

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' FEBRUARY 28, 2024 REPORT
ON PROGRAMMATIC REQUIREMENTS

I. Introduction

During this reporting period—July 1, 2023 to February 28, 2024—Defendants' (collectively, the District's) continued efforts to improve services to members of the Subclasses through sustainable systemic reform. Specific actions taken during the period, many of which are ongoing, include:

- The Office of the State Superintendent of Education (OSSE) continues annual focused monitoring on Local Educational Agencies (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 continues to dedicate significant 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 resources to its ongoing partnership with the DC Ombudsman for Education. This includes collaboration to improve the DC Parent Hub (Hub), a website designed to support families as they navigate through the highly complex DC special education landscape. During the reporting period, the Hub delivered trainings to families on the Special Education Performance Report (SEPR), including improving data literacy skills related to Child Find, initial evaluation, and IDEA Part C to B transition. The Hub additionally offered training on key areas of evaluation and IEP process to support families in understanding how they can advocate for their students and work closely with LEAs throughout complex processes.

- 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.
- OSSE revised Extended School Year (ESY) guidance for issuance during the period of LEA ESY certification for the 2023–24 school year. Revised guidance clarified LEA responsibilities for determining eligibility and certifying services for C to B transition and newly eligible three- through five-year-olds.
- 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. 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. During the reporting period, OSSE procured a vendor to design a menu of technical assistance supports for delivery to LEAs to improve key metrics within LEAs' SEPRs, with specific focus on Child Find, initial evaluation, and IDEA Part C to B transition. During the 2023–24 school year, OSSE is delivering targeted technical assistance based on SEPR scores to LEAs in the form of learning modules designed to improve discrete areas of special education practice, and targeted technical assistance delivery on areas of need identified by SEPR.

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, and review the District's progress on key areas of implementation.

The Parties held a triannual meeting on August 23, 2023, to continue to engage on systemic programmatic challenges. Triannual meetings continue to include the participation of the Public Charter School Board as appropriate to discuss how District education sector partnerships support public charter schools serving members of the Subclasses. The August triannual meeting

focused on the development of sustainable oversight systems designed to drive the District's achievement of the numeric requirements of the injunction, including the transition to a new District-wide special education data system and data-informed oversight through SEPR, and charter LEA and DCPS activities to address improved identification, timely evaluation, and transition for members of the class. Triannual meetings additionally include review and resolution of concerns raised by Plaintiffs regarding education service delivery to 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. From 2019 to 2023, 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.

The District's focus now emphasizes 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:

- **(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:** OSSE 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—July 1, 2022 to June 30, 2023—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 the District will provide updates to the Court on its accountability work instead of the four previously identified areas in this and future reports.

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, 2021–22, and 2022–23 school years are documented in previous reports, *see e.g.*, [654-1], [668-1], [680-1] but recovery efforts are ongoing. The District continues to experience delayed evaluation activities but was pleased to report in August 2023 that it saw a second year of marked increase in both completion and timely completion of initial evaluation activities for the Subclasses. OSSE continues to provide one-to-one support to LEAs in resolving barriers to timely initial evaluation activities, continually improving the District's overall rate of compliance for the Subclass.

LEAs continue to operate 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.

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

DCPS continues to offer in-person evaluations as the primary evaluation method, with virtual evaluation practices remaining as a tool to support compliance and parent engagement in targeted circumstances. The addition of virtual evaluations has become a matter of standard practice when families or staff are unable to attend in-person evaluations due to health concerns or when other factors make parent or child access a challenge.

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 implementation of 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 is expanding 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. OSSE is pleased to report that all eligible students continue to receive initial evaluation services.

III. Programmatic Requirements

The following section summarizes the District's continued adherence to the programmatic requirements of the Court's May 18, 2016 Findings of Fact and Conclusions of Law [520]. 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 30, 2020 Report on Programmatic Requirements (September 2020 Report) [639-1] 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.

In Fall 2023, Early Stages finalized new parent information documents that will be used to support parent engagement throughout the evaluation process. Access to the documents is first provided to families at the time of referral and screening, and they are reviewed in person at the evaluation appointment. The information includes outreach materials, as well as new handouts to support parent understanding of the special education process, including Important Terms, 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. All documents have been translated into the primary languages spoken in the District. The documents are in the printing process at the time of this report and will be available in March 2024.

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 materials described in the December 2016 Report. These materials are integrated into the standard operating procedures for regular contacts with primary referrers. DCPS Early Stages regularly distributes pdf formats of these outreach materials, though printed materials continue to be distributed if primary referrers prefer or request 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 and Early Stages has continued this partnership in the 2023–24 school year. This included information about strategies to support students with disabilities in toileting, social skills development, school enrollment, and other parent-supporting information.

