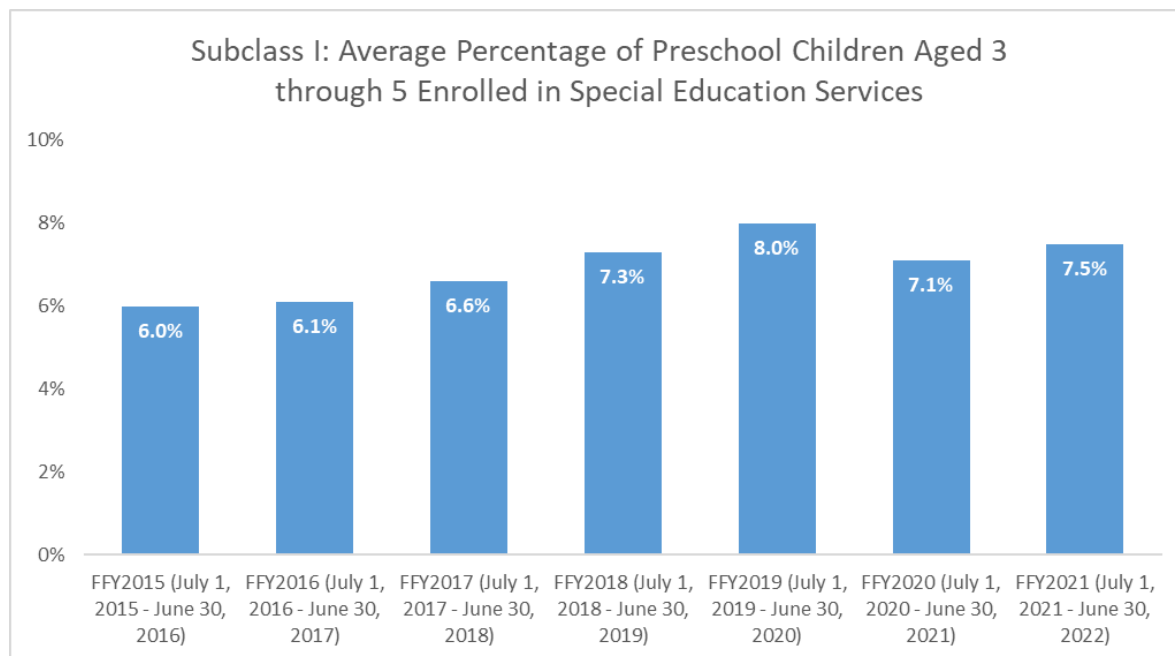
D. Creation of Individualized Distance Learning Plans for School Year 2020–21

At the start of the 2020–21 school year, DCPS school teams created an Individualized Distance Learning Plan (IDL or Plan) for each student with an individualized education program (IEP) that communicated how student supports and services would be delivered through DCPS distance learning. As students returned for school year 2021–22, DCPS’ approach to acceleration and recovery was focused on relationship building, student wellness, tiered levels of support, and accelerated learning offerings before, during and after school. DCPS’ approach was aligned to DOE and OSSE’s guiding principles for continuous education and three recovery priorities, including safe reopening, student and staff well-being, and accelerated learning. DCPS’ approach additionally aligned with input received from subject matter experts.⁹ All students with IEPs, including preschool students, were eligible for school level acceleration activities and differentiated levels of support. School staff implemented and delivered IEP instruction and services along with tiered supports and school level acceleration offerings. After the first 4 to 8 weeks of school, school teams initiated their review of student level data, and determined next steps in the acceleration/recovery plan for each student with an IEP. By October 31, 2021, school teams were required to share acceleration plans with families. Plans included continuing with the tier 1 level of supports, providing tier 2 or 3 interventions, providing make-up related services and/or including the student in acceleration academy programs. Throughout the school year, school teams continued to implement six-to-eight-week data cycles of instruction and acceleration based on student needs. Based on student performance and data, acceleration plans were adjusted. Parents received quarterly IEP progress reports and an invitation for their child’s annual IEP meeting.

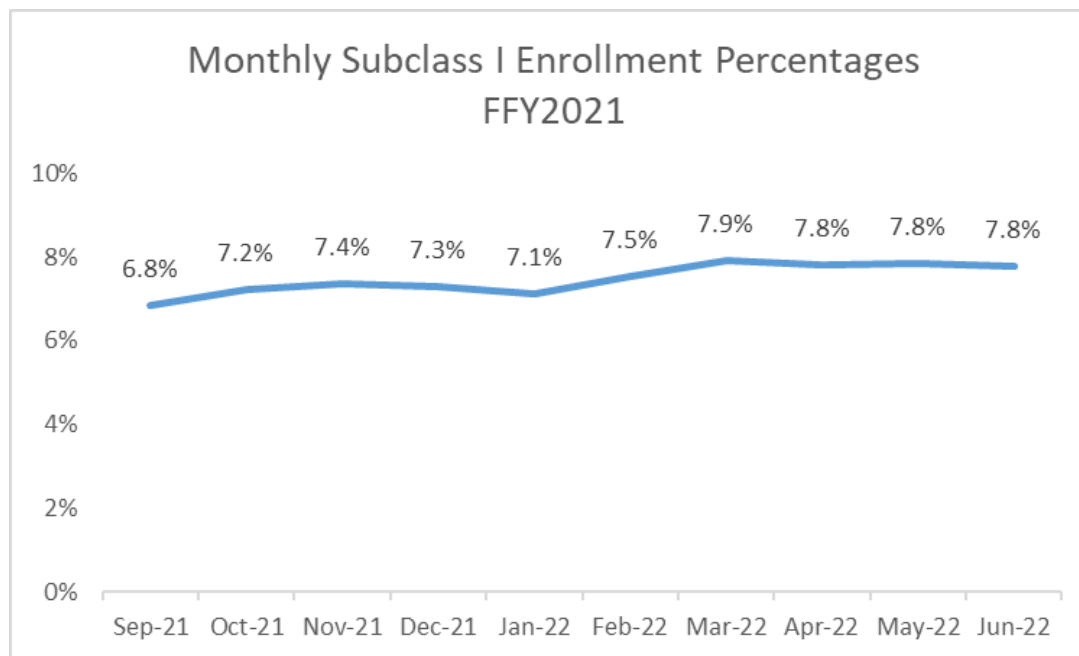
⁹ The New Teacher Project (TNTP) (Available at: <https://tntp.org/>).

