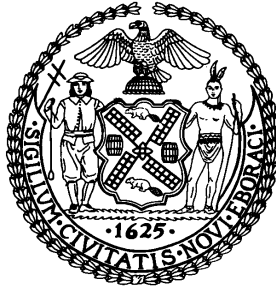


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THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION

Jeffrey Baker, *Legislative Director*
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COMMITTEE ON EDUCATION

Hon. Mark Treyger, *Chair*

February 25, 2019

Oversight: DOE's Provision of Special Education Services

INTRODUCTION NO. 559:

By Council Members Treyger and Levin

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to provide school-level data regarding compliance rates for students' individualized education programs

ADMINISTRATIVE CODE:

Amends subdivision b of section 21-955 of chapter 5 of Title 21-A

INTRODUCTION NO. 900:

By Council Members Kallos and Levin

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report on the provision of special educations services tri-annually and to expand the services on which the department is required to report

ADMINISTRATIVE CODE:

Amends section 21-955 of chapter 5 of Title 21-A

INTRODUCTION NO. 1380:

By Council Members Rosenthal, Treyger, Dromm, Levine, Ampry-Samuel, Brannan, Levin, Rose, Adams, King and Kallos

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to annually report on claims for payment for tuition or services

ADMINISTRATIVE CODE:

Adds section 21-955.1 to chapter 5 of Title 21-A

INTRODUCTION NO. 1406:

By Council Members Dromm, Treyger, Levin, Rosenthal, Brannan and Chin

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to requiring reports on preschool special education and early intervention services

ADMINISTRATIVE CODE:

Amends subdivision a of section 21-955 of chapter 5 of Title 21-A

RESOLUTION NO. 749:

By Council Members Treyger, Brannan, Rosenthal and Levin

TITLE:

Resolution calling upon the New York City Department of Education to establish a czar position to ensure compliance with Individualized Education Programs and other requirements for students in special education.

INTRODUCTION

On February 25, 2019, the Committee on Education, chaired by Council Member Mark Treyger, will hold an oversight hearing to examine *the New York City Department of Education's (DOE) Provision of Special Education Services*. The Committee will also hear Introduction Number 559 (“Int. 599”), sponsored by Council Member Treyger, relating to requiring the department of education to provide school-level data regarding compliance rates for students' individualized education programs; Introduction Number 900 (“Int. 900”), sponsored by Council Member Kallos, relating to requiring the department of education to report on the provision of special education services tri-annually and to expand the services on which the department is required to report; Introduction Number 1380 (“Int. 1380”), sponsored by Council Members Rosenthal, Treyger and Dromm in relation to requiring the department of education to annually report on claims for payment for tuition or services; Introduction Number 1406 (“Int. 1406”), sponsored by Council Members Dromm, Treyger, Levin, Rosenthal and Brannan in relation to requiring reports on preschool special education and early intervention services; and Resolution Number 749 (“Res. 749”), sponsored by Council Members Mark Treyger, Brannan and Rosenthal, calling on the New York City Department of Education to establish a czar position to ensure compliance with Individualized Education Programs and other requirements for students in special education.

The Committee expects to hear testimony from the Department of Education (DOE), parents, students, educators, advocates, unions, and other members of the public.

BACKGROUND

Students with disabilities comprise a large and growing portion of the New York City public school population. In the 2013-14 school year, there were 205,793 students with disabilities,

including both school-age and pre-school students, representing 18.6 percent of the City’s public school enrollment.¹ By 2017-18 the number of students with disabilities in City public schools increased to 224,160 representing 19.7 percent of enrollment.²

Many students with disabilities are not receiving all of the services to which they are entitled. According to the DOE’s latest data report, in the 2017-18 school year, 78.4 percent of school-aged students with individualized education programs (IEPs) in DOE schools fully received their recommended services, while 19.1 percent received partial services and 2.5 percent received none of their recommended services.³ It’s important to note that this data does not include pre-school students with disabilities or those in charter schools, transfer and alternative high schools.⁴

Although there has been some improvement in the performance of students with disabilities in recent years, there is still a wide achievement gap with non-disabled students. On the 2018 State English Language Arts (ELA) exam, only 15.8 percent of City students with disabilities in grades 3 through 8 scored at or above proficient (up from 5.7 percent in 2013), compared to 55.2 percent for their non-disabled peers (up from 31.3 percent in 2013).⁵ Similarly, on the 2018 state math test, only 15.4 percent of students with disabilities in grades 3 through 8 scored at or above proficient (up from 8.4 percent in 2013), compared to 50.3 percent for non-disabled students (up from 34.6

¹ New York City Department of Education (DOE) website, “Demographic Snapshot – Citywide, Borough, District, and School: SY 2013-14 to 2017-18,” accessed 2/7/19 at <https://infohub.nyced.org/reports-and-policies/citywide-information-and-data/information-and-data-overview>.

² *Id.*

³ DOE InfoHub webpage, Special Education Reports, “Annual Special Education Data Report — School Year 2017-18: Report 12 - Number & Percentage of Students Receiving Recommended Special Education Services” accessed 2/15/19 at <https://infohub.nyced.org/reports-and-policies/government/intergovernmental-affairs/special-education-reports>.

⁴ *Id.*

⁵ DOE, “NYC Results on the New York State 2013-2018 ELA Test (Grades 3–8): Citywide Summary, Results by Disability Status,” accessed 2/7/19 at <https://infohub.nyced.org/reports-and-policies/citywide-information-and-data/test-results>.

percent in 2013).⁶

Graduation rates for students with disabilities in City schools have also historically been much lower than those for their peers in general education. According to DOE, in 2018, only 50.4 percent of students with disabilities graduated within four years of entry into high school (up from 37.5 percent in 2013), compared to 81.6 percent of non-disabled students (up from 70.6 percent in 2013).⁷

To address this achievement gap and improve academic outcomes for students with disabilities, the DOE initiated a number of efforts to restructure and improve special education over the years.⁸ The most recent effort, launched in September 2012, was a multi-year special education reform plan to improve education for students with disabilities by enrolling them in their neighborhood school and mainstreaming them alongside general education students as much as possible.⁹

This reform plan was launched by DOE in conjunction with the New York State Education Department (NYSED).¹⁰ The plan, *Shared Path Framework*, focused on “increased access to schools, quality IEPs, behavior, and transition.”¹¹ The results of this effort have led to a

⁶ DOE, “NYC Results on the New York State 2013-2018 Math Test (Grades 3–8): Citywide Summary, Results by Disability Status,” accessed 2/7/19 at <https://infohub.nyced.org/reports-and-policies/citywide-information-and-data/test-results>.

⁷ DOE, “Graduation Rate Report: City Graduation Rate Students with Disabilities,” accessed 2/7/19 at <https://infohub.nyced.org/reports-and-policies/citywide-information-and-data/graduation-results>.

⁸ See Committee Report of the New York City Council Committee on Education, “Examining DOE’s Special Education Reform,” October 25, 2013, available at

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1492530&GUID=57E6E98E-B779-4388-A296-49CC6B48CA47&Options=Advanced&Search=>.

⁹ *Id.* See also Committee Report of the New York City Council Committee on Education, “Oversight: Special Education Instruction & Student Achievement,” October 28, 2014, available at

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1943173&GUID=2B6E4148-EF97-4AFE-A759-0C370F7671C2&Options=Advanced&Search=>.

¹⁰ 2018 NYC Department of Education Chancellor Transition Memo. Accessed 2/20/19 at: <https://www.chalkbeat.org/posts/ny/2019/02/19/richard-carranza-briefing-memos/>.

¹¹ *Id.*

dramatically improved shift in service delivery and improved student outcomes.¹² Due to New York City’s successes, the state has used the City as an example for the state’s other four large urban districts to improve special education outcomes across the state.¹³

Federal Law

The education of students with disabilities is governed by the Federal Individuals with Disabilities in Education Act (IDEA), which guarantees access to a “free appropriate public education” (FAPE) in the “least restrictive environment” (LRE) to every child with a disability.¹⁴ LRE means that, to the maximum extent appropriate, children with disabilities must be educated with children who are not disabled.¹⁵ The IDEA ensures that all children with disabilities have access to special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.¹⁶

The IDEA governs how states and public agencies provide early intervention, special education, and related services to eligible infants, toddlers, children, and youth with disabilities. IDEA Part C addresses early intervention services for infants and toddlers, birth through age 2, while Part B covers special education and related services for children and youth ages 3 through 21.¹⁷

In addition, the IDEA authorizes formula grants to states to support early intervention services for infants and toddlers, and special education and related services for children and youth ages 3 through 21.¹⁸ The IDEA also authorizes discretionary grants to state educational agencies,

¹² *Id.*

¹³ *Id.*

¹⁴ U.S. Department of Education website, “About IDEA: History of the IDEA,” accessed 2/7/19 at <https://sites.ed.gov/idea/about-idea/#IDEA-History>.

¹⁵ IDEA §612(a)(5).

¹⁶ U.S. Department of Education website, “About IDEA: IDEA Purpose,” accessed 2/7/19 at <https://sites.ed.gov/idea/about-idea/#IDEA-Purpose>.

¹⁷ U.S. Department of Education website, “About IDEA,” accessed 2/7/19 at <https://sites.ed.gov/idea/about-idea/>.