Early Stages continues to send, and 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.

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 continue to conduct in-person outreach with primary referrers. With some exceptions, Early Stages' ability to access organizations in person is now comparable to what it was pre-pandemic.

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 continue as reported in the August 31, 2023 Report on Programmatic Requirements (August 2023 Report) [680-1]. In addition, Early Stages recently began piloting virtual office hours at both Unity Health Care Upper Cardozo and Unity Health Care Brentwood Square to evaluate the effectiveness of this approach.

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 an additional location at 4800 Meade St 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. In December 2023, Early Stages opened a new evaluation center at Ron Brown College Preparatory High School, 4800 Meade St NE, replacing the previous location at 4058 Minnesota Ave NE. This new location has a larger staff and allows for a greater number of families on the east side of the city to access evaluation services closer to their homes. The new Ron Brown location has been purpose built to accommodate the specific needs of Early Stages and its families, providing a bright, spacious, and welcoming environment for families and visitors.

Further, a DCPS central office mobile early childhood assessment team is used to support local schools with completing initial ECE referrals. DCPS continues to implement the evaluation procedures, to deliver capacity building and technical assistance to schools, and to support its 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, which continue to demonstrate that CFSA has 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 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 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. In preparation for the Summer 2024 ESY period, OSSE updated ESY services guidance to clarify LEA obligations to determine ESY eligibility for children transitioning from Part C to services under Part B and determined initially eligible, including the requirement to complete OSSE certification requirements for inclusion in ESY and transportation services as applicable.

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 now uses a 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 has developed 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. DCPS is reviewing Plaintiffs' proposed language for inclusion in the protocols to ensure that families may meet with medical staff prior to the student's first day.

Since Fall 2021, DCPS has expanded the number of PK3–PK4 and K–2 full-time self-contained classrooms by 32 new classrooms. This includes two new full-time self-contained PK3–PK4 classrooms and two new full-time self-contained K-2 classrooms that opened in Fall 2023.

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 numeric 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 in the State’s new special education data system;
- 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;
- 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 2023–24 planning for timely service delivery;
- 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;
- ESY 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;
- child outcome summary training on data collection and review activities applicable to enrolled preschool/pre-kindergarten special education programs;
- release of the OSSE Special Education Handbook designed to support LEAs in understanding and implementing special education requirements from referral to exit;
- information on the release of OSSE's first ever Special Education Performance Report, parent communication strategies, and data literacy session engagement;
- the availability of special education law training modules to LEAs;
- OSSE release of the 2023–24 school year special education calendar including information on IDEA-related monitoring activities and chronological sequence and overview of timelines for upcoming special education requirements for LEAs; and
- OSSE release of the LEA Special Education Point of Contact Role Description designed to support to carry out special education organizational operations, liaise with OSSE, and support all facets of special education.

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 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 for children in Subclass IV.

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.¹

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 this and future reporting, to 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.

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.

¹ 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>).

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 May 16, 2016 Order 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 is focusing programmatic efforts on accountability as the central component of its work to implement a sustainable oversight system and meet the numeric requirements in the May 16, 2016 Order. Like the August 2023 Report, the Appendix here 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 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.²

SEPR is a summative evaluation of the performance of an LEA's special education program based on reporting and monitoring data.³ LEA SEPR results include data on performance metrics in two areas: 1) annual IDEA compliance (*i.e.*, initial evaluation and Part C to B

² See OSSE Strategic Plan (Available at: <https://osse.dc.gov/strategicplan>).

³ See OSSE's SEPR (Available at: <https://osse.dc.gov/page/osse%E2%80%99s-special-education-performance-report-sepr>).

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 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.⁴

OSSE acknowledged 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 hosted a series of office hours for LEA team members. Office hours focused 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 released SEPR results to the public on its website. OSSE additionally provided LEAs with tools to support transparent communication with families about the public release of this information. Tools included 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.