III. Numerical Requirements

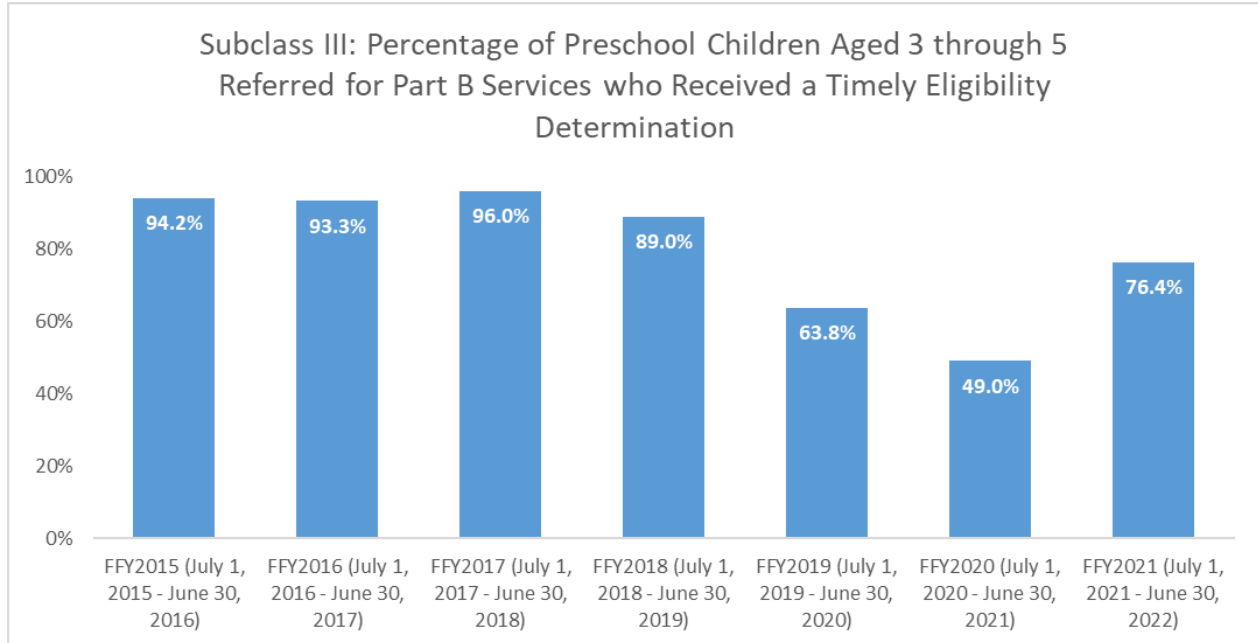
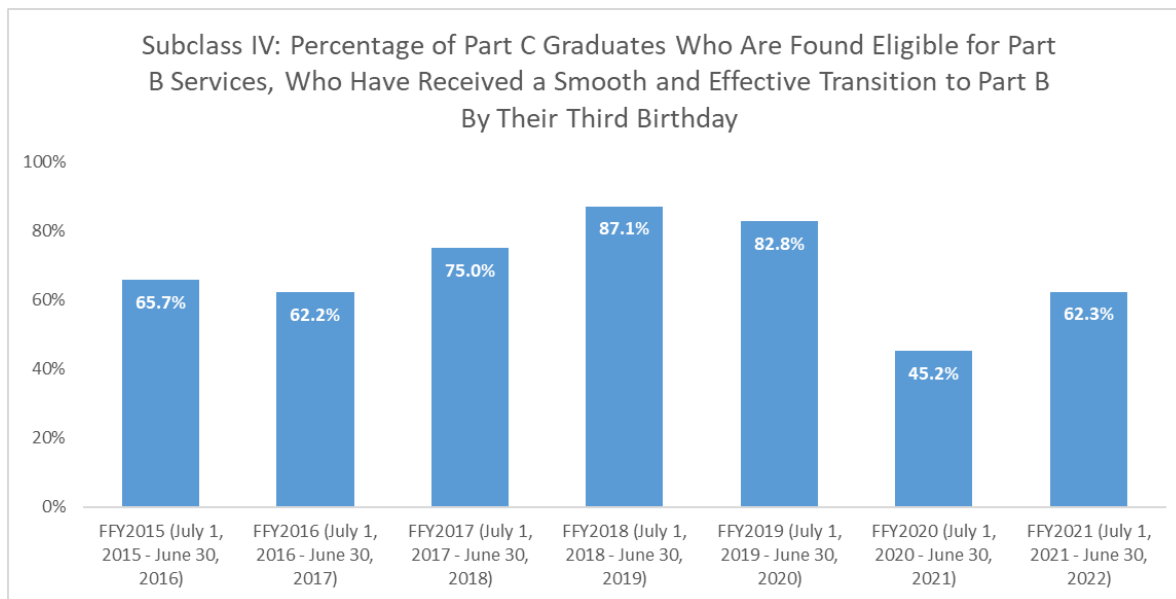
FFY 2015-2021 Annual Numerical Performance: Subclass I



FFY 2021 Monthly Performance for Subclass I (Enrollment Percentage)



Average of September 2021 – June 2022 = 7.5% (1,805/24,150)

FFY 2015-2021 Annual Numerical Performance: Subclass III*FFY 2015-2021 Annual Numerical Performance: Subclass IV**Discussion of Data***Subclass I and IV Business Rule Updates: Specialized Instruction**

As previously reported, the business rules for Subclasses I and IV were updated to eliminate the use of the Stage 5 enrollment proxy for receipt of specialized instruction for students whose first specialized instruction delivery was in FFY2020 or later. The FFY21 (July 1, 2021-June 30, 2022)

business rules reflect the use of the SEDS specialized instruction data point discussed below in Appendix Section III, Specialized Instruction Tracking.

Subclass IV Business Rule: COVID-Related Delay

In FFY2020, the business rules for Subclass IV were updated, in coordination with plaintiffs, to address delays in Part B eligibility determination activities due to COVID-related closures. Students whose Part B eligibility determination was delayed due to COVID-related closures are excluded from this metric in instances where the student would have otherwise been excluded from the subclass calculation.¹⁰ Such a delay must be documented in the student's SEDS record and the child was required to continue to receive early intervention Part C services until Part B eligibility could be determined.

Upon request from plaintiffs, the District agreed to include in this Report the Subclass IV numeric outcome for FFY21 without this inclusion incorporated. For FFY21, there were zero COVID-related delay exclusions.

Subclass III Business Rule: Consent and Initial Evaluation Timelines and Reasonable Efforts Activities to Obtain Consent

The business rule for Subclass III was updated prior to the August 2019 report to align with D.C. Code § 38-2561.02 and 5-E DCMR § 3005.2(a), which changed the initial evaluation timeline under local law. Based on the new timeline, the FFY18 Subclass III data reported above for children referred on or after July 1, 2018 reflected the percentage of timely eligibility determinations for children based on the 60-day initial evaluation timeline, measured from consent for evaluation to the child's eligibility determination.