¹⁸ *Id.*

institutions of higher education, and other nonprofit organizations to support research, technical assistance, technology development, personnel preparation and development, and parent-training and information centers.¹⁹

NYC DEPARTMENT OF EDUCATION SPECIAL EDUCATION SYSTEM

In order for a child in New York City to receive special education services, the DOE must follow a four-step process: (1) referral and consent; (2) evaluation; (3) the development of the Individualized Education Program (IEP); and (4) placement and services.²⁰

Step 1: Referral & Consent - A referral for special education services can only be made in writing by a parent/legal guardian or school district designee, usually the principal or assistant principal, or Committee on Special Education (CSE) Chairperson.²¹ However, certain others, including selected school staff, a licensed doctor, a judge, public officials, or a student over 18 or emancipated, can request that a student be referred for an initial evaluation. Once a referral is made, the DOE must obtain the parent's written consent for the evaluation process to begin.²²

Step 2: Evaluation - After the DOE receives parental consent to evaluate a child, they have 60 calendar days to complete the evaluations.²³ A child must be evaluated in all areas of suspected disability, and an initial evaluation must at least include: a social history; a psycho-educational evaluation (including IQ and academic testing); a classroom observation; and a recent physical evaluation (if not available from the student's doctor, the DOE must arrange for a physical).²⁴ Other possible evaluations include: a physical/occupational therapy or speech and language

¹⁹ *Id.*

²⁰ Advocates for Children of New York, *AFC's Guide to Special Education*, June 2016, at 6, accessed at https://www.advocatesforchildren.org/sites/default/files/library/special_ed_guide.pdf?pt=1.

²¹ *Id.* Note that for students who are not enrolled in DOE schools, the special education process is coordinated and carried out by one of 10 geographically-based Committees on Special Education (CSEs).

²² *Id.*, at 7.

²³ *Id.*, at 9.

²⁴ *Id.*, at 8.

evaluation; a neurological or neuropsychological exam; an assistive technology evaluation; a psychiatric evaluation; and a vision or hearing exam, including a central auditory processing evaluation.²⁵

Step 3: IEP Development - In order for a child in New York City to receive special education services, an IEP team must find the child eligible for one of the following 13 disability classifications:

- Autism
- Deaf-Blindness
- Hearing Impairment
- Intellectual Disability
- Orthopedic Impairment
- Speech or Language Impairment
- Emotional Disturbance
- Deafness
- Visual Impairment, including Blindness
- Learning Disability
- Multiple Disabilities
- Other Health Impairment
- Traumatic Brain Injury²⁶

The IEP team must include the child's parent; a special education teacher and/or related service provider; a general education teacher (if a child is, or may be, participating in a general education class); a school psychologist (or other who can explain the meaning of the evaluations); the child (if age 15 or older); and a district representative. Others may also be included, such as a physician or anyone the parent wishes to invite for support.²⁷

The IEP outlines a child's educational needs and the services they are entitled to receive, including:

- Present levels of educational and social/emotional performance;
- Measurable annual goals;

²⁵ *Id.*

²⁶ *Id.*, at 12.

²⁷ *Id.*, at 13.

- Program recommendations and/or related services;
- The extent to which the child may participate in general education classes, extracurricular and non-academic activities;
- Participation in testing, testing accommodations and modifications;
- Promotional criteria; and
- A transition plan to prepare the student for life after high school for students 15 and older.²⁸

All IEPs in New York City are created using DOE’s electronic Special Education Student Information System (SEGIS), therefore an IEP is not “finalized” until the information discussed at the IEP meeting is entered into the document electronically.²⁹

Step 4: Placement and Services - Decisions about a child’s placement are made by the IEP team and should be reviewed annually. If a child is receiving special education services for the first time, the DOE must arrange for placement and services within 60 school days from receiving parental consent to evaluate the child. Parents should receive a written placement offer by mail and have the right to visit the proposed classroom/school placement and may accept or reject the proposed placement.³⁰

Pre-K Special Education

DOE provides preschool special education services free of charge for children ages 3-5 who have disabilities or developmental delays that impact their ability to learn.³¹ The four-step process of referral and consent; evaluation; development of the IEP; and placement and services is the same for pre-k as for school-age children, except that the process is conducted by the local Committee on Preschool Special Education (CPSE), which is part of the CSE.³²

²⁸ *Id.*, at 12.

²⁹ *Id.*, at 14.

³⁰ *Id.*, at 16-17.

³¹ Advocates for Children of New York, *AFC’s Guide to Preschool Special Education*, September 2016, at 5, accessed at https://www.advocatesforchildren.org/sites/default/files/library/preschool_special_ed_guide.pdf?pt=1.

³² *Id.*, at 6.

Special Education Services and Supports

The DOE provides a continuum of special education services for students with disabilities, which are listed below in order from less restrictive (designed to help a student remain in general education classes) to more restrictive (self-contained settings):

- General Education with Supplementary Aids and Services – Students are educated in a general education class with additional support. Supplementary aids and services include, but are not limited to:
 - Related Services - These include speech and language therapy, physical therapy, occupational therapy, counseling and some other services that may be provided individually or in a small group.
 - Special Education Teacher Support Services (SETSS) - A student is either removed from class and taught in a smaller class for a portion of the day (pull-out) or a teacher may come into the classroom to work with the student, a small group of students, or the classroom teacher during the regular lesson (push-in).
 - Paraprofessionals - (also called aides or paras) can be assigned to students to meet individual management needs, such as behavior management, health, and interpretation services.
- Integrated Co-Teaching (ICT) - This is an integrated classroom where general education students (about 60 percent of the class) and students with disabilities (about 40 percent of the class) are taught together by a full-time general education teacher and a full-time special education teacher.
- Special Class in a Community School - Students are in a small, “self-contained” class of special education students, grouped by age and functional ability, in a neighborhood school that also has general education classes. DOE offers the following student-to-teacher ratios in these self-contained classrooms:
 - 12:1 (elementary and junior/middle school only)
 - 15:1 (high school only) for students with academic and/or behavior management needs
 - 12:1:1 for students with academic and/or behavioral management needs who require extra adult support and specialized instruction.
- Special Class in a Specialized School (District 75) - District 75 is a separate school district intended for students with severe needs that require more intensive support. Some District 75 programs are located in buildings with general education schools, while others are in buildings consisting only of District 75 special classes and students. A small number of District 75 Inclusion programs integrate students with disabilities into general education classes for part of the day, with supports from District 75 staff, such as paraprofessionals, special education teachers, and speech therapists. District 75 classes offer the following student-to-teacher ratios:

- 12:1:1 for students with academic and/or behavioral management needs who require extra adult support and specialized instruction;
 - 8:1:1 for students whose needs are severe and require intensive supervision, significant individual attention, intervention, and intensive behavior management;
 - 6:1:1 for students with very significant needs, including academic, social and/or interpersonal development, physical development, and management needs. Students' behavior may be aggressive, self-abusive, or extremely withdrawn. Students may have severe difficulties with language and social skills. Many students in 6:1:1 classes are on the autism spectrum.
 - 12:1:4 for students with severe and multiple disabilities and limited functioning in all areas. This program primarily provides habilitation and treatment, including training in activities of daily living (ADL) and the development of communication skills.
- Specialized Programs - The DOE also offers several specialized programs in some community schools, including:
 - Autism Spectrum Disorder (ASD) Nest: An integrated class setting in a community school for high functioning students on the autism spectrum;
 - ASD Horizon: A self-contained special class in a community school for students on the autism spectrum.
 - Barrier Free: A school building that is accessible to students who have limited mobility, serious health issues, or use a wheelchair or other mobility device.
 - Bilingual Special Education: A special class for students who are recommended to receive services in a bilingual classroom.
 - Academic, Career, and Essential Skills (ACES) Special Class for Students with Intellectual Disabilities: A special class in a community school for students who are classified as intellectually disabled and who are being alternately assessed.³³

There are also placement options outside of a public school, such as temporary Home Instruction or Hospital Instruction for students with medical needs, or placement in a non-public school for students whose educational needs cannot be met in a public school program.³⁴ Non-public school placement is discussed in further detail below.

³³ Advocates for Children of New York, *AFC's Guide to Special Education*, June 2016, at 23-25, accessed at https://www.advocatesforchildren.org/sites/default/files/library/special_ed_guide.pdf?pt=1.

³⁴ *Id.*

Non-Public Special Education Schools

NYSED recommends state approved private schools for students whose special educational needs cannot be met in a public school setting.³⁵ There are also state-supported schools that offer intensive special education services to students who are deaf, blind or have severe physical or emotional disabilities and who the CSE determines qualify for such programs.³⁶ Some state-approved schools are residential and provide a structured living environment on a school's campus for students who require 24-hour support.³⁷ If there is not an appropriate residential school for a student, the state may recommend the student for an out-of-state school.³⁸

DOE also funds state approved private special education schools for students through a voucher from CSE, known as a "P-1" or "Nickerson" letter.³⁹ DOE is required to provide parents with a P-1 letter if it fails to place a student in the appropriate special education program within their IEP mandated timeframe.⁴⁰ When these vouchers are issued, the CSE provides parents with a list of eligible private special education schools to select and apply to, but if a parent is unable to find a non-public school placement, DOE is still required to provide an appropriate placement for the student.⁴¹

Lastly, the state provides payments for special education private schools when a parent proves that the DOE failed to provide their child with a free and appropriate education during an impartial hearing.⁴² Parents can receive reimbursement or pre-imburement for private day or

³⁵ DOE, "Family Guide to Special Education Services for School-Age Children," at 29, accessed on 2/15/19, at <https://www.schools.nyc.gov/docs/default-source/default-document-library/family-guide-to-special-education-school-age-services-english>

