

Board of Education Hearing: Recommendations for Special Education Reform  
August 12, 2005

Testimony of Deborah Spitz  
Deputy Director, DC Appleseed Center for Law and Justice

Members of the Board,

I am here to testify in support of several of the items on your list of proposed special education reforms. Two years ago, DC Appleseed and the law firm DLA Piper Rudnick researched and made recommendations to DCPS about how it could improve its system of dispute resolution for special education. We focused on dispute resolution because, as I'm sure you are aware, DCPS faces a volume of special education hearings that is unlike any other school district or state in the nation.

We have urged the school system, under the last Superintendent and the current one, to implement our recommendations. I am here today to focus on two of them. First, that the District work with an outside dispute resolution organization to offer parents a professional and neutral mediation program. We believe that if parents were offered a well-run mediation program in an environment that is neutral, convenient, and comfortable, that they would be more likely to use mediation.

In February, we were pleased when DCPS issued an RFP for this mediation program. Unfortunately, since then, the contract has been stuck in the procurement process. We had hoped this new mediation program might be ready for the start of the school year, when most special education disputes arise. Yet it seems this will not be the case. We urge DCPS to act quickly to establish this program and to stand firmly behind it once it is created. Mediation is vastly less expensive than litigation and could make a real difference in reducing the number of hearings. But only if the system stands behind the mediation program, meaning that it mediates in good faith and enforces its agreements. It is time for DCPS to send the message that it will take agreements reached through mediation seriously. One of the items on your list of recommendations is to periodically evaluate the mediation process and to include parents and advocates in those evaluations. We support that recommendation and look forward to working with DCPS if we can be of any assistance.

Second, we urged DCPS to address the need for early dispute resolution at the school level, by creating pilot projects in a small group of schools and then broadening those services to all schools. We were pleased to see this item on your list. As you may know, DC Appleseed has helped to start up a new nonprofit that has expertise in the area of special education and early dispute resolution. This organization is called SchoolTalk. Its sole mission is to work with schools in the District to implement early dispute resolution programs. Our approach is unique because it would provide comprehensive services rather than just a quick training session here and there. We would provide staff training in special education law and more importantly, in negotiation and

communication skills. We would offer facilitators for IEP meetings and other difficult, emotionally-charged meetings between parents and staff. We would provide a resource for staff to call any time they have questions about how a dispute should be handled, and an on-call ombudsperson to issue recommendations to parents and school staff. Of course these recommendations would not be binding – but they would be issued by a neutral party with expertise in special education law.

We recognize that we won't be able to resolve all disputes. There will be times when DCPS and parents genuinely disagree about the appropriate services to be provided. That's what the mediation and hearing process are for. But many of the thousands of disputes involve mistrust, misunderstanding of special education law, and most commonly an utter failure in communication. It is in these disputes that we believe we can make a difference.

Why this approach? When a conflict can be resolved early, at the school level, the child benefits because his needs are met more quickly. The school benefits because staff time is not taken up with lawyers and hearings. When parents and school staff can maintain a positive relationship, the child is much more likely to stay in the neighborhood school. And DCPS benefits because it does not have to pay for attorney fees and hearing costs, and in some cases, private placements. So why not invest a little more in this process on the front end, when it is so much less expensive and contentious?

Working in a few schools, to start with, will let us try things out and determine what works best in different situations – so that we avoid costly mistakes and inefficiencies when we broaden the project to all schools. This project will require an investment of time and resources. It will require commitment of the school staff and the central administration if it is to work. But over time it will make a difference and ultimately save DCPS money by avoiding costly and time-consuming litigation.

We have provided a detailed proposal to DCPS and we would certainly like to talk about this project in greater detail. We are confident that we can raise some private funds to support this project – we have spoken with foundations who are interested but without an initial commitment by DCPS we cannot move forward.

Let me say finally that we understand that DCPS is asked to fund many different projects and that understandably, it may want to focus on improving services instead of funding dispute resolution. But DCPS must, under federal law, fund mediation, due process hearings, and attorneys fees, whether it wants to or not. In recent years DCPS has spent more than \$10 million per year on this expensive and time-consuming system. We're offering a way to invest a much smaller amount in a proactive way, to help resolve disputes and even avoid them altogether. The funds that are saved could then be applied to improving services for children.

Thank you for providing this opportunity to testify. I look forward to answering any questions you might have.