In the August 2019 report, the District began including in its Subclass III calculation the additional requirement that LEAs make "reasonable efforts" to obtain parental consent within 30 days from referral. D.C. Code § 38-2561.02(a)(2)(A). The FFY21 Subclass III business rule continues to reflect data inclusive of the reasonable-efforts requirement for the 2021–22 school year. The District's FFY21 reporting includes in Subclass III all students younger than 6-years-old who received an initial special education referral and whose eligibility determination deadline fell within the reporting year. For students with timely parental consent for initial evaluation, the initial eligibility deadline is 60 days after the parent's consent. Students with referral discontinuations and parent consent denials are excluded from both the numerator and denominator. For students without parental consent, there is no date from which to measure the 60-day eligibility deadline. Beginning in FY19, the District agreed to measure the initial eligibility deadline as 90 days from referral. This is the outer limit of time available to conduct all reasonable-efforts activities: referral to consent (30 days) plus consent to eligibility determination (60 days), totaling 90 days from referral.

¹⁰ Exclusion reasons include: 1) referred and not found eligible for Part B services; 2) parent consent for evaluation is rescinded or denied prior to the eligibility determination; 3) child has a finalized extended IFSP; or 4) Part C negation event that occurred after the third birthday, but prior to Part B eligibility that was delayed due to COVID.

In FFY19, the District additionally agreed to plaintiffs' request to exclude from its Subclass III reporting universe all students for whom reasonable efforts were made but consent was not obtained, and students for whom reasonable efforts were made but referral discontinuation or parent consent denial occurred. In FFY21, there were 2 such students for whom reasonable efforts were made but consent was not obtained. The District asserts that these excluded students are representative of the District's efforts to obtain consent because the reporting metric measures not only timely initial evaluation, but also the District's reasonable-efforts activities. While the business rules, since FFY19, now count as untimely all failures of the District to conduct reasonable efforts, compliant reasonable efforts resulting in no consent are excluded. As a result, the numeric reporting here does not display the full scope of reasonable-efforts activities conducted by the District as it endeavors to leverage such activities to improve family engagement in the initial evaluation process.

Exclusion Reason	Number of Students
Parental Delay	136
No Consent; Timely Reasonable Efforts	2
Exited LEA prior to Due Date	54
Referral Discontinuations	280
Parent Consent Denials	171
Total Number of Exclusions	643

The District maintains its position that the requirement to make reasonable efforts to obtain consent does not fall within the initial evaluation timeline, which begins only after receipt of parent consent to evaluate, and that the timeline for initial evaluation is 60 days from parent consent, not 90 days from referral. The District continues to include reasonable efforts in the Subclass III metric measurement as a good faith effort at collaboration and compromise with plaintiffs, made without prejudice to either party's position as to whether the Subclass III numerical requirement of the Court's injunction was intended to encompass a reasonable efforts requirement for obtaining parental consent, as implemented by D.C. Code § 38-2561.02. The District will continue to report this data to the Court in a good faith effort to leverage reasonable-efforts activities to improve engagement in the initial evaluation process.

Data Review Outcomes

In order to better understand delays in the completion of initial evaluations and improve focused monitoring efforts, the District routinely reviews LEA reasonable-efforts activities for all referred students who either: a) received consent more than 30 days after referral or b) for whom consent was not obtained. Students for whom an initial evaluation was completed within 90 days of referral were excluded from reasonable efforts review, as they were considered timely under the business rule. The results:

Students Reviewed for Reasonable Efforts Activities to Obtain Initial Evaluation (N = 245)	
Initial contact not made within 10 days of referral.	22.4%
LEA began but did not complete contact attempts.	20.8%
No reasonable efforts were documented.	24.5%
Reasonable efforts requirements met.	32.2%

Additional information is included below regarding how the District is incorporating these findings into focused monitoring and technical assistance activities to leverage reasonable-efforts activities to improve LEA initial evaluation practices and address evaluation delays attributable to staff and student limitations resulting from Omicron and other COVID-19 variants as discussed above.

IV. Programmatic Requirements

The following section summarizes the District's continued adherence to the programmatic requirements of the Court's May 18, 2016 Order. Information reported prior to the District's August 30, 2021 Report on Programmatic Requirements [645-1] has been removed. For historical information on the District's compliance with key requirements enumerated below, please see previous reports as referenced.

Paragraph 308(a): The District shall maintain and regularly update a list of primary referral sources, including physicians, hospitals, and other health providers; day care centers, child care centers, and early childhood programs; District departments and agencies; community and civic organizations; and advocacy organizations. The District shall also develop a system to track frequency of contacts with the referral sources to ensure that outreach occurs on a regular basis.

DCPS continues to maintain and regularly update a list of primary referrers in the DCPS Early Stages database and track communications with these primary referrers as described in the District's December 30, 2016 Report on Programmatic Requirements (December 2016 Report) [544-1] and subsequent reports. As described further below in 308(d) the process of updating the list of primary referrers now includes their status as it relates to allowing in-person outreach efforts during the COVID-19 pandemic.

Paragraph 308(b): The District shall develop and publish printed materials targeted to parents and guardians that inform them of the preschool special education and related services available from DCPS, the benefits and cost-free nature of these services, and how to obtain the services. These materials shall be written at an appropriate reading level and be translated into the primary languages spoken in the District. These materials shall be distributed to all primary referral sources (e.g., medical professionals and child care staff), public and public charter schools, public libraries, Income Maintenance Administration Service Centers, public recreation facilities, and other locations designed to reach as many parents or guardians of preschool children who may be eligible for special education and related services as possible.

Information on DCPS Early Stages' development and distribution of outreach documents that meet the reading level and translation requirements can be found in the District's September 2020 Report and prior court reports.

In FFY21, OSSE developed and issued a model child-find poster designed for LEAs to display in school buildings to inform families of their right to a free evaluation and potential eligibility for special education services under IDEA. The poster is an additional resource in the existing toolkit provided to LEAs to conduct outreach, including the model child-find policy and model referral form template. OSSE translated the poster into the six most commonly spoken languages in the District and continues to make these materials available to LEAs for posting in school buildings. Likewise, DCPS continues to undertake distribution activities to ensure posting of its child-find poster in visible locations at school buildings across the District for the start of school year 2022–23.

Paragraph 308(c): The District shall develop, publish, and distribute tailored printed materials targeted at primary referral sources to inform them of the preschool special education and related services available from DCPS, the benefits and cost-free nature of these services, and how to make a referral. These materials shall be used in conjunction with regular contacts with primary referral sources to increase the usefulness of the materials.

DCPS Early Stages developed and continues to publish and distribute the tailored material described in the December 2016 Report. These materials are integrated into the standard operating procedures for regular contacts with primary referrers. To comply with this requirement within the context of the COVID-19 pandemic, the use of these materials in Early Stages outreach is more heavily dependent on their electronic pdf formats rather than their printed versions, though printed materials continue to be distributed to primary referrers who remained open for visits upon request. Early Stages has recently revised these printed materials, with input from plaintiffs' counsel, in response to the updated CDC developmental milestones and in anticipation of revisions to the Chapter 30 regulations. Printing of the new versions will be scheduled once all input has been considered and finalized.

