

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

D.L., *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Civil Action No. 1:05-1437-RCL

**DEFENDANTS' AUGUST 31, 2023 REPORT
ON PROGRAMMATIC AND NUMERIC REQUIREMENTS**

I. Introduction

During this reporting period—July 1, 2022 to June 30, 2023 (FFY2022)—Defendants' (collectively, the District's) continued efforts to improve services to members of the Subclasses through sustainable systemic reform, and diligent work to address the continued effects of learning loss during the COVID-19 pandemic have resulted in significant improvement on the numeric performance measures. Notably:

- The District met the numeric requirement for Subclass I, achieving 9.7%.
- The District's performance on the Subclass III numeric requirement improved to 84.1%, an increase of 7.7% over last year. The District was pleased to see an almost 30% increase in Local Educational Agencies (LEAs) meeting requirements to complete reasonable efforts to obtain parental consent for initial evaluation (reasonable efforts requirements).
- The District's performance on the Subclass IV numeric requirement improved to 73.9%, an increase of 11.6%.

Specific actions taken during FFY2022 that contributed to this improved performance, many of which are ongoing, include:

- 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.
- OSSE further expanded guidance to LEAs including guidance on compensatory education and evaluation flexibilities to ensure recovery efforts are aligned across the District's education sector in key areas of recovery.

- OSSE continues to dedicate significant recovery resources to ongoing partnerships with expert organizations to provide LEAs the guidance, technical assistance, and consultative supports needed to expeditiously problem-solve and operationalize new requirements.
- OSSE also continues to dedicate significant recovery resources to its ongoing partnership with the DC Ombudsman for Education. This included collaboration to update and improve the DC Parent Hub, a website designed to support families as they navigate through the highly complex DC special education landscape.
- OSSE continued to host monthly webinars with LEA special education leaders and staff to provide technical assistance on Individuals with Disabilities Education Act (IDEA) implementation requirements.
- OSSE continues to convene an Early Childhood Working Group to provide supports to LEAs serving three- through five-year olds through dedicated trainings focused on child outcomes, evaluation activities, LEA transition responsibilities, and Child Find practices. The Working Group also supports resource sharing between LEAs to resolve common barriers to service delivery encountered across the education sector. During the reporting period, the Working Group also assisted OSSE in researching screening practices of three-through five-year-olds in the District.
- OSSE continues to support LEA planning for students transferring into the LEA or transitioning from Part C to B services through training and providing early access to student data for transitioning students with disabilities.
- In July 2023, the Office of the State Superintendent of Education (OSSE) released the 2023 Special Education Performance Reports (SEPRs) to Local Educational Agencies (LEAs) as part of its commitment to achieving equitable outcomes for all students, including students with disabilities. SEPR is a summative evaluation of the performance of an LEA's special education program based on reporting and monitoring data that will be used to hold the LEA accountable for serving students with disabilities, including students within the Subclasses.

OSSE and the District of Columbia Public Schools (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 ongoing recovery activities to address past school closures.

The Parties held triannual meetings on September 13, 2022, February 3, 2023, and May 19, 2023, to continue to engage on systemic programmatic challenges and to work to solve barriers to implementation resulting from the effects of the public health emergency. These meetings continue to include the participation of the Public Charter School Board to discuss how District education

sector partnerships support public charter schools serving members of the Subclasses. The triannual meetings focused on the development of sustainable oversight systems designed to drive the District's achievement of the numeric requirements of the injunction, and charter LEA and DCPS activities to address improved identification, timely evaluation, and transition for members of the class.

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. Over the last four years, the District reported on developments and progress in each of these areas, all of which are now fundamental pillars of OSSE and DCPS policies and programmatic activities.

Moving forward, the District's focus will shift to emphasize accountability as the central component of its work to strengthen the sustainable oversight system developed over the past years and meet the numeric requirements. The District's preliminary framework for this strategy, designed based on the District's review of its pre-pandemic numeric progress, the recommendations of Mr. Sundram, and Plaintiffs' feedback, was shared with Plaintiffs in February 2023 and is described briefly below.