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Advocates for Children of New York, *AFC's Guide to Special Education*, June 2016, at 42, accessed at https://www.advocatesforchildren.org/sites/default/files/library/special_ed_guide.pdf?pt=1.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

residential schools, including schools that are not on the state approved list, if they are able to prove that the chosen school is appropriate for their child’s special education needs. A Carter hearing occurs if a parent is seeking reimbursement for special education services, and a Connors hearing occurs when they are seeking pre-imbursement for special education services.⁴³

Spending on Special Education

Fair Student Funding (FSF) is the primary formula used to fund schools. Under the FSF formula, students receiving special education services receive a weight corresponding to additional funding, depending on the level of services they receive and their grade level. The FSF weights and corresponding dollar amounts for students receiving special education services in the current year are listed in Table 1 below. Students with disabilities are also eligible for grade level, poverty, English language learners (ELL) and academic intervention FSF weights.⁴⁴

Table 1

Special Education Need	Weight	FY19 Per Capita
Single Service <=20 percent	0.56	\$2,287.74
Multi-Service 21 percent-59 percent	1.25	5,108.38
K-8 Self-Contained (SC) >=60 percent	1.18	4,823.41
9-12 Self-Contained (SC) >=60 percent	0.58	2,385.87
K Integrated Co-Teaching (ICT) >= 60 percent	2.09	8,529.96
1-12 Integrated Co-Teaching (ICT) >= 60 percent	1.74	7,108.13
K-12 Post IEP Support	0.12	\$490.18

Fair Student Funding does not impact District 75, related services (including mandated speech and counseling services), IEP teachers, IEP paraprofessionals, adaptive physical education teachers, assistive technology, and other special education programmatic allocations. Schools are provided with additional allocations outside of FSF for these needs.⁴⁵

⁴³ WNYC, “Guide: Your Special Education Child,” accessed on 2/15/19, at <https://www.wnyc.org/schoolbook/guides/guide-your-special-education-child/>.

⁴⁴ Fiscal 2019 Fair Student Funding Guide, available at: https://www.nycenet.edu/offices/finance_schools/budget/DSBPO/allocationmemo/fy18_19/fy19_docs/FY2019_FSF_Guide.pdf

⁴⁵ Id.

Funding for K-12 special education in public schools is included across three major program areas, shown with actual spending in the last fiscal year and budgeted spending in the current and next fiscal year in the chart below. Special Education Instruction includes services provided directly in traditional K-12 public schools; Citywide Special Education includes funding for District 75 schools and home and hospital instruction; and Special Education Instructional Support includes funds for centrally-managed special education related services such as occupational therapy, physical therapy, and nurses, as well as evaluations of students performed by school-based support teams. Spending on these areas is budgeted at \$3.79 billion in Fiscal 2019. The DOE uses both employees and contractual providers to deliver mandated services to students. Funding for “related services” is budgeted across the three special education program areas, and reflected in Table 2. Of the \$3.79 billion budget for K-12 special education in Fiscal 2019, \$1.27 billion is for related services.

Other smaller program areas include some funding for special education: some of categorical programs (federal and State funds that are allocated for specific purposes) are for reimbursable support for special education instruction; some funding for school support organizations (field-based support centers) goes toward special education administration and the CSE; and some funding in central administration is for special education initiatives. These actual and budgeted costs are also listed in Table 2 below.

Table 2

Spending on K-12 Special Education in Public Schools			
Program	FY18 Actual	FY19 Budgeted	FY20 Budgeted
Special Education Instruction	\$1,873,379,792	\$1,968,034,993	\$1,940,127,900
Citywide Special Education	1,132,545,365	1,200,417,037	1,178,841,485
Special Education Instructional Supports	624,002,692	620,813,425	620,778,996
Total	\$3,629,927,849	\$3,789,265,455	\$3,739,748,381
<i>Related Services</i>	<i>\$1,576,166,777</i>	<i>\$1,273,161,599</i>	<i>\$1,277,938,805</i>
Reimbursable Support for Special Education Instruction	\$405,721,265	\$375,166,294	\$375,877,817
Committee on Special Education	67,067,564	69,281,027	70,032,226
Special Education Administration	18,438,507	27,378,512	31,741,020
Special Education Initiatives	\$6,167,811	\$7,675,885	\$7,734,358

Funding for special education services is growing largely due to two factors: increased headcount and increased costs for special education teachers and paraprofessionals (per collective bargaining agreements); and planned increases in spending on specific programs, including ACES, ASD, and Bilingual Special Education (note additional funding for these three programs was included in the Fiscal 2017 Executive Financial Plan). However, the DOE recognized savings in costs for ACES and bilingual special education programs in Fiscal 2018 and 2019 due to DOE's inability to recruit staff for the full number of programs they expected to open (savings were recognized in the Fiscal 2019 Preliminary Financial Plan). The savings were not baselined as DOE works to recruit and hire teachers to open the planned classes. Civilian and pedagogical headcount across the special education program areas is shown in Table 3.

Table 3

Special Education Headcount			
Program	FY18 Actual	FY19 Budgeted	FY20 Budgeted
Special Education Instruction - Civilian	4	9	9
Citywide Special Education - Civilian	1,026	711	711
Special Education Instructional Support - Civilian	2,255	2,192	2,186
Total Full-Time Positions - Civilian	3,285	2,912	2,906
Citywide Special Education - Pedagogical	14,821	13,050	12,333
Special Education Instruction - Pedagogical	28,580	28,747	29,343
Special Education Instructional Support - Pedagogical	734	1,011	1,011
Total Full-Time Positions - Pedagogical	44,135	42,808	42,687
TOTAL	47,420	45,720	45,593

Public-Funded Special Education in Private School Settings

Actual and budgeted spending on Contract Schools, Carter Cases, Foster Care, and Blind and Deaf schools is shown in Table 4 below. While the Fiscal 2019 Preliminary Budget reflects a \$100 million decline in spending on Carter Cases from Fiscal 2018 to 2019, the Council expects the Executive Budget to reflect additional resources for Carter Cases more in-line with recent spending in this area. The Fiscal 2019 Executive Financial Plan added \$80 million to the Fiscal 2018 budget for Carter Cases, but no funding was added in Fiscal 2019 or the outyears.

Table 4

Spending on Special Education Students in Private Settings			
Program	FY18 Actual	FY19 Budgeted	FY20 Budgeted
Blind & Deaf Schools	\$125,772,792	\$59,000,000	\$59,000,000
Carter Cases	393,336,986	293,228,313	306,691,035
Contract Schools (in state)	273,176,965	312,232,705	324,659,833
Contract Schools (out of state)	34,002,486	32,699,946	32,699,946
Non-resident Tuition/Foster Care	15,271,841	17,805,241	17,805,241
TL Match for Chapter 683*	17,418,072	17,509,457	17,509,457
Total	\$858,979,143	\$732,475,662	\$758,365,512

* Chapter 683 is a District 75 program that provides year-round instruction to District 75 severely disabled students.

Pre-K Special Education

The DOE provides special education instructional services and related therapeutic services to pre-kindergarten aged children through contracts with non-public schools and private providers. None of these services are directly provided by the DOE. Actual and projected spending on these services is shown in Table 5 below. State reimbursement for special education pre-K will support approximately 69 percent of the total cost in Fiscal 2019.

Table 5

Funding for Special Education Pre-K Contracts			
Program	FY18 Actual	FY19 Budgeted	FY20 Budgeted
Tuition	\$436,932,327	\$474,752,254	\$472,482,376
Transportation	93,514,561	107,343,315	105,073,438
Professional Services	213,211,727	276,877,212	299,607,334
Total	\$743,658,616	\$858,972,781	\$877,163,148

SEGIS

Over the course of the de Blasio Administration, additional resources have been added to DOE's budget to support SEGIS. These additional resources total \$17.3 million in Fiscal 2019 (note the funding was added in the Fiscal 2016 Executive Financial Plan, Fiscal 2017 Executive Financial Plan, and Fiscal 2018 Preliminary Financial Plan).

Funding Sources

IDEA is the most significant source of federal funding for special education services; IDEA funding for Fiscal 2019 is projected to be \$287.8 million. The State also provides funding for special education services through:

- High cost aid, which supports public school programs for students with disabilities;
- Private excess cost aid, which supports special education students in private school settings;
- Summer school age handicapped aid, which funds services during July and August;
- Funding for pupils with disabilities residing in Office of Mental Health (OMH) psychiatric centers;
- Funding for deaf and blind schools; and
- Funding for pre-K special education (as mentioned above).

ISSUES AND CONCERNS

Parents of students with disabilities have long complained that their children are not receiving all of the services to which they are entitled. According to the most recent data from DOE, in the 2017-18 school year just 78.4 percent of IEP students received all of their mandated services.⁴⁶ This means that 22 percent, nearly 40,000 IEP students are receiving only partial or none of their mandated services. While this reflects an improvement over prior years, DOE has acknowledged that “it’s unclear how much of the year-over-year changes are due to improvements to its data systems versus better service delivery.”⁴⁷

The DOE has long had difficulty keeping up with the demand for “related services,” which include speech therapy, occupational therapy, physical therapy and intensive counseling, among others. When a child’s school does not have adequate staff to provide all of the needed services, the DOE refers the parent to one of several agencies under contract, and if none of the agencies can provide the service, the DOE issues a Related Service Authorization (RSA) to allow a family to secure an independent provider paid for by the DOE.⁴⁸ However, a backlog in payments to related service providers may be exacerbating an already serious shortage of providers. According to an expose by *NYI*, many therapists have gone for months without being paid for services they

⁴⁶ DOE InfoHub website, “Special Education Reports,” accessed 2/15/19 at <https://infohub.nyced.org/reports-and-policies/government/intergovernmental-affairs/special-education-reports>.