Early Stages serves as a member of the DC Autism Collaborative (DC-AC), alongside Children's National Center for Autism Spectrum Disorders (CASD) and other citywide government agencies and family serving organizations. The DC-AC created and is disseminating the *Guide for Health and Early Education Providers in DC*. This guide outlines the ways healthcare providers, early care and education providers can reduce barriers to identifying and providing services for children on the autism spectrum by aligning messaging on developmental monitoring and surveillance, developmental screening and referrals, and evaluations.

In May 2022, Early Stages submitted a year's worth of social media content to be shared on the DCPS Early Childhood Education Division's (ECED) Facebook, Instagram, and Twitter accounts through August 2023. This content includes workshop advertisements, referral information, discipline-specific tips, and more.

Paragraph 308(d): The District shall ensure that Early Stages outreach staff (e.g., the Child Find Field Coordinators) contact primary referral sources or a staff member in the primary referral source's office who are instrumental in making referrals at least once a month until a referral

relationship is established and then every three months thereafter. The initial meeting shall be face-to-face whenever possible when pursuing referrals from new referral sources and then less frequently thereafter, using the method of contact preferred by the referral sources (e.g., e-mail, texting, or telephone calls).

DCPS Early Stages builds and maintains relationships with primary referrers using the approach described in the December 2016 Report. To comply with this requirement within the context of the COVID-19 pandemic, Early Stages modified outreach strategies as described in the September 2020 Report. During summer 2021, Early Stages added a field to its database to capture the degree to which organizations are permitting in-person outreach and began an ongoing process of contacting primary referrers to document this information. The virtual outreach strategies described in the September 2020 Report are also likely to remain a permanent part of the District's child find strategy because many organizations preferred them and Early Stages saw an increase in engagement, particularly for professional development sessions and trainings.

Early Stages continues to receive strong positive feedback from community stakeholders about the DC Gov Delivery email blasts that began in August 2021. These periodic emails provide the community with expert information about selected topics related to child development and reminders about Early Stages' referral processes and training options. Data from July 2022 indicates that these emails average an open rate of 26%, consistent with industry standards, and, astonishingly, no requests from recipients to unsubscribe.

Paragraph 308(e): The District shall accept both oral and written referrals at the start of the eligibility determination process, make multiple attempts using different forms of communication (e.g., telephone, postal mail, and e-mail) to contact the parent or guardian of a referred child, and, upon obtaining consent of the parent or guardian, provide feedback to the referral source regarding the outcome of the referral in a timely manner.

As detailed previously, the processes for facilitating and responding to referrals remain consistent with the information reported in the District December 2016 Report. OSSE continues to collaborate with multiple parties to ensure smooth implementation of the Enhanced Special Education Services Amendment Act of 2014. OSSE also continues to provide real-time student-level data to LEAs through the LEA Performance and Planning Report. In FFY2021, OSSE developed a Qlik application to visualize current LEA-level data on evaluation and service delivery previously provided to LEAs in the Performance and Planning Report. This critical tool will be available to LEAs through OSSE's start of school initiative in summer 2022.

Paragraph 308(f): The District shall assign each family served by Early Stages a single staff member to act as its "case manager" throughout the screening, evaluation, eligibility determination, and IEP process to ensure that families have the necessary information to understand the purposes and functions of all aspects of the Early Stages process and procedures.

DCPS Early Stages continues to utilize a dedicated staff member in its child find, evaluation, and transition processes as described in the District's September 2020 Report and prior court reports.

Paragraph 308(g): The District shall maintain a central location that accepts formal and informal referrals; conducts initial meetings, screenings, assessments, eligibility determinations, IEP development, and offers of placement; and permits parents to register their child with DCPS.

DCPS Early Stages maintains a central location at 1125 New Jersey Avenue NW and a satellite location at 4058 Minnesota Avenue NE. Both of these sites reopened at regular capacity in August 2021 and continue to conduct in-person evaluation work. At both sites, DCPS coordinated with the District's Department of General Services to ensure the safety of the building's HVAC system. DCPS additionally purchased and installed HEPA air filters, obtained PPE for staff use, installed customized plexiglass partitions in public space, and established health and safety protocols for staff and family engagement. Early Stages continues to implement COVID-19 precautions and protocols.

Paragraph 308(h): The District shall regularly assess the need for and, as necessary, open additional satellite sites to perform the same functions in other wards or use a mobile evaluation unit that is able to perform these functions at multiple locations throughout the District as more children are located who may be in need of preschool special education.

DCPS Early Stages continues to monitor trends in caseload assignments and initial eligibility timeliness as previously described and remains appropriately staffed and located.

DCPS continues to implement the evaluation procedures, delivery of capacity building and technical assistance to schools, and support to Central Office monitoring as described in the District's September 2020 Report and prior court reports. DCPS Early Stages continues to perform all functions related to referrals as described in the District's September 2020 Report and prior court reports.

Paragraph 308(i): The District shall conduct regular screenings of preschool-age children in each ward of the District, and especially in wards in which children experience multiple risk factors.

Information on DCPS Early Stages' developmental screening procedures can be found in the District's September 2020 Report and prior court reports.

In collaboration with plaintiffs, the District established procedures to ensure the screening and referral for evaluation of children ages three-through five-years-old who are under the supervision of the District of Columbia Child and Family Services Agency (CFSA). These procedures remain in effect. DCPS Early Stages facilitates CFSA screening activities to ensure appropriate referrals are made. OSSE reviews and provides technical assistance to charter LEAs receiving referrals from CFSA for students in in-home care to ensure timely initial evaluation activities are implemented. With fewer restrictions related to COVID-19, Early Stages is once again holding regular screening events with Family Success Centers and short-term family housing locations.

Paragraph 308(j): The District shall use existing data (e.g., medical records and reports of prior assessments) at the time of referrals to the extent possible, especially for children from Part C to Part B services, to eliminate unnecessary and duplicative screenings and assessments for eligibility determination purposes.

Information on how District LEAs analyze existing data in accordance with IDEA and state-level requirements to eliminate unnecessary and duplicative screenings and assessments for eligibility determination purposes and how OSSE ensures adherence to those requirements can be found in the District's September 2020 Report and prior court reports.

The internal policies of DCPS Early Stages remain the same as described in the District's December 2016 Report, for both child find and Part C transition referrals.

Paragraph 308(k): The District shall accept all children exiting Part C who have identified disabilities or significant developmental delays as presumptively eligible for Part B in order to ensure that they do not experience a disruption in services. Presumptively eligible for preschool education means that the information available at the time of the referral of a child—when he or she is nearly three years old and is about to transition from Part C to Part B—shall be presumed to be sufficient to make a decision about the child's eligibility for Part B special education services, unless indicated otherwise by the Part B IEP Team. The Part B IEP Team may find, after reviewing the information available at the time of the referral of the child, that additional data is needed in order to make an eligibility determination. If the Part B IEP Team finds that additional data is needed in order to make an eligibility determination, the child may not begin receiving Part B services prior to an evaluation to determine the child's eligibility for such services. In all cases, including where the existing data are sufficient and where the Part B IEP Team determines that additional data are needed, defendants shall ensure that the Part B eligibility determination is completed prior to the child's third birthday, so that children eligible for Part B special education and related services experience no disruption in the receipt of services.