As the state education agency (SEA), OSSE sets clear expectations for LEA compliance with IDEA and District requirements through policy and guidance; provides training, professional development and technical assistance to LEAs to support their compliance with those requirements; and then monitors LEA compliance. The District's review of its work thus far has yielded three key pillars for implementing an effective system of accountability going forward:

- **(1) Data-informed student-level action:** LEAs must meaningfully use data analysis and visualization tools to inform program planning and delivery, and implement the procedural requirements applicable to members of the Subclasses;
- **(2) Educator support and program improvement:** State and LEA resources, including people and programs, must be dedicated to improving programming for members of the Subclasses; and
- **(3) Sustainable state oversight systems:** OSSE must establish a framework—and hold LEAs accountable—for structural and programmatic improvements and improved outcomes for members of the Subclasses.

Beginning during FFY2022, the District began implementing strategies for accountability in these three key areas, including requirements specific to the Subclasses. The District is committed to regularly consulting with Plaintiffs regarding these initiatives and, beginning with this Report, the District will provide updates to the Court on its accountability work instead of the four previously identified areas.

II. The District's Continuing Efforts To Address the Effects of the Pandemic on Class Members

A. OSSE's Continuing Efforts To Address the Effects of the Pandemic

OSSE's efforts to address the effects of the pandemic in the 2020–21 and 2021–22 school years are documented in previous reports, *see e.g.*, [654-1] and [668-1], but recovery efforts are ongoing. Relevant to FFY2022, 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, service delivery and parental participation.¹ OSSE also issued guidance on LEA Flexibilities for Completing Special Education Evaluations.² OSSE additionally provided LEAs guidance on the obligation to implement IEPs while awaiting completion of evaluations. The District continues to experience delayed evaluation activities but is pleased to report it is seeing a second year of marked increase in both completion and timely completion of initial evaluation activities for the Subclasses.

LEAs are operating in a challenging environment. LEAs continue to experience the effects of the national teacher, related service provider, and evaluator shortages. District LEAs also continue efforts to differentiate between instances where a student is experiencing learning loss resulting from the public health emergency and those where a student is experiencing a disability-based need for academic support. These barriers to LEA operations are described further below in the discussion of the effects of COVID-19 on the District's compliance with the injunction.

B. DCPS's Continuing Efforts To Address the Effects of the Pandemic

DCPS continues to offer in-person evaluations as the primary evaluation method, but virtual evaluation practices remain an essential tool to maintain compliance with the required timeliness standards. The hybrid use of in-person and virtual evaluation practices has become a matter of standard practice as some families and staff continue to be affected by the need to quarantine or are unable to attend in-person evaluations due to health concerns.

¹ 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)

² 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)

C. The Continuing Effects of the Pandemic 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, FFY2021, and continued in FFY2022.

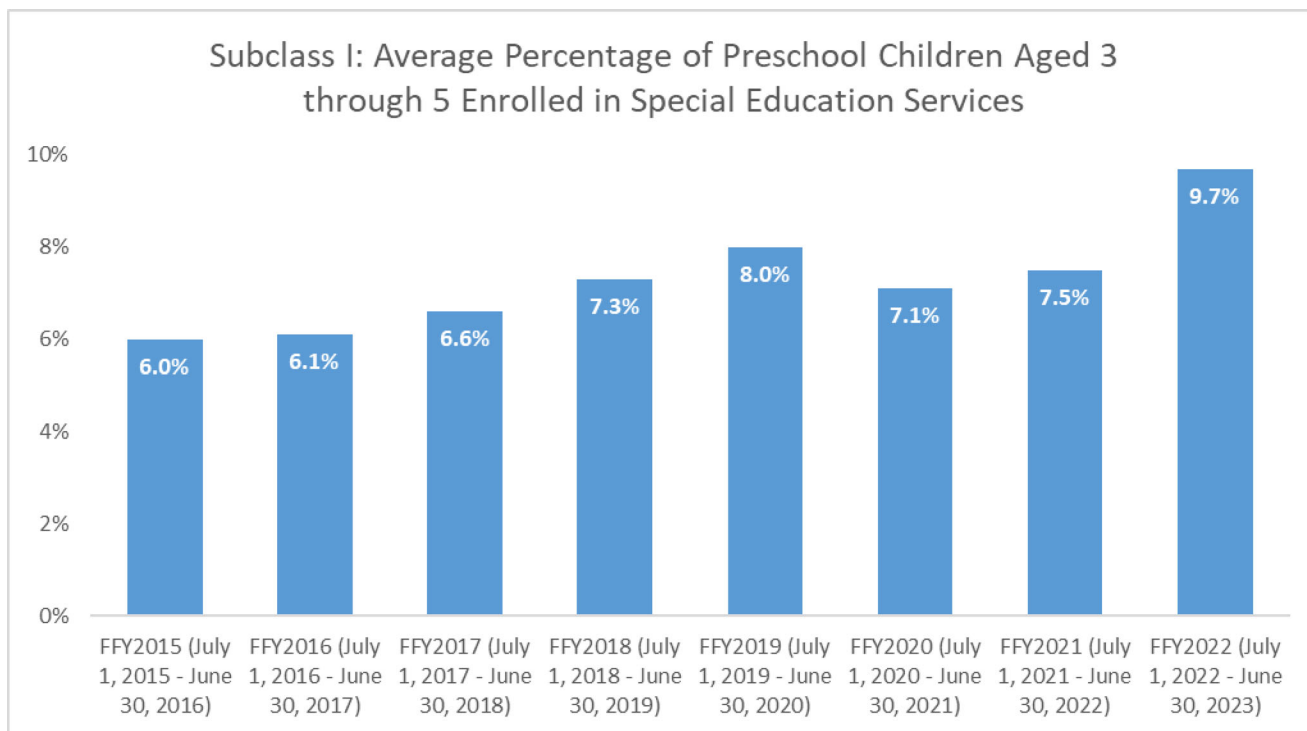
In FFY2022, the rate of initial evaluation referrals for students in Subclass I continued to increase. The District attributes this increase to the Child Find activities designed to address the reduced rate of initial referrals experienced during the public health emergency. This includes continuing 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. In school year 2023-24, the District will expand these activities in partnership with the DC Office of the Ombudsman, Parent Hub to include the display of similar posters in libraries and community centers.