⁴⁷ Alex Zimmerman, “In New York City schools, 40,000 students aren’t getting required special education services, report finds,” *Chalkbeat New York*, November 2, 2018, accessed at <https://www.chalkbeat.org/posts/ny/2018/11/02/in-new-york-city-schools-40000-students-arent-getting-required-special-education-services-report-finds/>.

⁴⁸ DOE, *Family Guide to Special Education Services for School-Age Children: A Shared Path to Success*, at 22, accessed 2/15/19 at <https://www.schools.nyc.gov/docs/default-source/default-document-library/family-guide-to-special-education-school-age-services-english>.

provided to students with disabilities.⁴⁹ Parents and advocates also maintain that the loss of a therapist that has worked with a student for years can be very disruptive for a child with disabilities.

Another factor that may contribute to a shortage of related service providers in schools is the existing pay disparities with other DOE positions, despite having similar education and job eligibility requirements. For example, physical and occupational therapists who work in New York City schools narrowly approved a new contract, with pay inequities cited as a major issue.⁵⁰ In an open letter to Chancellor Richard Carranza and Mayor Bill de Blasio, some of these therapists wrote, "Publicly employed OTs and PTs in most major cities including Los Angeles, Washington D.C., Chicago, and Boston earn the same as teachers and other professionals who serve students in Special Education. New York City is a glaring exception. At the top of the pay scale, OTs and PTs who work for the DOE earn \$27,000 less per year and have far fewer benefits than our counterparts in the speech therapy, social work, counseling and school psychology departments."⁵¹

An additional area of concern is the provision of bilingual special education services for ELLs. In 2017-18, DOE reported that almost 38,000 (just over 19 percent) of students with IEPs were ELLs.⁵² Just as DOE has a shortage of bilingual teachers for ELLs in general education classes, they also have a shortage of bilingual related services providers. For the 2017-18 school year, DOE reported that 17.2 percent of "bilingual" counseling sessions and 17.4 percent of

⁴⁹ Lindsey Christ, "Exclusive: For Months, the City Has Failed to Pay Special Education Therapists," *Spectrum News NY1*, October 3, 2018 accessed at <https://www.ny1.com/nyc/all-boroughs/news/2018/10/04/for-months-nyc-education-department-has-failed-to-pay-special-education-therapists>.

⁵⁰ Jessica Gould, "Critics Claim Pay Inequity Persists in P-T and O-T Contract Deal," *WNYC*, February 6, 2019, accessed at <https://www.wnyc.org/story/physical-and-occupational-therapists-pay-equity>.

⁵¹ Valerie Strauss, "In NYC, teachers will soon work under a new contract. Here's why 3,000 school occupational and physical therapists won't," *The Washington Post*, January 23, 2019, accessed at https://www.washingtonpost.com/education/2019/01/23/nyc-teachers-will-soon-work-under-new-contract-heres-why-school-occupational-physical-therapists-wont/?noredirect=on&utm_term=.6d90dea5979b.

⁵² DOE InfoHub webpage, Special Education Reports, "Annual Special Education Data Report — School Year 2017-18: Report 8 - Register Disaggregated by: District; Race/Ethnicity; Meal Status; Gender; ELL Status; Recommended Language of Instruction; Grade Level; and Disability." accessed 2/15/19 at <https://infohub.nyced.org/reports-and-policies/government/intergovernmental-affairs/special-education-reports>.

“bilingual” speech-language therapy sessions were not held in the recommended language due to shortages of bilingual providers.⁵³

Another concern related to special education for ELLS is the failure of DOE to provide translations of IEPs to parents who need them. Parents are legally entitled to translation services for the special education process, including translations of IEPs, but many parents, do not know they have the right to request a translation.⁵⁴ This year, DOE launched a pilot program to centralize the translation process instead of relying on individual schools to manage such requests. Beginning in September 2018, schools in District 9 in the Bronx, District 24 in Queens, and the citywide special education District 75 have been able to ask DOE’s translation department to handle the request.⁵⁵ As of early January 2019, DOE had handled 100 requests to convert learning plans into Arabic, Bengali, Chinese, Korean, Russian, and Spanish.⁵⁶

One longstanding issue of concern is SESIS, DOE’s data system for tracking students’ special education services. Rolled out in 2011 at a cost of \$130 million, SESIS was plagued with technical problems from the start.⁵⁷ Special education teachers and service providers are required to enter information into SESIS about each student’s IEP, including details about evaluations, services provided, and any changes made to the plan.⁵⁸ Glitches with the system led to increased overtime costs for school staff and charges by the city comptroller that problems with the system kept the city from collecting millions of dollars in federal Medicaid reimbursements for low-

⁵³ NYC Department of Education, “Annual Special Education Data Report School Year 2017–2018” at 41, November 1, 2018, pdf document on file with the Committee.

⁵⁴ Alex Zimmerman and Christina Veiga, “Parents with limited English can get lost without translations of special ed plans. NYC is trying to fix that.” *Chalkbeat New York*, January 9, 2019, accessed at <https://www.chalkbeat.org/posts/ny/2019/01/09/iep-translation-pilot-program-nyc/>.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Stephanie Snyder, “James sues city for not properly tracking services for students with disabilities,” *Chalkbeat New York*, February 1, 2016, accessed at <https://www.chalkbeat.org/posts/ny/2016/02/01/james-sues-city-for-not-properly-tracking-services-for-students-with-disabilities/>.

⁵⁸ *Id.*

income students with disabilities, leading then-Public Advocate Letitia James to file a lawsuit against DOE in 2016 over \$356 million in lost Medicaid dollars over several years.⁵⁹ Since that time, DOE has acknowledged serious problems with SESIS and conceded that their initial data reports in 2016 on special education services were not “fully reliable” due to SESIS flaws.⁶⁰ Starting in fiscal year 2018, the mayor has committed funding for needed improvements to SESIS.⁶¹ The Committee hopes to learn more about the status of these improvement efforts.

CONCLUSION

Today’s hearing will provide an opportunity to review DOE’s provision of special education services. This hearing will also allow the Committee to consider legislation that will bring transparency to DOE’s operations as they pertain to special education services. Finally, the Committee will hear the concerns and recommendations of parents, community groups, and advocates regarding the City’s efforts to provide special education services.

ANALYSIS OF INT. NO 559

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to provide school-level data regarding compliance rates for students’ individualized education programs

The proposed legislation would amend Local Law 27 of 2015 to require the DOE to disaggregate by school its report on individualized education program compliance rates. The bill would take effect immediately after it becomes law.

⁵⁹ *Id.*

⁶⁰ Patrick Wall, “After 41 SESIS errors over two hours, a special-ed teacher joins a push for reform,” *Chalkbeat New York*, March 16, 2016, accessed at <https://www.chalkbeat.org/posts/ny/2016/03/16/after-41-sesis-errors-over-two-hours-a-special-ed-teacher-joins-a-push-for-reform/>.

⁶¹ Alex Zimmerman, “What are Mayor de Blasio’s education priorities? Here’s what his preliminary budget tells us” *Chalkbeat New York*, January 24, 2017, accessed at <https://www.chalkbeat.org/posts/ny/2017/01/24/what-are-mayor-de-blasios-education-priorities-heres-what-his-preliminary-budget-tells-us/>.

ANALYSIS OF INT. NO 900

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report on the provision of special educations services tri-annually and to expand the services on which the department is required to report.

The proposed legislation would amend Local Law 27 of 2015 to require the DOE to report on its provision of special education services to students tri-annually, and would also add assistive technology services and special transportation services to the services on which DOE is required to report. The bill would take effect immediately after it becomes law.

ANALYSIS OF INT. NO 1380

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to annually report on claims for payment for tuition or services.

The proposed legislation would require the DOE to annually report on several indicators regarding how DOE responds to requests for payment for private school tuition or tutoring from parents or guardians who believe their child is not receiving appropriate special education services in public school. The bill would take effect immediately after it becomes law and be deemed repealed seven years thereafter.

ANALYSIS OF INT. NO 1406

A Local Law to amend the administrative code of the city of New York, in relation to requiring reports on preschool special education and early intervention services.

The proposed legislation would require the DOE to annually report on several indicators regarding its provision of special education services to preschool-age children. The bill also requires the City's Department of Health and Mental Hygiene ("DOHMH") to annually report on several indicators regarding its provision of early intervention services to eligible children ages zero to three. The bill would take effect immediately after it becomes law.

By Council Members Treyger and Levin

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring the department of education to provide school-level data regarding compliance rates for students' individualized education programs

Be it enacted by the Council as follows:

1 Section 1. Paragraphs 12 and 13 of subdivision b of section 21-955 of the administrative
2 code of the city of New York, as added by local law 27 for the year 2015, are hereby amended to
3 read as follows:

4 12. the number and percentage of students, disaggregated by school, who were receiving
5 special education services:

6 (i) in full compliance with their IEPs by the end of the academic period; and

7 (ii) in partial compliance with their IEPs by the end of the academic period;

8 13. the number and percentage of students, disaggregated by school, who, by the end of
9 the academic period, were receiving in full the services enumerated in subparagraphs (i) through
10 (viii) of this paragraph as recommended on their IEPs, the number and percentage of students who
11 as of the end of the academic period were receiving in part such services, and the number and
12 percentage of students who were awaiting the provision of such services:

13 (i) monolingual speech therapy;

14 (ii) bilingual speech therapy;

15 (iii) monolingual counseling;

16 (iv) bilingual counseling;

17 (v) occupational therapy;

- 1 (vi) physical therapy;
- 2 (vii) hearing education services; and
- 3 (viii) vision education services;
- 4 § 2. This local law takes effect immediately.