The District continues to adhere to this requirement through the practices described in the District's September 2020 Report and prior court reports.

Paragraph 308(l): The District shall maintain a reliable data-sharing system between Part C and Part B to ensure that Early Stages receives an ongoing monthly report of all children who will be aging out of Part C within the following six months in order to ensure timely transition meetings.

Information on how DCPS Early Stages and OSSE Strong Start continue to work together to ensure timely transition meetings for Part C children in the ways described in the District's December 2016 Report and OSSE's enhanced data review protocol for monitoring transitions from the State level to ensure that they are smooth and effective can be found in the District's September 2020 Report and prior court reports.

OSSE continues to facilitate the transition of students from Early Stages into the charter sector for those who accept an offer to enroll in an LEA charter school mid-evaluation process. OSSE modified state data systems to automate the availability of student records and reduce delays in the evaluation process for students transitioning between Part C and the LEA Charter sector. OSSE continues to monitor this process closely through student-level data reviews and delivery of technical assistance to Charter LEAs on the obligation to develop an IEP by any child's third birthday who has enrolled in their LEA or completed the registration process for the upcoming school year.

Paragraph 308(m): The District shall maintain a reliable database system for tracking children through the Child Find process: from referral to eligibility determination and, if eligible, IEP development, placement, and provision of identified services.

The District originally described its data collection, integrity, maintenance, and support processes in its December 2016 Report. Additional information and updates can be found in the District's September 2020 Report and prior court reports.

Paragraph 308(n): The District shall maintain a reliable system for tracking the number and type of placements available for preschool special education and related services throughout the year and expanding the number and types of placement as needed.

The District continues to comply with these requirements as described in the December 2016 Report and subsequent reports. As discussed in the September 2020 Report, DCPS began using and is monitoring the implementation of the protocol to remove enrollment barriers for medically complex children, specifically to support children with mobility and nursing needs before placement.

Paragraph 309(a): The District shall develop and apply consistent operational definitions for each of the numeric benchmarks.

Information on the District's operations definitions, also called "business rules," for each of the numerical benchmarks can be found in the District's September 2020 Report and prior court reports. The District reviews at least annually all business rules and underlying data systems to enhance reporting and ensure continued accuracy. The District annually reviews plaintiffs' comments on amendments to the business rules and incorporates their feedback into the business rules used for reporting. The District continues to rely on an updated version of its standard operating procedure (SOP) for LEA efforts to contact parents, as described in prior reporting.

Paragraph 309(b): The District shall understand and ensure that its staff understand the purpose of the benchmarks and the IDEA requirements so that it can comply with them.

Information on the guidance OSSE issued to LEAs to clarify reporting requirements and definitions can be found in the District's September 2020 Report and prior court reports. OSSE continues to host monthly data manager and special education coordinator meetings to keep key staff abreast of requirements and resources in areas relevant to the Subclasses. Key areas addressed in monthly meetings with LEA staff during the reporting period are:

- Highlights within and LEA required activities to ensure the implementation of the OSSE Guiding Principles for Continuous Education
- Highlights within the updated OSSE IDEA, Part B Provision of FAPE: Guidance for School Year 2021–22 (November 2021)
- Specialized instruction and related service delivery and requirements related to valid and reliable data submission
- OSSE Part B focused monitoring of children ages three- through five-years-old for school year 2021–22

- Use of the OSSE data toolkit, and other resources and tools to review timeliness data for Part C to B transition and initial evaluation
- Child find requirements and public posting of the OSSE model child find poster
- LEA requirements to provide child outcome summary data, including technical assistance on data collection and use of data
- Prior written notice (PWN) requirements, including specific focus on evaluation practices and notification to families of delayed evaluation activities
- Early Childhood Working Group activities
- IEP implementation for transfer students, including students who are simultaneously experiencing Part C to B transition
- Pre-kindergarten spring and summer referrals to special education
- Use of Early Access to Special Education Data reports and tools to support start of school year 2022-23 planning for timely service delivery
- Summer 2022 trainings on the implementation of Chapter 30 revised regulations, specifically with regard to data driven eligibility determinations and paraprofessional supports
- Use of special education consultative supports available through an expert vendor to resolve operational and substantive questions related to student recovery, including evaluation and service delivery barriers resulting from the ongoing impacts of the public emergency
- Timely access to student records to ensure the timely completion of evaluation activities and delivery of services

Information on OSSE's IEP quality capacity building trainings can be found in the District's September 2020 Report and prior court reports. In FFY19, OSSE converted this training opportunity into an online training series to be provided during school year 2020–21 and continues to make the series, Foundations of Special Education, available to LEAs, including opportunities for one-to-one support.

Information on the efforts OSSE made to ensure LEA readiness to implement the new evaluation timeline that became effective July 1, 2018 can be found in the District's September 2020 Report and prior court reports. OSSE continues to meet routinely with DCPS Early Stages to address procedural questions, receive feedback, review data, and continuously refine practices to ensure a smooth and effective transition.

Information on the efforts OSSE took to engage with stakeholders in the design of and to issue the OSSE Early Childhood Transition FAQ in July 2020, addressing common issues encountered across the education sector during the transition process, can be found in the District's September 2020 Report and prior court reports.¹¹

Details on the monitoring framework OSSE developed to identify LEAs in critical need of supports to enhance their capacity to serve three- through five-year-olds can be found in the District's

¹¹ See also OSSE Early Childhood Transition: Frequently Asked Question (July 2020). (Available at: <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Early%20Childhood%20Transition%20FAQ%20July%202020.pdf>).

August 2019 Report. The results of monitoring activities can be found in the Appendix to this Report and will be updated in subsequent reports. OSSE's enhanced focused monitoring approach, coupled with quarterly technical assistance sessions, ensures a sustainable State oversight system that will enhance LEA capacity to identify, timely evaluate, and smoothly and effectively transition three- through 5-year-olds into IDEA Part B services.

The District continues to coordinate at all levels of program management and implementation across OSSE and DCPS through work-group meetings to review data, consider program improvement strategies and identify areas requiring guidance.

Paragraph 309(c): The District shall improve its data collection policies so that reporting can be accurate.

Information on OSSE's efforts to maintain compliance with its LEA data management policy to support accurate, timely, and complete reporting can be found in the District's September 2020 Report and prior court reports. Information on the OSSE cross-divisional work group convened to review data and consider strategies and practices for improvement, as well as the supporting policy cross-divisional team that continuously collaborates with DCPS to respond to practice-based questions can also be found in the District's September 2020 Report and prior court reports.

Paragraph 309(d): The District shall collect the necessary data to indicate when all services begin, including special education and related services.