The public health emergency and its aftermath have significantly affected the availability of evaluators nationally, causing many to leave the field and not return. This labor shortage continues to result in delayed initial evaluations for students within Subclass III and IV. DCPS and the Charter sector are dedicating substantial resources to recruitment, hiring, procurement of supplemental contracted substitute services, and conscription of existing employees into new roles across LEAs to address the shortage. OSSE continues to support LEAs in creative problem solving specifically designed to address these barriers and best meet the needs of members of the Subclasses.

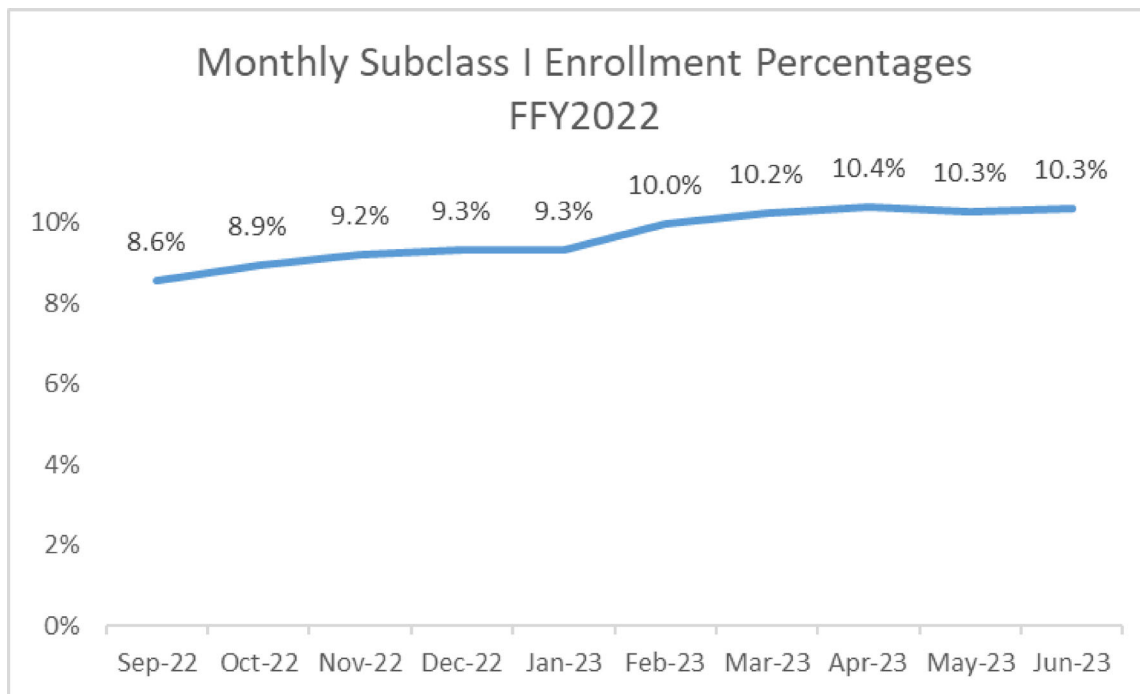
OSSE continually reviews DCPS and charter LEA initial evaluation data at the student-level and provides direct support to LEAs to ensure timeliness requirements are met to the greatest extent possible. The District reports routinely to Plaintiffs on this progress to ensure that all referrals and initial evaluations are moving ahead for students within Subclasses III and IV and is pleased to report that all eligible students continue to receive initial evaluation services.