5 SMD
6 LS# 3172
7 1/25/18
8

By Council Members Kallos and Levin

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring the department of education to report on the provision of special educations services tri-annually and to expand the services on which the department is required to report

Be it enacted by the Council as follows:

1 Section 1. Section 21-955 of chapter 5 of Title 21-A of the administrative code of the city
2 of New York is amended to read as follows:

3 § 21-955 [Annual reporting] Reporting on special education services. a. For the purposes
4 of this section, the following terms shall have the following meanings:

5 1. "Academic period" [shall mean] means the period beginning July 1 of the current
6 calendar year until and including June 30 of the following subsequent calendar year.

7 2. "Committee on special education" [shall have] has the same meaning [as set forth]
8 ascribed to such term in section 200.1 of title 8 of the official compilation of the codes, rules and
9 regulations of the state of New York.

10 3. "Date of consent" [shall mean] means the date on which the department received written
11 consent to conduct an initial evaluation from the parent or person in parental relation.

12 4. "Date of referral for reevaluation" [shall mean] means the date on which the department
13 received a referral or referred a student with a disability for a reevaluation.

14 5. "IEP meeting" [shall mean] means a meeting of the committee on special education for
15 the purpose of determining whether the student is a student with a disability and for the purpose
16 of developing an IEP for any such student with a disability.

1 6. "Initial evaluation" [shall mean] means an evaluation to determine if a student is a
2 student with a disability, conducted pursuant to sections 4401-a and 4402 of the education law and
3 section 200.4 of title 8 of the official compilation of the codes, rules and regulations of the state of
4 New York.

5 7. "Reevaluation" [shall mean] means an evaluation of a student with a disability conducted
6 pursuant to section 4402 of the education law and section 200.4 of title 8 of the official compilation
7 of the codes, rules and regulations of the state of New York, provided that such term shall not
8 include a three-year reevaluation.

9 8. "Reporting period" means, as applicable, the period between July 1 of the prior calendar
10 year until and including October 31 of the prior calendar year, for the report due on March 1; the
11 period between November 1 of the prior calendar year until and including the last day of February
12 of the current calendar year, for the report due on July 1; and the period between March 1 of the
13 current calendar year until and including June 30 of the current calendar year, for the report due
14 on November 1.

15 [8.] 9. "School" [shall mean] means a school of the city school district of the city of New
16 York.

17 [9.] 10. "Special class" shall have the same meaning as set forth in section 200.1 of title 8
18 of the official compilation of the codes, rules and regulations of the state of New York.

19 [10.] 11. "Student" [shall mean] means any pupil under the age of twenty-one as of
20 September first of the academic period being reported, who does not have a high school diploma
21 and who is enrolled in a school as school is defined in this subdivision, not including a pre-
22 kindergarten student or a preschool child as preschool child is defined in section 4410 of the
23 education law.

1 [11.]12. "Student with a disability" shall have the same meaning as set forth in section 4401
2 of the education law, provided that student with a disability shall not include a pre-kindergarten
3 student or a preschool child.

4 [12.]13. "Three-year reevaluation" [shall mean] means a reevaluation that occurs at least
5 once every three years unless otherwise agreed as set forth in section 200.4 of title 8 of the official
6 compilation of the codes, rules and regulations of the state of New York.

7 b. The department shall submit to the speaker of the council and post on the department's
8 website an annual report regarding the evaluation of students for special education services and
9 the provision of such services during the preceding academic period, which shall include, but shall
10 not be limited to the following information:

11 1. the number of referrals for initial evaluations and reevaluations pursuant to section 200.4
12 of title 8 of the official compilation of the codes, rules and regulations of the state of New York,
13 disaggregated by district, eligibility for the free and reduced price lunch program, race/ethnicity,
14 gender, English Language Learner status, recommended language of instruction, and grade level;

15 2. the number of initial evaluations conducted, including the number of such evaluations
16 that resulted in a determination that the student was a student with a disability;

17 3. the number of IEP meetings that were convened less than or equal to sixty calendar days
18 from the date of consent, disaggregated by district, eligibility for the free and reduced price lunch
19 program, race/ethnicity, gender, English Language Learner status, recommended language of
20 instruction, and grade level;

21 4. the number of IEP meetings that were convened more than sixty calendar days from the
22 date of consent, disaggregated by district, eligibility for the free and reduced price lunch program,

1 race/ethnicity, gender, English Language Learner status, recommended language of instruction,
2 and grade level;

3 5. the number of reevaluations conducted, including the number of reevaluations that
4 resulted in a determination that the student was no longer a student with a disability;

5 6. the number of IEP meetings that were convened less than or equal to sixty calendar days
6 from the date of referral for reevaluation, disaggregated by district, eligibility for the free and
7 reduced price lunch program, race/ethnicity, gender, English Language Learner status,
8 recommended language of instruction, and grade level;

9 7. the number of IEP meetings that were convened more than sixty calendar days from the
10 date of referral for reevaluation, disaggregated by district, eligibility for the free and reduced price
11 lunch program, race/ethnicity, gender, English Language Learner status, recommended language
12 of instruction, and grade level;

13 8. the total number of students who have an IEP as of June 30 of the reported academic
14 period, disaggregated by district, eligibility for the free and reduced price lunch program,
15 race/ethnicity, gender, English Language Learner status, recommended language of instruction,
16 grade level, and disability classification;

17 9. the average number of school days between the date the department receives consent
18 from the parent or person in parental relation for the initial provision of special education services
19 as set forth in section 200.5(b)(1)(ii) of title 8 of the official compilation of the codes, rules and
20 regulations of the state of New York and the date the department issues notice of the school that
21 will implement the IEP, provided that this information shall only be reported when the parent or
22 person in parental relation has not consented to defer implementation of the IEP until the following
23 semester or the following school year, disaggregated by district, eligibility for the free and reduced

1 price lunch program, race/ethnicity, gender, English Language Learner status, recommended
2 language of instruction, and grade level;

3 10. the following information, [~~disaggregated~~] disaggregated by district, eligibility for the
4 free and reduced price lunch program, race/ethnicity, gender, English Language Learner status,
5 recommended language of instruction, and grade level: (i) the number of reevaluations that
6 resulted in an IEP recommendation of more periods per week in a special class than the student's
7 previous IEP recommendation; (ii) the number of reevaluations that resulted in an IEP
8 recommendation of fewer periods per week in a special class than the student's previous IEP
9 recommendation; (iii) the number of reevaluations that resulted in an IEP recommendation of
10 removal from a school that serves students who are not students with disabilities and placement in
11 a separate school for a student not previously recommended for such placement; and (iv) the
12 number of reevaluations that resulted in an IEP recommendation of placement in a school that
13 serves students who are not students with disabilities for a student previously recommended for
14 placement in a separate school;

15 11. the number of three-year reevaluations conducted, including the number of such
16 evaluations that were timely conducted, disaggregated by district, eligibility for the free and
17 reduced price lunch program, race/ethnicity, gender, English Language Learner status,
18 recommended language of instruction, and grade level;

19 12. the number and percentage of students who were receiving special education services:
20 (i) in full compliance with their IEPs by the end of the academic period; and (ii) in partial
21 compliance with their IEPs by the end of the academic period;

22 13. the number and percentage of students who, by the end of the academic period, were
23 receiving in full the services enumerated in subparagraphs (i) through [(viii)] (x) of this paragraph

1 as recommended on their IEPs, the number and percentage of students who as of the end of the
2 academic period were receiving in part such services, and the number and percentage of students
3 who were awaiting the provision of such services:

- 4 (i) monolingual speech therapy;
- 5 (ii) bilingual speech therapy;
- 6 (iii) monolingual counseling;
- 7 (iv) bilingual counseling;
- 8 (v) occupational therapy;
- 9 (vi) physical therapy;
- 10 (vii) hearing education services; [and]
- 11 (viii) vision education services;
- 12 (ix) assistive technology services; and
- 13 (x) special transportation services;

14 14. the number and percentage of students with IEPs who are recommended for
15 participation in the general education curriculum for:

- 16 (i) 80 percent or more of the day;
- 17 (ii) 40-79 percent of the day; and
- 18 (iii) less than 40 percent of the day.

19 c. The annual report required by subdivision (b) of this section shall be submitted and
20 posted no later than November 1, provided that the first report, reporting data for the academic
21 period beginning July 1, 2014 and ending June 30, 2015, shall be submitted and posted no later
22 than February 29, 2016, and the second report, reporting data for the academic period beginning

1 July 1, 2015 and ending June 30, 2016, shall be submitted and posted no later than November 1,
2 2016.

3 d. Beginning on March 1, 2018, the department shall also submit to the speaker of the
4 council and post on the department's website a report regarding the provision of special education
5 services during the applicable reporting period, including but not limited to the following
6 information:

7 1. the number and percentage of students who were receiving special education services:
8 (i) in full compliance with their IEPs by the end of the reporting period; and (ii) in partial
9 compliance with their IEPs by the end of the reporting period;

10 2. the number and percentage of students who, by the end of the reporting period, were
11 receiving in full the services enumerated in subparagraphs (i) through (x) of this paragraph as
12 recommended on their IEPs, the number and percentage of students who as of the end of the
13 reporting period were receiving in part such services, and the number and percentage of students
14 who were awaiting the provision of such services:

15 (i) monolingual speech therapy;

16 (ii) bilingual speech therapy;

17 (iii) monolingual counseling;

18 (iv) bilingual counseling;

19 (v) occupational therapy;

20 (vi) physical therapy;

21 (vii) hearing education services;

22 (viii) vision education services;

23 (ix) assistive technology services; and

1 (x) special transportation services.

