



WASHINGTON LAWYERS' COMMITTEE
FOR CIVIL RIGHTS AND URBAN AFFAIRS

September 24, 2021

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Dr. Michelle Walker-Davis
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Re: Need for Virtual Education and Special Education & Related Services
During Quarantine

Chancellor Ferebee and Dr. Walker-Davis:

The impact of the COVID-19 pandemic on the educational achievement of far too many students of color or students with disabilities has been devastating. While we applaud the District of Columbia Public Schools and the DC Public Charter School Board for prioritizing in-person learning, significant issues have already emerged that will exacerbate the impact of more than a year of remote education.

Thousands of students have already been placed on quarantine without adequate measures to continue their education remotely. Testimony at the September 21 DC Council Roundtable on Reopening revealed that, under current DCPS and Charter Local Education Agency (LEA) guidance, many students are missing in-person instruction for days or weeks at a time when they test positive for COVID-19 or have close contact with a known case, a trend which will continue throughout this school year. Indeed, as of the date of this letter, there are over 1,300 DCPS students in quarantine and no published data on the number of DCPCS students in quarantine. In our discussions with school communities, it is not clear there is a detailed, comprehensive plan being executed consistently for virtual learning, special education, and related services for students who, due to their school's own protocols, have to be out of school for several days or even more at a time. DCPS and Charter LEAs must act swiftly to ensure that students can access effective virtual education.

The failure to provide education during quarantine will disproportionately impact students of color, students in poverty, students with disabilities. With the rise in cases in DC due to the Delta variant, students of color, and students with disabilities are likely to be the vast majority of students who miss significant days of school due to COVID-19

infections and quarantine rules, especially given the low rates of vaccination among those eligible in Wards 7 and 8.¹

The failure to provide virtual education during quarantine is compounded by serious concerns about the adequacy of DCPS's quarantine and testing procedures, reports of malfunctioning HVAC systems and HEPA filters, and unsafe building conditions that put more children and families at risk of contracting COVID-19. Certain Charter LEAs may have similar problems. Until these issues are resolved, we anticipate that in addition to those who quarantine pursuant to their school or DC Department of Health instruction, many more families will elect to keep their children home if they are symptomatic, have been exposed or likely exposed to COVID-19, or have other health and disability related concerns that make it safer for them to remain home for a period of time. These children also need access to virtual education that keeps them connected to their school communities.

The U.S. Department of Education's recently released guidance recognizes that "[w]hen students are temporarily unable to attend school in-person because of COVID-19 cases and remote learning is therefore temporarily implemented, **it is essential that states, school districts, and schools put in place policies to ensure that students continue to access high-quality and rigorous learning, that students' basic needs are addressed, and that their social, emotional, and mental health needs are met.**"² Additionally, students with disabilities are entitled to receive special education and related services during periods of quarantine,³ and without them are denied the free, appropriate, public education (FAPE) to which they are entitled under the Individuals with Disabilities in Education Act (IDEA) and Section 504 of the Rehabilitation Act. DCPS and Charter LEAs must provide a virtual education option immediately to safeguard all student's social and intellectual development, to satisfy the District's legal obligations, and to ensure that they can make academic progress.

In accordance with the recent U.S. Department of Education's guidance, DCPS and all Charter LEAs need to create a detailed strategy for ensuring that all students can remain engaged in learning while temporarily unable to return to in-person instruction due to quarantine (for any period of time) as set forth below. This plan must have a focused

¹ According to the coronavirus.dc.gov website as of September 20, 2021, only 21% of children between the ages of 12-17 are fully vaccinated in Ward 7 and 17% in Ward 8. See <https://coronavirus.dc.gov/data/vaccination>.