The District continues to collect this data, which serves as the basis for the District's reporting. Information on OSSE's technical assistance to LEAs surrounding this data collection can be found in the District's September 2020 Report and prior court reports.

APPENDIX: SUSTAINABLE OVERSIGHT SYSTEM KEY PRIORITY AREAS

The following section summarizes the District's continued adherence to the programmatic requirements of the Court's May 18, 2016 Order, with particular focus on areas for systemic improvement of child find, initial evaluation, and Part C to B transition activities.

The injunction provides a roadmap to establishing processes and procedures to implement IDEA requirements. In order to achieve improved metrics, the District must develop systems that are sustainable and continuously improved over time. The District, in collaboration with plaintiffs, designed four key areas where State oversight authority can be leveraged to improve outcomes related to the Subclass and sustain those improvements during and beyond Court oversight. The four key areas are: (1) focused LEA monitoring, (2) technical assistance and LEA capacity building, (3) tracking the delivery of specialized instruction, and (4) development and use of Subclass-specific data visualization dashboards. These focus areas were developed in coordination with plaintiffs' counsel.

I. Focused LEA Monitoring

The District's monitoring goal is to continuously deploy focused monitoring for each Subclass that reflects state level oversight and informs technical assistance and capacity building activities with LEAs, with a focus on:

- Subclass I: Child find monitoring of three- through five-year-old serving LEAs;
- Subclass III: Initial evaluation and local law requirements on reasonable efforts; and
- Subclass IV: timely Part C to B transition.

A. Background: Data Informed LEA Supports

To focus District resources on improving student results, OSSE designed a system to provide technical assistance to LEAs who, through OSSE focused monitoring, are identified as needing support to meet District requirements, including child find, initial evaluations and Part C to B transitions. These LEAs receive quarterly technical assistance sessions with OSSE IDEA Part B Monitoring specialists (OSSE specialists) focused on practice-improvement strategies related to referral and analysis of existing data, reasonable efforts to obtain consent for initial evaluation, initial evaluation activities, transition participation strategies, and IEP implementation timeliness strategies. The LEAs also receive annual technical assistance sessions focused on child find activities. OSSE utilizes the Subclass Data Visualization Dashboards described below to inform individual LEA technical assistance sessions and OSSE specialists use live Subclass data to engage LEAs in a real-time review of the results of their practice. OSSE continues to issue an annual focused monitoring schedule to LEAs, including focused monitoring of the three Subclasses consistent with the business rules.

B. Monitoring Activities This Reporting Period

OSSE conducted monitoring in fall 2021 addressing child find, and in July 2021 addressing initial evaluation and C to B transition activities for three- through five-year-olds.

1. Child Find Monitoring Results (Subclass I)

- OSSE conducted annual child find focused monitoring activities for school year 2021–22 in fall 2021.
- In fall 2021, OSSE identified 26 LEAs for review based on their failure to meet the District’s child find requirements. These 26 LEAs represent 68% of District LEAs serving the Subclass population.
- OSSE identified 17 of the 26 LEAs to participate in consolidated targeted technical assistance in the areas of child find, initial evaluation and Part C to B transition. Details around this activity are included below under Section B.2.
- OSSE identified 4 of the 26 LEAs to participate in targeted technical assistance in the area of child find only. The activities of sessions included discussions about the specific initial screening practices at each LEA, the collection and analysis of various data sources at the time of referral to special education, and the restructuring of the child study and response to intervention (RTI) practices.
- OSSE identified 5 of the 26 LEAs that, based on analysis of each LEA’s data, did not demonstrate a need for targeted technical assistance. As a result, no action was needed from these LEAs. OSSE will continue to monitor these 5 LEAs’ data as appropriate.
- OSSE specialists maintain relationships with LEAs to provide continued support in key areas of improvement undertaken by LEAs, including policy revisions, screening improvements, family communication activities, and continuous school-level data review using OSSE tools.

2. Initial Evaluation and Part C to B Transition Monitoring Results (Subclass III and Subclass IV)

- LEAs were identified for focused monitoring based on both initial evaluation (Subclass III) and Part C to B transition (Subclass IV) data combined to identify areas of practice requiring improvement for children both referred for Part B eligibility determination through Part C to B transition and other referral sources.
- OSSE identified 21 LEAs for review and technical assistance in the areas of initial evaluation and Part C to B transition. These 21 LEAs represent 55% of District LEAs serving the Subclass population.
- 17 of the 21 LEAs will also receive embedded technical assistance in the areas of child find as referenced above in Section B1 in spring 2022.
- 13 of the 21 LEAs are continuing technical assistance from SY 2020–21.
- 2 LEAs that received technical assistance last school year demonstrated process improvements through corrective action implementation and subsequent data reviews. Technical assistance for these LEAs was discontinued. OSSE will continue to monitor these 2 LEAs’ data as appropriate.
- In fall 2021, OSSE newly identified 6 LEAs to participate in technical assistance based on updated data reviews and/or demographics and populations that LEAs serve, with specific focus on LEAs serving a large population of three- through five-year-old students.

- LEAs continue to engage in technical assistance geared towards developing strategies for practice improvement. Technical assistance activities include a review of updated compliance data, root cause analysis and corresponding corrective action plans.
- LEAs continue to receive technical assistance on requirements relating to Subclasses I, III and IV, and data that was used to identify their LEA was included in the focused monitoring activities.
- LEAs continue to participate in guided study of data on Part C to B transition and initial evaluation timelines and identifying strategies to improve process and school-staff capacity to conduct these activities consistent with IDEA and local law requirements.
- OSSE specialists maintain relationships with LEAs to provide continued support and facilitate improvement to initial evaluation and Part C to B transition practices.

II. Technical Assistance and LEA Capacity Building

As described above, the District uses its focused monitoring outcome data to identify LEAs that fail to meet District requirements, and then develops and delivers special education technical assistance to these LEAs to enhance their capacity to serve three- through five-year-olds and to improve child find, initial evaluation, and C-B transition practices. State Education Agency (SEA) technical assistance falls into two categories: 1) targeted technical assistance, designed to meet the data-informed needs of individual or small groups of LEAs within the State, or 2) universal technical assistance, designed to deliver support to all LEAs within the State based on system-wide needs and priorities.

A. Technical Assistance Activities This Reporting Period

In addition to conducting the ongoing quarterly technical assistance sessions with LEAs described above, OSSE took the following actions this reporting period to deliver targeted and universal technical assistance designed to improve LEA capacity:

- OSSE continued to support cross-education sector commitments, in coordination with the Deputy Mayor for Education, including commitments made by the Public Charter School Board (PCSB). This includes incorporating measures related to improved student outcomes and equitable access to education for three- through five-year-olds into charter authorizing oversight activities.
- OSSE's annual Start of School Campaign for school year 2021–22 included technical assistance to LEAs on child find, initial evaluation, and Part C to B transition requirements relevant to members of the Subclasses. OSSE's Start of School Campaign for school year 2022-23 includes the same relevant topics with specific focus on Charter LEA responsibilities for transition students.
- OSSE additionally delivered technical assistance to LEAs during school year 2021–22, on critical updates on policy, guidance, and monitoring and compliance related to child find, initial evaluation, and Part C to B transition. Attendance is required for special education coordinators who serve three- through five-year-olds.
- In November 2021, OSSE issued the updated IDEA, Part B Provision of FAPE: Guidance Related to Remote and Blended Learning. This guidance clarified LEA

responsibilities with regard to accelerated learning, initial evaluation activities, and the continued provision of FAPE inclusive of child find and Part C to B transition activities.