2 The information required to be reported pursuant to this subdivision shall be submitted and
3 posted no later than March 1, July 1, and November 1 of each year.

4 [d.]e. No information that is otherwise required to be reported pursuant to this section shall
5 be reported in a manner that would violate any applicable provision of federal, state or local law
6 relating to the privacy of student information or that would interfere with law enforcement
7 investigations or otherwise conflict with the interests of law enforcement. If a category contains
8 between [0] 1 and 5 students, or allows another category to be narrowed to between [0] 1 and 5
9 students, the number shall be replaced with a symbol.

10 § 2. This local law takes effect immediately.

11 SMD
12 LS #4625
13 1/9/18
14

Int. No. 1380

By Council Members Rosenthal, Treyger, Dromm, Levine, Ampry-Samuel, Brannan, Levin, Rose, Adams, King and Kallos

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring the department of education to annually report on claims for payment for tuition or services

Be it enacted by the Council as follows:

Section 1. Chapter 5 of title 21-A of the administrative code of the city of New York is amended by adding a new section 21-955.1 to read as follows:

§ 21-955.1 Annual reporting on requests for payment for tuition or services from parents of students with disabilities. a. Definitions. For purposes of this section, the following terms have the following meanings:

Accessible data. The term “accessible data” means data that is in a convenient and modifiable format. Accessible data can be indexed and searched.

Committee on special education. The term “committee on special education” has the same meaning as set forth in subdivision k of section 200.1 of title 8 of the New York codes, rules and regulations.

Disaggregated data. The term “disaggregated data” means numerical and non-numerical information that has been collected and compiled, but in no way summarized, analyzed or manipulated after collection.

Due process complaint notice. The term “due process complaint notice” has the same meaning as set forth in subdivision i of section 200.5 of title 8 of the New York codes, rules and regulations.

Free appropriate public education. The term “free appropriate public education” has the same meaning as set forth in section 1401 of title 20 of the United States Code.

Impartial due process hearing. The term “impartial due process hearing” has the same meaning as set forth in subdivision j of section 200.5 of title 8 of the New York codes, rules and regulations.

Machine-readable format. The term “machine-readable format” means a non-proprietary format that permits automated processing.

Mediation. The term “mediation” has the same meaning as set forth in subdivision h of section 200.5 of title 8 of the New York codes, rules and regulations.

Metadata. The term “metadata” means a plain language data dictionary that provides a description for each column heading used within the data set and shall include a description of any acronym, technical term, unit of measure, range of possible values, relationship between or among columns within the data set, frequency of updates to the data set, and other information or description that can provide context to the data, such as the method of collection, a history of modifications to the data set format, data or methods of collection, or any other contextual information that the agency providing the data deems relevant, or that is specified in this bill.

Parent. The term “parent” has the same meaning as set forth in section 1401 of title 20 of the United States Code.

Refers for settlement. The term “refers for settlement” means that, following receipt of a ten-day notice or due process complaint, the department notifies the parent that it will engage in negotiating a written settlement agreement.

Resolution meeting. The term “resolution meeting” has the same meaning as set forth in subdivision j of section 200.5 of title 8 of the New York codes, rules and regulations.

Student with a disability. The term “student with a disability” has the same meaning as set forth in section 4401 of the education law.

Ten-day notice. The term “ten-day notice” means a written notice in which a parent states his or her intent to enroll a student with a disability in a private school pursuant to subparagraph (C) of paragraph (10) of subsection (a) of section 1412 of title 20 of the United States Code.

Written settlement agreement. The term “written settlement agreement” means an agreement between the department and a parent of a student with a disability in which the department agrees to pay for tuition or services to resolve claims raised in a ten-day notice or due process complaint notice.

b. No later than November 1, 2019, and on or before November 1 annually thereafter, the department shall submit to the speaker of the council and post on the department’s website an annual report regarding claims for payment for tuition or services made by parents of a student with a disability during the preceding academic year pursuant to a due process complaint notice or ten-day notice. The data contained in the annual report shall be organized in a manner that includes one row referencing each unique claim, with each row containing, but not limited to, the following information:

1. Whether each ten-day notice or due process complaint notice is submitted by a parent of a student with a disability or an attorney representing such parent;
2. The committee on special education region to which each ten-day notice is submitted;
3. The date the department receives each ten-day notice;
4. The date the department issues a response to each ten-day notice, if at all;
5. The date the department receives each due process complaint notice, if at all;
6. The date the department issues a response to each due process complaint notice, if at all;
7. The date the department refers for settlement, if at all;
8. The date of any resolution meeting that resolves all claims in the due process complaint notice, if such meeting takes place;

9. The date of any mediation that resolves all claims in the due process complaint notice, if such mediation takes place;

10. The date each impartial due process hearing commences, if at all;

11. The date each impartial due process hearing decision is rendered, if at all;

12. The date the department makes its first settlement offer, if at all;

13. The date a parent signs each written settlement agreement, if at all;

14. The date the department transmits each written settlement agreement to the comptroller for approval, if so transmitted;

15. The date the comptroller approves each written settlement agreement, if at all;

16. The date the department and parent execute each written settlement agreement, if at all;

17. The date the department issues a first tuition payment pursuant to each written settlement agreement, if so issued; and

18. The date the department issues a first payment for services pursuant to each written settlement agreement; if so issued.

c. The report of information required pursuant to subdivision b of this section shall contain accessible data and disaggregated data made available in a machine readable format. It shall also include the relevant metadata. If any information does not exist, it shall be signified by a null value.

d. In addition to the report required pursuant to subdivision b of this section, no later than November 1, 2019, and on or before November 1 annually thereafter, the department shall submit to the speaker of the council and post on the department's website an annual report regarding claims for payment for tuition or services made by parents of a student with a disability during the preceding academic year pursuant to a due process complaint notice or ten-day notice. The annual report shall include a list of all documents the department requires such parents to submit prior to signing a written

settlement whether pursuant to a ten-day notice or a due process complaint notice. The annual report shall also include, but need not be limited to, the following information regarding claims for payment for tuition or services the department refers for settlement in response to a ten-day notice:

1. The percentage of instances in which the department responded to a ten-day notice (i) within 15 business days of receipt of the ten-day notice, (ii) within 16-30 business days of receipt of the ten-day notice and (iii) within 31 or more business days of receipt of the ten-day notice;

2. The percentage of instances in which the department made its first settlement offer (i) within 15 calendar days of receiving all documents the department requires parents submit prior to executing a written settlement, (ii) within 16-45 calendar days of receiving all such documents and (iii) within 46 or more calendar days of receiving all such documents;

3. Where the department transmitted a proposed written settlement agreement to the comptroller for approval:

(a) the percentage of instances in which the comptroller approved the written settlement agreement (i) within 15 calendar days of receipt by the comptroller, (ii) within 16-45 calendar days of receipt by the comptroller and (iii) within 46 or more calendar days of receipt by the comptroller; and

(b) the percentage of instances in which a written settlement agreement was signed by the department (i) within 15 calendar days of receipt of approval by the comptroller, (ii) within 16-45 calendar days of receipt of approval by the comptroller and (iii) within 46 or more calendar days of receipt of approval by the comptroller;

4. Where the parent signed a written settlement agreement, the percentage of instances in which a written settlement agreement was signed by the department (i) within 15 calendar days of receipt by the department, (ii) within 16-45 calendar days of receipt by the department and (iii) within 46 or more calendar days of receipt by the department; and

5. Where a written settlement agreement was signed by both the parent and the department,

(a) the percentage of instances in which such written settlement agreement was signed by the parent and department (i) within 90 calendar days of the date the department refers for settlement, (ii) within 91-180 calendar days of the date the department refers for settlement and (iii) within 181 or more calendar days of the date the department refers for settlement;

(b) the percentage of instances in which the department issued a first tuition payment (i) within 30 calendar days of the date such written settlement agreement was signed by the parent and the department, (ii) within 31-60 calendar days of the date such written settlement agreement was signed by the parent and the department and (iii) within 61 or more calendar days of the date such written settlement agreement was signed by the parent and the department; and

(c) the percentage of instances in which the department issued a first payment for services (i) within 30 calendar days of the date such written settlement agreement was signed by the parent and the department, (ii) within 31-60 calendar days of the date such written settlement agreement was signed by the parent and the department and (iii) within 61 or more calendar days of the date such written settlement agreement was signed by the parent and the department.

e. The report required pursuant to subdivision d of this section shall also include, but need not be limited to, the following information regarding claims the department refers for settlement in response to a due process complaint notice:

1. Where the department transmitted a proposed written settlement agreement to the comptroller for approval:

(a) the percentage of instances in which the comptroller approved the written settlement agreement (i) within 15 calendar days of receipt by the comptroller, (ii) within 16-45 calendar days of receipt by the comptroller and (iii) within 46 or more calendar days of receipt by the comptroller; and

(b) the percentage of instances in which a written settlement agreement was signed by the parent and the department (i) within 15 calendar days of receipt of approval by the comptroller, (ii) within 16-45 calendar days of receipt of approval by the comptroller and (iii) within 46 or more calendar days of receipt of approval by the comptroller;

2. Where the parent signed a written settlement agreement, the percentage of instances in which a written settlement agreement was signed by the department (i) within 15 calendar days of receipt by the department, (ii) within 16-45 calendar days of receipt by the department and (iii) within 46 or more calendar days of receipt by the department; and

3. Where a written settlement agreement was signed by both the parent and the department, (a) the percentage of instances in which such written settlement agreement was signed by the parent and department (i) within 90 calendar days of the date the department refers for settlement, (ii) within 91-180 calendar days of the date the department refers for settlement and (iii) within 181 or more calendar days of the date the department refers for settlement;

(b) the percentage of instances in which the department issued a first tuition payment (i) within 30 calendar days of the date such written settlement agreement was signed by the parent and the department, (ii) within 31-60 calendar days of the date such written settlement agreement was signed by the parent and the department and (iii) within 61 or more calendar days of the date such written settlement agreement was signed by the parent and the department; and

(c) the percentage of instances in which the department issued a first payment for services (i) within 30 calendar days of the date such written settlement agreement was signed by the parent and the department, (ii) within 31-60 calendar days of the date such written settlement agreement was signed by the parent and the department and (iii) within 61 or more calendar days of the date such written settlement agreement was signed by the parent and the department.

f. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or other personally identifying information.