OSSE previously provided LEAs with clarifying guidance to ensure Charter School LEAs were aware of their responsibility to conduct transition and initial evaluation activities for students who have been offered and accepted a seat (Stage 4 enrolled) at their LEA for the following school year and are not currently enrolled in DCPS. To support the transfer of information to the appropriate LEA for children transitioning from Part C to B or initial referrals received by DCPS Early Stages, OSSE provides information to DCPS Early Stages and OSSE Early Intervention upon request when parents notify these entities of a possible Charter School LEA enrollment. This process is conducted manually, requires inference based on parent engagement, and can result in confusion or lost time. During the reporting period, OSSE reviewed SEPR data to determine if these circumstances contributed to delays in the transition and initial evaluation process for members of the class and found that students would benefit from an automated transfer of data in this context. As a result, OSSE is exercising the Child Find exception to the Federal Educational Rights and Privacy Act (FERPA) to support execution of a data-sharing agreement between OSSE and DCPS Early Stages, and OSSE Part B Program and OSSE Part C Early Intervention. The data-sharing agreement will allow OSSE to deliver automated data on the enrollment status and location of all three- through five-year-olds across DC LEAs to DCPS Early Stages, and the same data limited to transitioning children to OSSE Early Intervention.

⁴ 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).

Comprehensive and immediate access to this data will support both entities in quickly identifying and transferring the initial referral to the responsible LEA for action, supporting timely transition and initial evaluation for affected children.

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 allows 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 informs 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.

In school year 2023–24, OSSE established a partnership 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 MTSS Community of Practice.

OSSE continues to deliver supports to educators through resources designed to improve organizational capacity to serve students with disabilities. During the reporting period, OSSE issued three key resources to support special education administrators and practitioners in understanding the what, who, and when of LEA responsibilities. These resources include: 1) the OSSE Special Education Handbook, 2) the LEA Special Education Activities Calendar, and 3) the Special Education Point of Contact (POC) Role Description. The OSSE Special Education Handbook describes what LEA responsibilities exist, and serves as a guide in creating and documenting LEA policies and procedures. This handbook is designed to support LEAs in identifying areas where the LEA should transparently establish how it will meet requirements. Key topics include referral and evaluation processes and managing transition for members of Subclass IV. The LEA Special Education Calendar describes when LEAs are responsible for data submission, training, and monitoring. OSSE published the LEA Special Education POC Role Description to support LEAs in identifying appropriate staff to carry out special education

organizational operations, liaise with OSSE, and support all facets of special education. OSSE provided technical assistance on use of this package of materials during monthly special education webinars and in engagement with LEA leaders.

OSSE is additionally revising its IDEA Part C to B Transition Policy and issuing a new policy on expectations for Family Engagement. OSSE sought comment from Plaintiffs' counsel on the existing OSSE IDEA Part C to B Transition Policy and has incorporated the majority of responsive comments into the draft policy due for release for public comment in February 2024. OSSE additionally sought Plaintiffs' feedback on the Family Engagement Policy draft and incorporated many of Plaintiffs' suggestions. OSSE also anticipates release of the Family Engagement Policy for public comment in February 2024.

During the reporting period, OSSE addressed concerns raised by Plaintiffs regarding the exclusionary impact of Charter School LEA policies related to toileting. While OSSE has previously addressed these concerns through the issuance of guidance and training, OSSE took a renewed approach to address persisting concerns raised by Plaintiffs regarding LEA practices. OSSE reviewed all Charter School LEA toileting policies and worked with LEAs to revise policies and modify practices causing three- through five-year-olds with disabilities to be excluded due to toileting requirements at the LEA. Of the seven LEAs identified as having policies or practices of concern, four have revised their policies. Of the seven, one LEA remains engaged in technical assistance sessions to support revisions to both policy and practices to ensure alignment with OSSE expectations for inclusive practices. The remaining three LEAs are scheduled for technical assistance sessions during Spring 2024 in alignment with pre-scheduled technical assistance touchpoints related to focused monitoring on Part C to B transition.

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. In June 2022, OSSE released the SEPR framework, 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 this and future reports.

During the reporting period, OSSE and DCPS dedicated resources to improving inclusive practices in DCPS schools. This initiative is aligned with DCPS' SEPR results in the area of least restrictive environment which was identified as a key area for improvement. OSSE and DCPS established a partnership with a national technical assistance center, the State Implementation and Scaling-Up of Evidence-based Practices Center (SISIP), to expand the reach and scale of effective inclusive practices in DCPS schools. SISIP provides individualized professional learning and coaching to develop knowledge and skills of staff at the State and LEA levels to use effective inclusive practices in schools and classrooms. DCPS is working directly with SISIP to select effective practices for implementation in schools, and measure implementation of those practices through outcomes questionnaires and identified fidelity measures. OSSE is participating in a community of practice with key staff from other states that focus on LEA monitoring and technical assistance delivery. Once implementation capacity is established across OSSE and DCPS, this capacity will provide a sustainable foundation to support and improve the full and effective use of inclusive practices.