III. Numeric Requirements

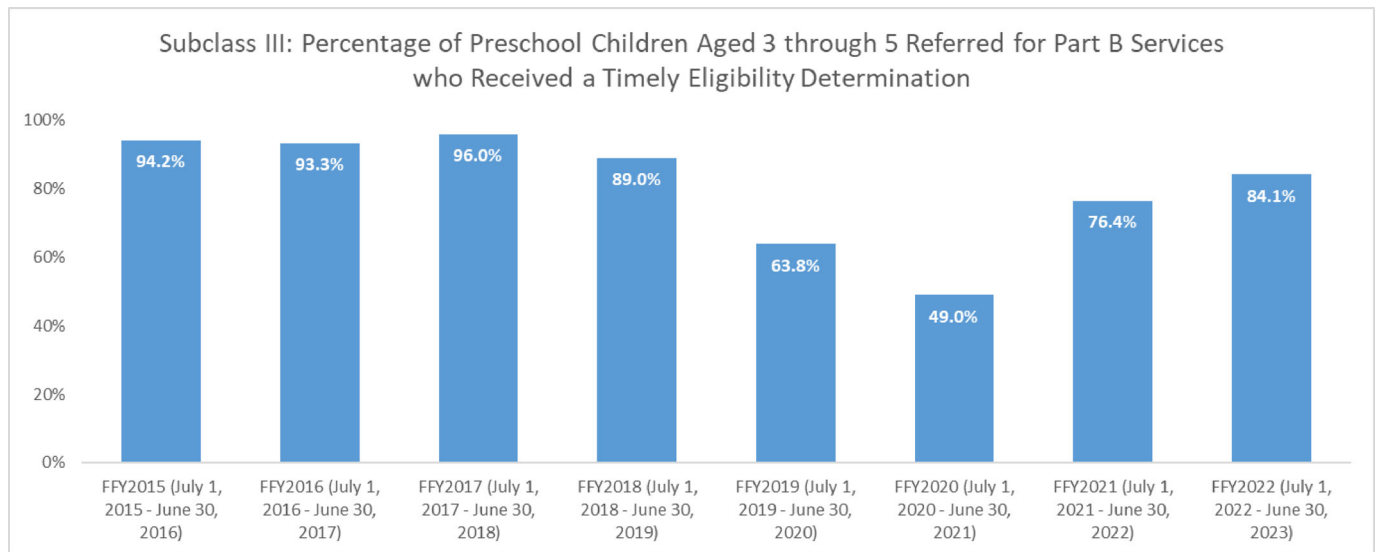
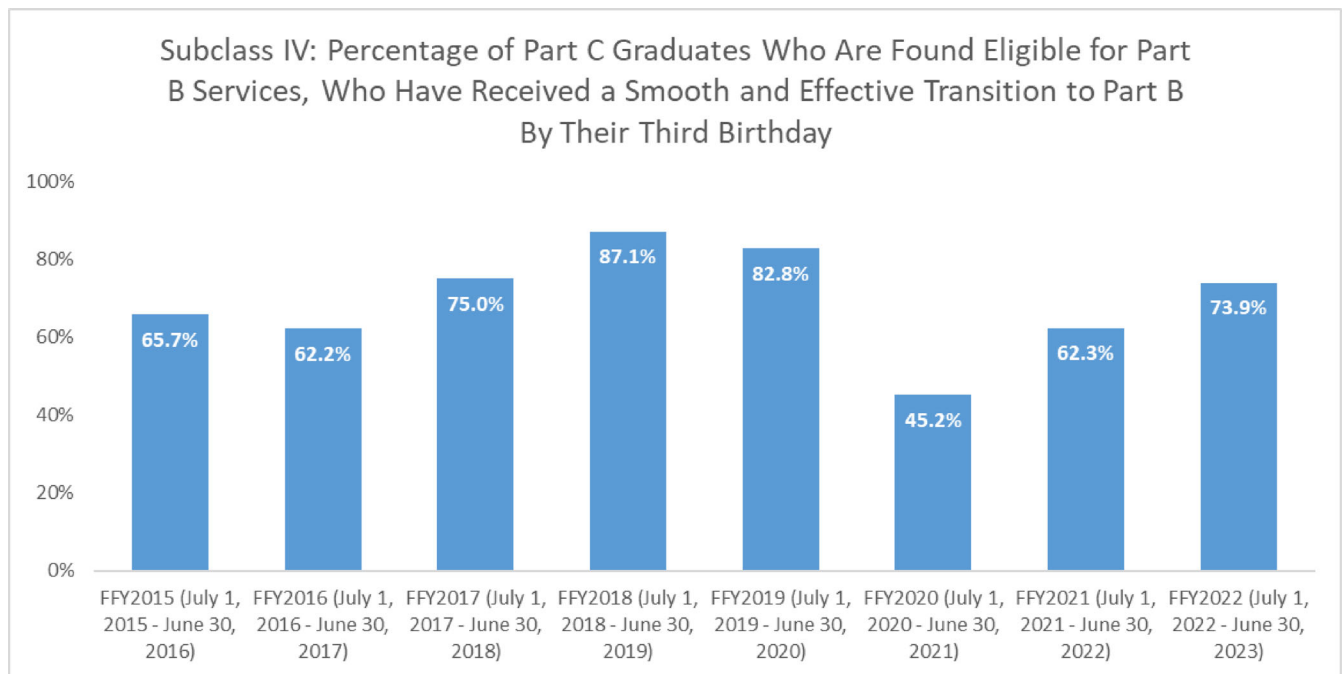
FFY 2015–2022 Annual Numeric Performance: Subclass I