- In September 2021, OSSE delivered training to LEAs serving three- through five-year-olds on critical updates on policy, guidance, and monitoring and compliance activities related to child find, initial evaluation, Part C to B transition, and child outcomes. As part of OSSE's start of school initiative, OSSE will deliver this training again to LEAs in October 2022.
- In May 2022, OSSE delivered training to LEAs on how to access student data prior to the start of the school year which allows them to prepare to meet students' needs and begin the school year informed and ready to serve students.
- In March 2022, OSSE reconvened the Early Childhood Working Group to discuss strategies, challenges, and best practices related to transition of students from Part C to B, access to data systems and student records, child outcome summary processes, and early childhood literacy.
- In July 2022, OSSE issued guidance to LEAs on compensatory education, a critical component of student recovery. Additional information on this guidance can be found above in section I, The District's Response to COVID-19 and Its Effects on Class Members.
- In July 2022, OSSE additionally issued guidance to LEAs on evaluation flexibilities to ensure LEAs and families understand the tools and supports available within existing IDEA and local law to maximize staffing and evaluation processes to reduce delayed evaluations resulting from the impacts of the public emergency. Additional information on this guidance can be found above in section I, The District's Response to COVID-19 and Its Effects on Class Members.

B. LEA Capacity Building: Recovery Resources

When schools returned to in-person learning in fall 2021, OSSE anticipated that they would need significant supports to address student learning loss and delays in IEP process resulting from circumstances related to COVID-19.

In addition to delivering the above described universal and targeted technical assistance to LEAs, OSSE took the following steps to implement a State-level system of oversight to ensure the dedication of recovery resources to improving the capacity of LEAs to serve students with disabilities, including members of the Subclasses. OSSE has identified four key levers for supporting LEA staff field readiness, designed to improve staff ability to deliver accelerated learning and continuous education, including the following.

1. Consultative Supports

LEAs are required to respond rapidly to operational and instructional delivery needs to help ensure that students with disabilities are on track for recovery. These community-specific needs extend beyond the existing or available State policy and guidance. OSSE has dedicated significant resources to partnering with an expert organization to offer LEAs consultative supports on special education policy implementation, academic instructional strategies, administrative strategies, and data management as well as information on best practices from the field in operations and

approaches to special education delivery, and feedback and problem solving-strategy supports. Beginning in spring 2022, OSSE offered LEAs real-time consultative supports through a neutral third party, to help them problem solve barriers to implementing planning, instruction, and data collection for students with disabilities.

This is a program accessible to all District LEAs serving three- through five-year-olds to access as needed through the remainder of the 2022-23 school year, and through school year 2023-24. This service expands beyond the reach of OSSE's current technical assistance and is designed to support improved LEA practices and special education implementation, thereby improving outcomes for students with disabilities. The focus of consultation with LEAs is to improve practice includes:

- Design and deliver effective accelerated learning to students with disabilities that is supported by IEP services,
- Expeditiously resolve overdue IEPs and evaluations,
- Evaluate and resolve LEA policy gaps and practices in alignment with OSSE special education policy,
- Expertly navigate State data systems and utilize existing data to plan instructional delivery for students with disabilities,
- Ensure transparent communication with families about data-informed decision making,
- Individualize lesson plans and accommodations,
- Correct noncompliant practices within the LEA, and
- Engage in data-informed decision making in the instructional design process.

2. LEA Technical Assistance Modules

As OSSE expands the reach of its monitoring activities through the focused monitoring described above, technical assistance designed to improve LEA practice becomes increasingly critical. OSSE is partnering with an expert organization to deliver technical assistance designed to meet the needs of LEAs as identified in the SEA's routine monitoring activities and annual assessment of special education programs. The LEA technical assistance modules, available to LEAs in spring 2022, expand beyond the reach of OSSE's existing technical assistance through subject-specific modules targeted to LEA-specific deficits. LEAs attend trainings through the technical assistance modules to support implementation of student and system level corrective actions identified during OSSE's state oversight activities, and to support the implementation of continuous improvement plans (CIPs) developed through focused monitoring described above.

3. Revised Regulatory Framework Implementation Supports

On May 2, 2022, OSSE posted in the DC Register a Notice of Final Rulemaking for Chapter 30 of Title 5—A in the District of Columbia Municipal Regulations, governing the education of students with disabilities. The regulations are effective July 1, 2022, in time for the 2022-23 school year. During the promulgation process, OSSE collected a large volume of stakeholder feedback, including feedback from Plaintiffs, to inform resources to support LEA implementation of the revised regulations.

During summer 2022, OSSE began dedicating resources to partnerships with expert organizations to develop and deliver a suite of high-quality trainings to support effective implementation of the updated regulations. This content will complement and be aligned to trainings delivered directly by OSSE specialists. Trainings in summer 2022 will include:

- Understanding Chapter 30
 - Overview of Chapter 30 changes
 - New eligibility Criteria
 - Seclusion and Restraint Requirements
 - IEP Certificate of Completion Requirements
- Implementing Chapter 30
 - Enrollment and Child Find
 - Referral, Evaluation and Eligibility
 - IEP Team Implications
 - Provision of FAPE
 - Transfer Students
 - Incorporating *Endrew F.*
- Data-driven Eligibility Determinations
 - Equity in Eligibility: Data Evaluation and Sense Making
 - Data-Based Assessment, Evaluation and Decision Making
 - Eligibility Determinations: Specific Learning Disability
 - Applying Exclusionary Factors
- Paraprofessional Training Series
- Restraint practices training

OSSE is additionally updating policy and guidance to reflect the revised regulatory framework, close gaps between existing policies and law, and provide LEAs with clarifying information on State expectations for the delivery of FAPE. In spring 2022, OSSE began revision of fourteen (14) State policies and guidance documents, requiring significant stakeholder engagement on policymaking. OSSE is prioritizing revision of policies relevant to the Subclasses, specifically the State's child-find, initial evaluation, IEP development, early childhood, Part C to B transition, extended individual family services plan (IFSP) IEP implementation, and least restrictive environment policy and guidance. These activities are planned through fall 2022.

4. Educator Professional Development

As OSSE continues to improve its framework of educator supports, the agency has made significant investments in supporting field readiness of special educators. OSSE has developed a micro-credential in special education designed to increase the number of highly qualified, effective LEA and school leaders with the capacity to promote inclusion and equity in servicing students with disabilities, including members of the subclass.