² U.S. Department of Education, Supporting Students During the COVID-19 Pandemic: Maximizing In-Person Learning and Implementing Effective Practices for Students in Quarantine and Isolation, <https://www.ed.gov/coronavirus/supporting-students-during-covid-19-pandemic>

³ See Office of State Superintendent of Education, Part B Provision of FAPE: Guidance Related to Remote and Blended Learning (December 2020), available at https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/COVID-19%20-%20Guidance%20Related%20to%20Distance%20and%20Blended%20Learning%2012.15.20.pdf; U.S. Department of Education. *Questions and Answers of Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak* (March 2020), available at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>.

equity strategy that ensures the most marginalized young people, such as students of color, English language learners, children with disabilities, low income/working families, and youth in the care of DC, are able to access their education.

- DCPS and Charter LEAs must develop and implement a system to provide both synchronous and asynchronous education during quarantine periods. This plan should be created with input from the school community including, administrators, educators and families and require schools to prioritize maintaining regular communication with families before and during periods of quarantine. Further, any such plan should include details on staffing, including the use of substitute teachers if teachers are quarantined and symptomatic, how DCPS and Charter LEAs intend to use devices and technology that can ease transitions between in-person and virtual learning, how the schools will implement Individualized Education Programs (IEP) for students with disabilities, and how multilingual learners will access education. These plans must be shared with the school community so that parents and families can plan and support their students and individual school communities should be able to adjust the plans if necessary.
- DCPS and Charter LEAs must be prepared in advance to distribute devices for each student in the household to engage in virtual learning during quarantine periods. This includes providing any necessary assistive technology devices, high-speed internet access and appropriate technical support.
- DCPS and Charter LEAs must also be prepared to ensure the basic needs of students are met by providing school meals through multiple central distribution locations or delivery services during times when students are unable to access school buildings that allow students across the city to have equitable access to nutrition. Families must also have remote access to school counselors, nurses and other support staff to ensure students' needs are met.
- DCPS and Charter LEAs must ensure a high-quality education is provided to all students even during quarantine periods. The educational content should be rigorous and promote continued progress towards academic achievement goals as well as include specific strategies to support the social, emotional and mental health needs of students. Daily live interactions with teachers and their peers should be prioritized for students along with opportunities for student participation and collaboration to the greatest extent possible. Multilingual learners must be provided with language access services to have access to all virtual instruction and content provided to other students. Likewise, students with disabilities must have access to all virtual instruction and content, which may require the use of additional supports like special software or captioning for video content. IEPs for students with disabilities should include specific contingency

plans for providing education during quarantine periods, including parent training where appropriate. Training and professional development must also be provided for teachers to support them in effectively providing instruction.

- DCPS and Charter LEAs must include a plan for in-class formative assessments of students' academic and social progress after returning from quarantine (especially lengthy quarantine periods) to determine if additional supports are needed to successfully reintegrate them to in-person learning and/or to assist them if they have fallen behind. This should include creating missed services plans and compensatory education plans for students with disabilities who do not receive appropriate special education or related services during quarantine.
- DCPS and Charter LEAs must implement a robust testing policy for suspected COVID-19 cases and close contacts that will allow for shorter quarantine periods for students and a quicker return to in-person learning.

Consistent engagement in education is critical for student's success, and this is doubly true after a year and a half of fractured education. Without robust planning for both synchronous and asynchronous education during quarantine periods, students will be denied their education, risk falling further behind, and potentially disengage from school altogether. DCPS and Charter LEAs, if they have not already, must immediately take steps to provide virtual education that meets the Department of Education standards for students who are quarantining, including appropriate special education and related services. We request that LEAs share, and post publicly, their virtual education plans for the 2021-2022 school year by October 1, 2021.

Sincerely,



Kaitlin Banner

Deputy Legal Director

Washington Lawyers' Committee for Civil Rights and Urban Affairs

Advocates for Justice and Education, Inc., the federally designated parent training and information center for the District of Columbia.

Children's Law Center

Disability Rights DC (DRDC) at University Legal Services, the federally-designated protection and advocacy program for people with disabilities in the District of Columbia.

CC: Deputy Mayor for Education Paul Kihn
Superintendent Dr. Christina Grant Office of the State Superintendent for
Education
Councilmembers, Council of the District of Columbia
Board members, State Board of Education