FFY 2022 Monthly Performance for Subclass I (Enrollment Percentage)



Average of September 2022 – June 2023 = 9.7% (2,214/22,912)

FFY 2015-2022 Annual Numeric Performance: Subclass III*FFY 2015-2022 Annual Numeric Performance: Subclass IV**Discussion of Data***Subclass I and IV Business Rules: Specialized Instruction**

As previously reported, the business rules for Subclasses I and IV were updated in FFY2021 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 FFY22 business rules continue to use the SEDS specialized instruction data point for receipt of specialized instruction.

Subclass IV Business Rule Update: Removal of COVID-Related Delay

In FFY2020 and FFY2021, 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 were excluded from this metric in instances where the student would have otherwise been excluded from the subclass calculation.³ In FFY2022, the District no longer applied COVID-related exclusions and revised the Subclass IV business rule again, in partnership with Plaintiffs, to reflect removal of this exclusion.

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 FFY2018 Subclass III data 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 FFY2022 Subclass III business rule continues to reflect data inclusive of the reasonable-efforts requirement for the 2022–23 school year. Thus, the District's FFY2022 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 FFY2019, 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.

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 two such students for whom reasonable efforts were made but consent was not obtained. In FFY2022, there were five such students. The District asserts that these excluded students are representative of the District's efforts to obtain

³ 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 Individual Family Services Plan (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.

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 reflect 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	114
No consent; timely reasonable efforts	5
Exited LEA prior to due date	32
Referral discontinuations	267
Parent consent denials	160
Total Number of Exclusions	578

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 numeric 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 = 394)	
Initial contact not made within 10 days of referral.	9.6%
LEA began but did not complete contact attempts.	10.4%
No reasonable efforts were documented.	18.3%
Reasonable efforts requirements met.	61.7%

The District is pleased to see the percentage of compliance with reasonable efforts requirements almost double from 32.2% in FFY21 to 61.7% in FFY22. The District also saw significant improvement in all other areas related to reasonable efforts activities included in the table above. OSSE attributes these improvements to its delivery of targeted technical assistance to LEAs on reasonable efforts to obtain consent for initial evaluation. This included technical assistance in utilizing data visualization tools to support resource planning and resolve barriers within LEAs and improving LEA documentation of activities. The District continues to incorporate these findings into its focused monitoring and technical assistance activities to leverage reasonable-efforts activities to improve LEA initial evaluation practices.