§ 2. This local law takes effect immediately, and expires and is deemed repealed seven years after it becomes law.

DFC
LS # 8510
January 16, 2019 2:20 p.m.

By Council Members Dromm, Treyger, Levin, Rosenthal, Brannan and Chin

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring reports on preschool special education and early intervention services

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 21-955 of the administrative code of the city of New York is amended to read as follows:

[1.] Academic period. The term “academic period” [“Academic period” shall mean] means the period beginning July 1 of the current calendar year until and including June 30 of the following subsequent calendar year.

Committee on preschool special education. The term “committee on preschool special education” has the same meaning as set forth in section 200.1 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

[2.] Committee on special education. The term “committee on special education” [“Committee on special education” shall have] has the same meaning as set forth in section 200.1 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

[3.] Date of consent. The term “date of consent” [“Date of consent” shall mean] means the date on which the department received written consent to conduct an initial evaluation from the parent or person in parental relation.

[4.] Date of referral for reevaluation. The term “date of referral for reevaluation” [“Date of referral for reevaluation” shall mean] means the date on which the department received a referral or referred a student with a disability for a reevaluation.

Home language. The term “home language” means a parent’s or person in parental relation’s preferred language or mode of communication, as indicated on the home language questionnaire as that term is defined in section 154-2.2 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

Individualized education program. The term “individualized education program” or “IEP” has the same meaning as set forth in section 200.1 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

[5.] IEP meeting. The term “IEP meeting” [shall mean] means a meeting of the committee on special education or committee on preschool special education for the purpose of determining whether the student is a student with a disability and for the purpose of developing an IEP for any such student with a disability.

[6.] Initial evaluation. The term “[Initial]initial evaluation” [shall mean] means an evaluation to determine if a student is a student with a disability, conducted pursuant to sections 4401-a [and], 4402 and 4410 of the education law and section 200.4 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

Integrated special class program. The term “integrated special class program” has the same meaning as set forth in subdivision (f) of section 200.9 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

Preschool student. The term “preschool student” means children ages three to five who are not enrolled in kindergarten.

Preschool student with a disability. The term “preschool student with a disability” has the same meaning as “preschool ” as set forth in section 200.1 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

[7. “Reevaluation”] Reevaluation. The term “reevaluation” [shall mean] means an evaluation of a student with a disability conducted pursuant to section 4402 of the education law and section 200.4 of title 8 of the official compilation of the codes, rules and regulations of the state of New York, provided that such term shall not include a three-year reevaluation.

Related services. The term “related services” shall have the same meaning as set forth in section 200.1 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

[8. “School”] School. The term “school” [shall mean] means a school of the city school district of the city of New York.

[9. “Special class”] Special class. The term “special class” [shall have] has the same meaning as set forth in section 200.1 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

Special education itinerant services. The term “special education itinerant services” has the same meaning as set forth in section 200.16 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

[10. “Student”] Student. The term “student” [shall mean] means any pupil under the age of twenty-one as of September first of the academic period being reported, who does not have a high school diploma and who is enrolled in a school as school is defined in this subdivision[, not including a pre-kindergarten student or a preschool child as preschool child is defined in section 4410 of the education law].

Student in temporary housing. The term “student in temporary housing” has the same meaning as that of the term “homeless child” as set forth in section 100.2 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

[11. “Student with a disability”] Student with a disability. The term “student with a disability”
[shall have] has the same meaning as set forth in section 4401 of the education law[, provided that
student with a disability shall not include a pre-kindergarten student or a preschool child].

[12. “Three-year reevaluation”] Three-year reevaluation. The term “three-year reevaluation”
[shall mean] means a reevaluation that occurs at least once every three years unless otherwise agreed
as set forth in section 200.4 of title 8 of the official compilation of the codes, rules and regulations of
the state of New York.

§ 2. Subdivision b of section 21-955 of the administrative code of the city of New York is
amended to read as follows:

b. The department shall submit to the speaker of the council and post on the department’s
website an annual report regarding the evaluation of students, not including preschool students, for
special education services and the provision of such services during the preceding academic period,
which shall include, but shall not be limited to the following information:

§ 3. Section 21-955 of the administrative code of the city of New York is amended by adding
new subdivisions e and f to read as follows:

e. The department shall submit to the speaker of the council and post on the department’s
website an annual report regarding the evaluation of preschool students for special education services
and the provision of such services during the preceding academic period, which shall include, but shall
not be limited to the following information, disaggregated by district, eligibility for the free and reduced
price lunch program, race/ethnicity, gender, recommended language of instruction or services, home
language, and status as a student in temporary housing:

1. The number of referrals for initial evaluations pursuant to section 200.4 of title 8 of the
official compilation of the codes, rules and regulations of the state of New York;

2. The number of initial evaluations conducted, including the number of such evaluations that resulted in a determination that the child was a preschool student with a disability;

3. The number of IEP meetings that were convened less than or equal to sixty calendar days from the date of consent for initial evaluations;

4. The number of IEP meetings that were convened more than sixty calendar days from the date of consent for initial evaluations;

5. The total number of preschool students with a disability who have an IEP as of June 30 of the reported academic period;

6. The number and percentage of preschool students with a disability who were receiving special education services in full compliance with their IEPs within sixty school days from the date of consent for initial evaluations;

7. The number and percentage of preschool students with a disability who were receiving special education services in partial compliance with their IEPs within sixty school days from the date of consent for initial evaluations;

8. The number and percentage of preschool students with a disability who were receiving no special education services within sixty school days from the date of consent for initial evaluations;

9. The average number of school days between the date the department receives consent from the parent or person in parental relation for the initial evaluation as set forth in section 200.5(b)(1)(i) of title 8 of the official compilation of the codes, rules and regulations of the state of New York and the date the department begins providing services pursuant to the IEP;

10. The number and percentage of preschool students with a disability who, by the end of the academic period, have IEPs that recommend the following enumerated services:

(a) Related services only;

(b) Monolingual special education itinerant services, disaggregated by IEPs that recommend:

(1) one to five hours of such services per week;

(2) six to 10 hours of such services per week; and

(3) 11 hours or more of such services per week;

(c) Bilingual special education itinerant services, disaggregated by IEPs that recommend:

(1) one to five hours of such services per week;

(2) six to 10 hours of such services per week; and

(3) 11 hours or more of such services per week;

(d) Monolingual full-day integrated special class program;

(e) Monolingual half-day integrated special class program;

(f) Bilingual full-day integrated special class program;

(g) Bilingual half-day integrated special class program;

(h) Monolingual full-day special class, disaggregated by the following student-to-teacher-to-aid ratios:

(1) 6:1:2;

(2) 8:1:2

(3) 12:1:2; or

(4) Other ratio;

(i) Monolingual half-day special class, disaggregated by the following student-to-teacher-to-

aid ratios:

(1) 6:1:2;

(2) 8:1:2;

(3) 12:1:2; or

(4) Other ratio;

(j) Bilingual full-day special class, disaggregated by the following student-to-teacher-to-aid ratios:

(1) 6:1:2;

(2) 8:1:2;

(3) 12:1:2; or

(4) Other ratio; and

(k) Bilingual half-day special class, disaggregated by the following student-to-teacher-to-aid ratios:

(1) 6:1:2;

(2) 8:1:2;

(3) 12:1:2; or

(4) Other ratio;

11. The number and percentage of preschool students with a disability who were receiving special education services in full compliance with their IEPs by the end of the academic period and in partial compliance with their IEPs by the end of the academic period;

12. The number and percentage of preschool students with a disability who, by the end of the academic period, were receiving in full the following enumerated services as recommended on their IEPs, the number and percentage of preschool students with a disability who as of the end of the academic period were receiving in part such services, and the number and percentage of preschool students with a disability who as of the end of the academic period were awaiting the provision of such services:

(a) Monolingual speech therapy;

(b) Bilingual speech therapy;

(c) Monolingual counseling;

(d) Bilingual counseling;

(e) Occupational therapy;

(f) Physical therapy;

(g) Hearing education services;

(h) Vision education services;

(i) Monolingual special education itinerant services, disaggregated by IEPs that recommend:

(1) one to five hours of such services per week;

(2) six to 10 hours of such services per week; and

(3) 11 hours or more of such services per week;

(j) Bilingual special education itinerant services, disaggregated by IEPs that recommend:

(1) one to five hours of such services per week;

(2) six to 10 hours of such services per week; and

(3) 11 hours or more of such services per week;

(k) Monolingual full-day integrated special class program;

(l) Monolingual half-day integrated special class program;

(m) Bilingual full-day integrated special class program;

(n) Bilingual half-day integrated special class program;

(o) Monolingual full-day special class, disaggregated by the following student-to-teacher-to-

aid ratios:

(1) 6:1:2;

(2) 8:1:2;

(3) 12:1:2; or

(4) Other ratio;

(p) Monolingual half-day special class, disaggregated by the following student-to-teacher-to-aid ratios:

(1) 6:1:2;

(2) 8:1:2;

(3) 12:1:2; or

(4) Other ratio;

(q) Bilingual full-day special class, disaggregated by the following student-to-teacher-to-aid ratios:

(1) 6:1:2;

(2) 8:1:2;

(3) 12:1:2; or

(4) Other ratio; and

(r) Bilingual half-day special class, disaggregated by the following student-to-teacher-to-aid ratios:

(1) 6:1:2;

(2) 8:1:2;

(3) 12:1:2; or

(4) Other ratio;

13. The number and percentage of preschool students with a disability enrolled in Pre-K for All programs at the end of the academic period;

14. The number and percentage of preschool students with a disability enrolled in 3-K for All programs at the end of the academic period;

15. The number and percentage of preschool students with a disability enrolled in Pre-K for All programs who receive full services at the Pre-K for All program where they are enrolled;

16. The number and percentage of preschool students with a disability enrolled in Pre-K for All programs who receive partial services at the Pre-K for All program where they are enrolled;

17. The number and percentage of preschool students with a disability enrolled in 3-K for All programs who receive full services at the 3-K for All program where they are enrolled;

18. The number and percentage of preschool students with a disability enrolled in 3-K for All programs who receive partial services at the 3-K for All program where they are enrolled;

19. The number of preschool integrated special class programs administered by the department;

20. The number of preschool integrated special class programs administered by community-based organizations with contracts with the department;

21. The number of preschool special classes administered by the department in total and disaggregated by the following student-to-teacher-to-aid ratios:

(1) 6:1:2;

(2) 8:1:2;

(3) 12:1:2; or

(4) Other ratio; and

22. The number of preschool special classes administered by community-based organizations with contracts with the department in total and disaggregated by the following student-to-teacher-to-aid ratio:

(1) 6:1:2;

(2) 8:1:2;

(3) 12:1:2; or

(4) Other ratio.

f. The annual report required by subdivision e of this section shall be submitted and posted no later than November 1.

§ 4. The administrative code of the city of New York is amended by adding a new section 17-199.11 to read as follows:

§ 17-199.11 Report of early intervention services. a. Definitions. For the purposes of this section, the following terms shall have the following meanings:

Early intervention services. The term “early intervention services” has the same meaning as set forth in section 69-4.1 of title 10 of the official compilation of the codes, rules and regulations of the state of New York.

Evaluation. The term “evaluation” has the same meaning as set forth in section 69-4.1 of title 10 of the official compilation of the codes, rules and regulations of the state of New York.

Individualized family service plan. The term “individualized family service plan” or “IFSP” has the same meaning as set forth in section 69-4.1 of title 10 of the official compilation of the codes, rules and regulations of the state of New York.

IFSP meeting. The term “IFSP meeting” means a meeting for the purpose of determining whether a child is eligible for early intervention services and for the purpose of developing an IFSP for such child pursuant to section 69-4.11 of title 10 of the official compilation of the codes, rules and regulations of the state of New York.

Initial evaluation. The term “initial evaluation” means an evaluation to determine a child’s initial eligibility for early intervention services.

Referral. The term “referral” means referral of a child thought to be eligible for early intervention services pursuant to section 69-4.3 of title 10 of the official compilation of the codes, rules and regulations of the state of New York.

Reporting period. The term “reporting period” means the period beginning July 1 of the current calendar year until and including June 30 of the following subsequent calendar year.

Student in temporary housing. The term “student in temporary housing” has the same meaning as that of the term “homeless child” as set forth in section 100.2 of title 8 of the official compilation of the codes, rules and regulations of the state of New York.

b. Report. No later than November 1 of each year, the department shall submit to the speaker of the council and post on the department’s website an annual report regarding children receiving early intervention services from the department, which shall include, but shall not be limited to the following information, disaggregated by zip code, race/ethnicity, status as a student in temporary housing, and gender:

1. The number of referrals for initial evaluations in total and disaggregated by referral source, including, but not limited to, referrals from parents, health professionals, child care providers, homeless shelters or nonprofits;

2. The number of initial evaluations conducted, including the number of such evaluations that resulted in a determination that the child was eligible for early intervention services;

3. The number of IFSP meetings convened less than or equal to 45 calendar days from the date of referral;

4. The number of IFSP meetings that were convened more than 45 calendar days from the date of referral;

5. The total number of children who have an IFSP as of June 30 of the reporting period;

6. The average number of calendar days between the date of the initial IFSP meeting and the date children begin receiving early intervention services;

7. The number and percentage of children with IFSPs who, by the end of the reporting period, have IFSPs that recommend the following enumerated services as such services are defined in section 69-4.1 of title 10 of the official compilation of the codes, rules and regulations of the state of New York:

(a) Assistive technology services;

(b) Applied behavior analysis;

(c) Audiology;

(d) Family training, counseling, home visits or parent support groups;

(e) Medical services;

(f) Nursing services;

(g) Nutrition services;

(h) Occupational therapy;

(i) Physical therapy;

(j) Psychological services;

(k) Service coordination;

(l) Sign language or cued language services;

(m) Social work services;

(n) Special instruction;

(o) Speech-language pathology;

(p) Vision services;

(q) Health services; and

(r) Transportation services;

8. The number and percentage of children with IFSPs who were receiving early intervention services in full compliance with their IFSPs by the end of the reporting period and in partial compliance with their IFSPs by the end of the reporting period;

9. The number and percentage of children with IFSPs who, by the end of the reporting period, were receiving in full the services enumerated in subparagraphs (a) through (r) of paragraph seven of this section as recommended on their IFSPs, the number and percentage of children with IFSPs who as of the end of the reporting period were receiving in part such services, and the number and percentage of children with IFSPs who as of the end of the reporting period were awaiting the provision of such services;

10. The number and percentage of children with IFSPs who, within 30 calendar days from the date of their initial IFSP meeting, were receiving in full the services enumerated in subparagraphs (a) through (r) of paragraph seven of this section as recommended on their IFSPs, the number and percentage of children with IFSPs who were receiving in part such services, and the number and percentage of children with IFSPs who were awaiting the provision of such services;

11. The number of children with IFSPs enrolled in 3-K for All programs during the reporting period;

12. The number and percentage of children with IFSPs enrolled in 3-K for All programs who receive full services at the 3-K for All program where they are enrolled;

13. The number and percentage of children with IFSPs enrolled in 3-K for All programs who receive partial services at the 3-K for All program where they are enrolled;

c. Information required to be reported pursuant to this section shall be reported in a manner that does not violate any applicable provision of federal, state or local law relating to the privacy of

information. If a category contains between 1 and 5 children, or allows another category to be narrowed to between 1 and 5 children, the number shall be replaced with a symbol.

§ 5. This local law takes effect immediately.

DFC
LS # 3252
02/07/19 1:25 p.m.

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Res. No. 749

Resolution calling upon the New York City Department of Education to establish a czar position to ensure compliance with Individualized Education Programs and other requirements for students in special education.

By Council Members Treyger, Brannan, Rosenthal and Levin

Whereas, The Federal Individuals with Disabilities Education Act (IDEA) guarantees a free appropriate public education to eligible children with disabilities in the U.S. and ensures special education and related services to those children; and

Whereas, The IDEA also governs how states and school districts provide early intervention, special education, and related services to eligible children and youth with disabilities; and

Whereas, As mandated by the IDEA, the New York City Department of Education (DOE) provides special education services to students with disabilities, defined as any child with an Individualized Education Program (IEP); and

Whereas, According to DOE, in the 2017-18 school year, there were more than 220,000 students with disabilities, approximately 20 percent of the total 1.1 million student enrollment, in City public schools; and

Whereas, However, not all students with disabilities in City public schools receive all of the services to which they are entitled under IDEA; and

Whereas, In response to concerns expressed by parents and educators that many students were not receiving all of their special education services, the Council enacted Local Law 27 of 2015, later amended by Local Law 183 of 2017 and Local Law 89 of 2018, requiring the DOE to produce an annual report comprised of data on special education services provided to students; and

Whereas, Reports received pursuant to these local laws confirm that many students with disabilities have not received all of the services to which they are entitled; and

Whereas, According to DOE's latest report, for the 2017-18 school year, only 78.4 percent of students with disabilities were receiving full program services; and

Whereas, Further, the four-year graduation rate of students with disabilities was just 50.4 percent in school year 2017-18; and

Whereas, While the percentages of students with disabilities receiving full program services as well as the percentages graduating in four years have increased over the past several years, the numbers are still unacceptably low; and

Whereas, Data in the DOE special education reports clearly show that students with disabilities in City public schools are not receiving all of the services to which they are entitled under IDEA; and

Whereas, Creating a special education czar position could provide the needed focus and accountability to ensure that students with disabilities receive all of the services required in their IEPs; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education to establish a czar position to ensure compliance with IEPs and other requirements for students in special education.

LS# 9732
JA
2/4/19