5. DC Special Education Hub

As OSSE continues to improve its framework for family supports, the agency has made significant investments to expand the supports offered by the DC Office of the Ombudsman Public Education (Ombudsman) to families of students with disabilities. Through partnership with OSSE, the DC

Special Education Hub is established within the Ombudsman to deliver one-to-one support to help families find the right resources and understand special education processes in the context of their lived experiences. The Hub will develop accessible materials for families and will curate existing resources from across District agencies. OSSE acknowledges that families of students with disabilities face a challenging and complex system and believes the establishment and coordination of this office with other DC agencies involved in the special education of students will serve as a single entry point for families that is accessible and supportive.

C. Referral Oversight and Coordination

In addition to delivering the above described universal and targeted technical assistance to LEAs, OSSE continues to implement a State system of oversight and ensure coordination between District agencies to enhance child find and initial evaluation activities for students in the care of the District. Since November 2020, DCPS Early Stages and CFSA have implemented a coordinated in-home screening process to ensure referral of any students suspected of having a disability who also enter CFSA in-home care status. These activities are incorporated into agency operations and are an entrenched component of the District's sustainable oversight system.

In addition to the technical assistance and coordination efforts described above, the District continues to enhance data systems and processes to improve LEA coordination for students transitioning from Part C to B and experiencing evaluation activities during the Charter LEA lottery seat acceptance timeframe. Charter LEAs are responsible for ensuring a smooth and effective transition for children who have completed the registration process for the upcoming school year or who have enrolled in the LEA.¹² For students transitioning or referred during the summer, the District has historically experienced barriers to ensuring that Charter LEAs have timely access to student records until data systems switch over to the next school year. To address this challenge, OSSE enhanced existing data systems to ensure Charter LEAs have access to enrollment data and student records to support completion of Part C to B transition and evaluation activities for students who have elected to enroll into their LEAs for the upcoming school year. Beginning in May 2022, OSSE established a new process whereby DCPS Early Stages, OSSE, and the Charter LEA engage in a coordinated notification process, initiating data systems activity that affords the Charter LEA access to student records to support transition and evaluation activities throughout the summer. OSSE continues to work closely with Charter LEAs and DCPS Early Stages to ensure that students do not experience a delay in receipt of evaluations or services, and to ensure LEAs have the full range of technical assistance to build capacity to serve students at all times during the year.

III. Specialized Instruction Tracking

The District deployed a systemic solution, through the special education data system (SEDS), for tracking the start of specialized instruction for Subclasses I and IV, and trained LEAs on how to use the new system. This work eliminated the use of the stage 5 proxy for receipt of specialized instruction reflected in reporting years prior to FFY20. The District incorporated into the numeric reporting of Subclass I and Subclass IV data using the new SEDS specialized instruction data point discussed below for FFY21 (July 1, 2021–June 30, 2022). OSSE continues to provide technical

¹² 5-E DCMR §§ 3001.11 and 3001.12.

assistance to LEAs at both the start of the school year and at monthly touchpoints to improve the District's rate of timely initial specialized instruction delivery and data reporting requirements.

A. Background: Ensuring Valid and Reliable Data for Sustained Oversight

On July 11, 2019, OSSE issued a Dear Colleague letter on IDEA Part C to B transition, specifically regarding documentation of specialized instruction service delivery. This letter notified all LEAs serving three- through five-year-olds that beginning in school year 2019–20, their school staff must document the first date of specialized instruction service delivery for these students. OSSE partnered with the PCSB to facilitate implementation of this requirement across the charter LEA school sector, and DCPS Central Office to implement throughout DCPS school buildings.

OSSE provided training throughout 2019 and 2020, on the regulatory and logging requirements to ensure LEAs were positioned to accurately record the delivery of specialized instruction services to transitioning students for the District's first delivery of data for school year 2020–21 to the Court. OSSE additionally provided turnkey training materials posted on the agency website for further training of LEA staff. During 2020, OSSE continued to train staff and monitor the implementation of this activity.

Prior to the 2020–21 school year, DCPS conducted mandatory training for early childhood special education teachers and LEA Representative Designees. OSSE continues to review student-level data and deliver technical assistance to LEAs that do not meet this requirement for all students. These activities are described below.

B. Specialized Instruction Tracking Activities This Reporting Period

- OSSE is conducting ongoing review of LEA tracking of specialized instruction data for Subclass members through the Subclass I and IV data visualization dashboards discussed below.
- OSSE continues to provide one-on-one support sessions with LEAs failing to meet specialized instruction tracking requirements for students enrolled in their LEA. These sessions include capacity building on service delivery and data entry requirements consistent with the guidance and OSSE LEA Data Management Policy discussed above.¹³
- LEAs continue to build capacity to meet the tracking requirement with fidelity, and continue to receive LEA-specific technical assistance for improved data entry activities to ensure reliable data is gathered by the District.
- OSSE remains committed to ensuring valid and reliable reporting of this data and continues to review and address student-level data failures and timely implementation of specialized instruction services with individual LEAs.

¹³ OSSE Dear Colleague Letter: IDEA Part C to B Transition: specialized instruction service delivery (July 11, 2019). (Available at: https://osse.dc.gov/sites/default/files/dc/sites/osse/service_content/attachments/OSSE%20Dear%20Colleague%20Letter%20IDEA%20Part%20C%20to%20B%20transition%20specialized%20instruction%20service%20delivery_7.11.19.pdf)

- DCPS continues to utilize the Subclass I and IV data visualization dashboards to deliver school-level supports necessary to achieve data reliability and timely implementation of specialized instruction services.

IV. Data Visualization Dashboard: Monthly Snapshot of Subclass Metrics

The District has developed and deployed data visualization dashboards for each of the three Subclasses, which, as described above, are used to identify LEAs for focused monitoring activities, conduct guided LEA data reviews, and ensure compliance with specialized instruction tracking requirements. These dashboards provide real-time data to OSSE, DCPS, charter schools engaged in focused monitoring, and the PCSB.

The District continues to improve data reliability and streamline State data systems to ensure LEAs can seamlessly transition students from Part C to B. In fall 2021, the District procured a new State special education data system that will replace the existing Special Education Data System (SEDS) used by LEAs in school year 2022–23. The new special education data system will include enhancements to capture all IDEA Part C and Part B activities, including transition, in a single system. This will ensure that all student data smoothly transfers from one program to the next and that LEAs receive timely access to student records for Part C to B transition activities, initial evaluation activities, and initial delivery of services. The new data system will additionally enhance the District’s ability to automate data collection of LEA reasonable efforts to obtain parent consent for initial evaluation, and delivery of specialized instruction. These enhancements will support OSSE’s continued oversight activities and delivery of technical assistance to LEAs on these key components of special education for members of the subclass. OSSE activities to design and develop the new data system remain on schedule for LEA use in school year 2022-23.