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 refer to 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 the District's response to paragraph 308(d), the process of updating the list of primary referrers now includes their status as it relates to allowing in-person outreach efforts.

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 2023–24. DCPS ensures that all school buildings are displaying the posters and timely replacing any posters that are found to have been improperly removed. As noted above, OSSE is currently working with the DC Office of the Ombudsman, Parent Hub to develop and display child-find posters in libraries and community centers during school year 2023–24.

Additionally, Early Stages is finalizing new parent information packets that will be used to support parent engagement through the evaluation process. The first of these will be provided to families at the time of referral and screening, and the second shared at the evaluation appointment. These information packets include the required outreach materials, as well as new handouts to support parent understanding of the special education process, including Important Words and Phrases, Parents as Advocates, and Assessment Types. For families transitioning from Strong Start, there is an updated handout that describes the transition process. All parent-facing outreach documents went through an extensive readability review in collaboration with Plaintiffs’ counsel. The information packets are also being translated into the primary languages spoken in the District.

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. 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 if primary referrers prefer them.

In August 2023, Early Stages completed the first year of sharing tailored content through the DCPS Early Childhood Education Division (ECED) social media accounts. Early Stages will continue this partnership for a second year. 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 for the 2023 calendar year indicates that these emails are averaging 2,221 total opens per blast, with an average open rate of 29%, up slightly from last year and nearly 50% above the industry average open rate for nonprofits. Unsubscribe rates continue to be so low as to register as 0% in the tracking software.

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., email, texting, or telephone calls).

DCPS Early Stages builds and maintains relationships with primary referrers using the approach described in the December 2016 Report and modifications developed during the COVID-19 pandemic as described in the September 2020 Report.

Early Stages staff were able to conduct more in-person outreach with primary referrers in FFY22 as organizations relaxed restrictions related to the COVID-19 pandemic. This was particularly true for professional development workshops, which increased 40% from fiscal year 2022 to fiscal year 2023 (FY23), with twice as many offered in person as opposed to virtually. Similarly, during FY23, Early Stages has continued its efforts to conduct in-person outreach post-COVID and was able to visit nearly 100 more organizations in-person than during the previous fiscal year.

In-person office hours at the Unity Health Care Upper Cardozo, Conway Health and Resource Center of the Community of Hope, and the Virginia Williams Family Resource Center were fully re-established during this reporting period.

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 email) 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's December 2016 Report. OSSE continues to collaborate with multiple parties to ensure smooth implementation of the Enhanced Special Education Services Amendment Act of 2014.

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.

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. Early Stages is in the process of transitioning from its Minnesota Avenue NE location to a larger, newly designed site at 4800 Meade Street NE. This will allow for a greater number of families on the east side of the city to access evaluation services closer to their homes. To support this expansion, DCPS has budgeted for an additional family care coordinator, psychologist and speech/language pathologist beginning in fiscal year 2024.

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 reports. Information about the District of Columbia Child and Family Services Agency's (CFSA's) screening procedures can be found in the District's February 2023 Report. The District continues to review the results of CFSA's screening practices, revealing an effective system, including timely screenings and resulting referrals.

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.

In school year 2023–24, OSSE will release a new special education data system for Part C services, operating on the same platform as the Part B statewide data system for special education released by OSSE in Summer 2023. The joined Part C and B data systems will support the seamless transfer

of student records from Part C to Part B, including existing data at the time of referral. The District is pleased to report this automation will eliminate any potential for duplicative screenings and assessments for eligibility determination purposes.

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. The District continues to incorporate elements of this requirement into initial evaluation technical assistance and trainings provided by OSSE to LEAs.

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. The District continues to support DCPS and Charter LEAs in coordination across the education sector to ensure families receiving an eligibility determination contemporaneous with a charter lottery seat for the following year are made aware of the option to enroll immediately in DCPS. OSSE updated Extended School Year (ESY) services guidance in August 2023 to reflect

the criteria and data required to make a determination regarding ESY eligibility, removed outdated references to service provision during COVID-19 closures, and updated references to data systems.

