Good afternoon, Chairman Grosso and members of the Education Committee. My name is Judy Berman. I am Deputy Director of DC Appleseed, a local non-profit public policy research and advocacy organization dedicated to making the District of Columbia a better place to live and work. We have been involved in advocacy to support our schools in improving the special education system since 2002. Our early work focused on increasing options for early dispute resolution so that families and schools could better address student needs without resorting to litigation. Our more recent report addresses movement of students in special education along the continuum of more and less restrictive placements.

I’d like to start today by expressing my appreciation for Deputy Mayor Niles for her openness to dialogue. When DC Appleseed produces reports, our findings and recommendations are expressed differently from the way in which the government itself might express even similar ideas. With our most recent special education report, Deputy Mayor Niles helped bring us and other education leaders in the District into closer accord. It appears that there is greater alignment and collaboration among the education agencies than at any time since the passage of the Public Education Reform Amendment Act (PERAA). I’d also like to thank the Deputy Mayor for her support for funding the unfunded components of the 2014 special education reform bills. She recognizes the importance of increasing access to early intervention services, the benefits of secondary transition planning that begins at age 14, and the need to close the time gap between referral and evaluation for students who are struggling. We appreciate her support.

I’m here today to talk more about education system overall—the Deputy Mayor’s purview—rather than the Deputy Mayor’s office operations. In our September 2016 report, A Place for Every Student, we make recommendations that concern the intersection between the different educational sectors and institutions in the District, some of which, at least in part, are being discussed by the Deputy Mayor’s Cross Sector Task Force. We recommend that

1. The Council pass legislation that defines an appropriate education (the “A” in FAPE) as one that confers significant learning and meaningful benefit;
2. A process be created for the smooth and complete transfer of special education information when students with disabilities transition from one school to another;
3. Data necessary to better understanding the relationship between student performance, disability category, and educational environment be produced and analyzed;
4. A District entity with independence and trust among families should provide pro-active support to families with students with disabilities at natural transition points in the educational cycle (e.g., elementary to middle school) to help them find a school that is not only required to but both eager and able to serve their student;
5. A District entity take responsibility for supporting families and students that are engaging in a transfer to a less restrictive environment (e.g., from a non-public to a public school) to ensure that the sending and receiving schools are fulfilling their obligations to provide a smooth, well-monitored transition process in a timely and effective manner.
1. The Achievement Gap and the Definition of an Appropriate Education

As we consider the District’s educational system overall, it becomes clear very quickly that students with disabilities are lagging dramatically behind their peers. Only five percent of students in special education are proficient (Level 4+ on PARCC) in English/Language Arts (ELA) and six percent in Math. 60% are scoring at the lowest level (Level 1) in ELA and 49% in math, compared to 25-30% of all students. Only 46% of children with disabilities graduated with a diploma. Merely 4% of high schoolers are proficient on the English statewide exam and less than 2% on the math exams.

Many of these students – and I speak as the parent of one – are very bright, and quite capable of academic achievement, but have lacked the services and supports necessary to help them succeed. This is not to say that they have not been given services and supports, but the ones they are getting are either insufficient in quantity or quality, not well-implemented, or not well-matched to their needs relative to the settings in which they are placed. In other words, we cannot blame their academic failure on their disability but we must accept that what most schools in DC are doing for most students with disabilities is not working. (And personally, we’ve had to spend a lot of money ourselves to access information and services that schools have failed to provide.)

Why is this happening? Because it’s allowed to happen. Because we don’t hold our schools to high enough standards to actually teach our students with disabilities. Because parents who push back and say it’s not good enough are told that the standard for appropriate is “de minimus” progress. Because our jurisdiction assumes that as long as a child is not regressing, that it’s good enough. Well, it’s not, because students who don’t learn become adults who can’t work, and adults who can’t work can’t support themselves or their families. The District needs to define an appropriate education as one that confers significant learning and meaningful benefit, as is the standard in large portions of this country.

2. The Need for Data

What in Special Education is working? That’s difficult to say, because we haven’t seen data broken down by disability and learning environment to be able to analyze success or failure. And despite how little we know about what’s actually working, the District has moved steadily forward with an inclusion agenda, which is optimal but only when properly implemented, and reducing reliance on non-public schools. Data to assess these successes and failures are essential.

3. Navigating School Choice for Students with Disabilities

The District is blessed and cursed with a robust school choice environment. The District has made huge strides in making this environment more easily navigable for families, and fairer, by implementing a centralized lottery system. While this system prevents the most overt discrimination against students with disabilities by limiting the role of individual schools in enrolling students, it does little to help families truly understand the capacity of the schools to actually educate their student. Nor does it ensure that information about what works for a child with disabilities follows them to a new school environment. Even good intentions can’t get a student where they need to be without the necessary staff and expertise. And precious time gets wasted while a school tries to get up to speed. This is why all parents in the District should have access to high-quality, objective guidance about the existing capacity of schools to support students with different kinds of disabilities. And this information should
be made available pro-actively, at the times when families are most likely to access the lottery system (i.e., at transitions from childcare to elementary, elementary to middle, and middle to high school).

4. LRE Transitions

The capacity issue can be particularly problematic when a student is making a transition from a non-public school back into a public one. While this process is fraught with potential pitfalls, one is the lack of good information about the schools best equipped to serve a student whose needs were significant enough at one time to require a specialized school. The other is the lack of protocol for implementing a “Least Restrictive Environment” (LRE) transition. We simply don’t have guidelines, particularly for the receiving schools, on how to smoothly integrate a child with significant disabilities into a new and/or less restrictive environment. Nor do we have anyone responsible for ensuring that each school – sending and receiving – is engaging in the necessary communication and oversight to facilitate student success. For example, if a student who was successfully attending a non-public school transfers to a neighborhood public school and starts refusing to attend, is there any guidance beyond the standard truancy rules? Is the non-public school consulted to help problem-solve? Is the non-public school even informed that the transition has not gone as well as hoped?

We can and must do better to support students with disabilities in this multi-sector, school choice environment. We need higher, enforceable standards. We need better information, and more pro-active communication, and more individualized consultation resources for families whose children are most at risk of academic failure: those who have children with disabilities.

Thank you for the opportunity to testify. I’m attaching a copy of our report: A Place for Every Student: Managing Movement Along the Special Education Continuum in DC.

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1 Detailed 2015-16 and 2014-15 PARCC and MSAA Achievement Results, OSSE, at https://drive.google.com/open?id=0BxRyVj1IhgyY0JKTnRXOHUD0U. This is minimal improvement from last year, about 1-2%. DC scores on the National Assessment of Educational Progress, administered in 2015, are very similar, with about 4-6% of students with disabilities “proficient” (compared to 25% of non-disabled students) and 73-83% Below Basic in Reading (compared to about 40% of non-disabled students).

2 ED Data Express, District of Columbia State Snapshot, Regulatory Adjusted Cohort Graduation Rate, Children with Disabilities: 2014-15. https://eddataexpress.ed.gov/state-report.cfm?state=DC&submit.x=39&submit.y=16. In addition, DYRS data shows that 80% of youth who are court-involved have special education needs, and barriers to graduation are even higher for this population.

3 Detailed 2015-16 and 2014-15 PARCC and MSAA Achievement Results, OSSE, at https://drive.google.com/open?id=0BxRyVj1IhgyY0JKTnRXOHUD0U.