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. All data processes described in prior reports remain in place. The District transitioned to a new statewide special education data system in Summer 2023. All District LEAs continue to use the OSSE system for delivery of student-specific special education data to OSSE. All previously described data collection, integrity, maintenance, and support processes remain true in the context of the District's new system deployed at the start of school year 2023-24. FFY2023 data will be the first numeric data reported to the Court based on extraction from the new statewide special education data system.

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.

DCPS continues to consult with Plaintiffs on its dedicated nursing protocol designed to support communication with new families who have a student requiring medical nursing. DCPS is developing two protocols: one for new students evaluated by Early Stages and a second for Pre-K-3 to 12 students requiring nursing services as a new service or who are new to DCPS. Each protocol includes allowing the parent to meet with the nursing team prior to the student's first day.

In this reporting period, DCPS opened four (4) new full-time early childhood self-contained classrooms.

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

Information on the District's operational definitions, also called "business rules," for each of the numeril 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 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:

- Specialized instruction and related service delivery and requirements related to valid and reliable data submission
- Guidance on documenting the first provision of specialized instruction
- 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
- Early Childhood Working Group activities, including research on early childhood screening practices across the District
- Special Education Performance Report (SEPR) release and data literacy 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 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 effects of the public health emergency
- Special Education Policy Bulletin issuances related to students exiting special education services, flexibilities for completing special education evaluations, and evaluating students for compensatory education services due to COVID-19
- Use of the DC Special Education Hub to support families with questions about navigating the District's education landscape
- Timely access to student records to ensure the timely completion of evaluation activities and delivery of services
- Extended School Year services eligibility and operational activities
- Immunization attendance policy implications for students with disabilities
- OSSE Multi-Tiered System of Support (MTSS) Community of Practice
- Close out of SY 2022–23, including completion of compensatory education service decisions, as appropriate, completion of evaluation activities, and identification of points of contact for summer evaluation activities

- Preparing for the 2023–24 school year; including accessing the early access student data to support resource planning, preparing to document the first provision of specialized instruction for members of the Subclasses, attending OSSE professional development and trainings, and OSSE monitoring activities

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.

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 Frequently Asked Questions (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.⁴

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 August 2019 Report. The results of monitoring activities can be found in each subsequent report. 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 five-year-olds into IDEA Part B services. As described above, this work is now embedded in OSSE’s policies and procedures, and OSSE is shifting its focus, and the focus of future reporting, on accountability.

The District continues to coordinate at all levels of program management and implementation across OSSE and DCPS through working 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.

⁴ 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>).

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 a new framework of accountability to drive 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. In 2019, in collaboration with Plaintiffs and upon recommendation of Mr. Sundram, the District designed four key areas where State oversight authority could be leveraged to improve outcomes related to the Subclasses and sustain those improvements during and beyond Court oversight. The four key areas were: (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. Beginning in the 2019–20 school year, the District implemented activities in these four areas, all of which are now fundamental components of OSSE and DCPS programmatic activities related to members of the class. Information about those activities can be found in prior reports.

Moving forward, the District will focus programmatic efforts on accountability as the central component of its work to implement a sustainable oversight system and meet the numeric requirements. Beginning in this Report, the Appendix addresses strategies to emphasize accountability, including: 1) data-informed student-level action, (2) educator support and program improvement, and (3) sustainable State oversight systems.

I. Data-Informed Student-Level Action

LEAs must meaningfully use data analysis and visualization tools to inform program planning and delivery, and to implement the procedural requirements applicable to members of the Subclasses.

In July 2023, OSSE released the 2023 Special Education Performance Reports (SEPRs) to LEAs as part of its commitment to achieving equitable outcomes for all students, including students with disabilities. Strategic initiatives designed to support this priority include setting clear expectations and holding LEAs accountable for serving students with disabilities.⁵

SEPR is a summative evaluation of the performance of an LEA's special education program based on reporting and monitoring data.⁶ LEA SEPR results include data on performance metrics in two areas: 1) annual IDEA compliance (*i.e.*, initial evaluation and Part C to B transition), and 2) key student progress in results-based measures including the numeric metrics required for all three Subclasses. OSSE believes incorporation of the numeric requirements into SEPR sets clear

⁵ See OSSE Strategic Plan (Available at: <https://osse.dc.gov/strategicplan>).

⁶ See OSSE's Special Education Performance Report (SEPR) (Available at: <https://osse.dc.gov/page/osse%E2%80%99s-special-education-performance-report-sepr>).

expectations for LEAs to timely identify and deliver services to members of the Subclasses. A review of the SEPR framework reveals that it measures LEA activities specific to the Subclasses twice. This duplication is an intentional reflection of the urgency and importance of meeting these critical components in order to improve outcomes for members of the Subclasses. LEAs serving three-through five-year-olds are measured in the context of the relevant federal compliance measures and the progress measures, providing a dynamic window into where an LEA may improve programs and dedicate resources to support compliance and student progress in these areas.⁷

OSSE acknowledges that the first step toward meaningful use of this data is to improve data literacy both internally and across the education sector. OSSE met with LEA leaders to review the SEPR results and support their understanding of the underlying data. OSSE also delivered a technical guide to LEAs with the SEPRs and is hosting a series of office hours for LEA team members. Office hours focus on interpretation of SEPR results and the underlying data in order to support data analysis designed to reveal areas for improvement. OSSE is pleased to report that LEAs are digging deeply into their data, connecting metrics in new ways, and participating meaningfully in data-informed conversations about programmatic improvements.

In September 2023, OSSE will release SEPR results to the public on its website. OSSE will provide LEAs with tools to support transparent communication with families after the public release of this information. Tools will include sample LEA to family communications, guidance for families on reviewing SEPRs, and information to share with families about how OSSE and the LEA will work together toward improvement.

II. Educator Support and Program Improvement

State and LEA resources, including people and programs, must be dedicated to improving programming for members of the Subclasses.

SEPR is designed to serve as a comprehensive evaluation of special education programs in the District that will allow OSSE to identify, plan, and deliver appropriate support to LEAs to build educator and system capacity in order to meet the needs of students with disabilities. Initial analysis of SEPR data yielded two key findings. First, SEPR identified more LEAs as requiring support to improve programs than identified in prior years using the historical framework. This confirms that OSSE's new accountability framework is achieving what it is designed to do and what stakeholders had hoped it would accomplish. SEPR delivers data that will inform how LEAs dedicate resources and how OSSE supports improved programming for students with disabilities, including members of the Subclasses. Second, the data challenged historical biases to serving students with disabilities, revealing that LEA SEPR scores were not significantly related to the percent of students within the LEA who are economically disadvantaged and were not significantly related to the percent of students at the LEA who have disabilities.

⁷ See Special Education Performance Report at 2 (Available at: https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/SEPR%20Template%20-%20Internal.pdf).

In school year 2023–24, OSSE will partner with an expert organization to further analyze state and LEA SEPR data to identify, plan, and implement appropriate and meaningful professional development and technical assistance in the area of special education. OSSE is designing professional development activities to address the needs of each LEA’s SEPR results. Technical assistance will include supports delivered to LEAs by OSSE directly, through the expert organization supporting technical assistance planning, and through additional partnerships with expert organizations across the country in instances where additional expertise is needed.

During the 2023-24 school year, while engaged in this period of technical assistance planning and development, OSSE is delivering supports to LEAs through direct LEA technical assistance, special education micro-credentials, and the OSSE Multi-Tiered System of Support (MTSS) Community of Practice.

III. Sustainable State Oversight Systems

OSSE must establish a framework—and hold LEAs accountable—for structural and programmatic improvements and improved outcomes for members of the Subclasses.

In 2020, OSSE developed a working plan that identified core actions necessary to improve outcomes for students with disabilities, including members of the Subclasses. These core actions included developing a results-based accountability system through IDEA. Last summer, in June 2022, OSSE released the Special Education Performance Report (SEPR), with a re-envisioned structure for review of data, accountability, monitoring, and supports, and requested stakeholder feedback. OSSE incorporated feedback from LEAs, Plaintiffs’ counsel, a technical assistance committee of statistical experts, agency stakeholders, and families in the final framework used to deliver the results discussed above. OSSE was pleased to receive considerable feedback regarding the importance of incorporating measures relevant to the Subclasses.

Sharing the District’s data accessibly and improving the sector’s data literacy is step one in the agency’s focus on accountability. OSSE is designing integrated fiscal and program monitoring systems to support the cyclical use of SEPR data to inform: 1) the effectiveness of OSSE supports delivered based on SEPR results; 2) the effectiveness of LEA dedication of resources to areas requiring improvement; and 3) the effectiveness of LEA activities to improve programs. OSSE looks forward to sharing the agency’s progress on these activities in future reports.