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Flawed Processes and Ineffective Systems of Accountability Pertaining to DCPS' Special Education Program Have Resulted in Costly Legal Fees and Exorbitant Charges for Related Services and Nonpublic Tuition

May 9, 2003

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EXECUTIVE SUMMARY

PURPOSE

Pursuant to a request from Councilmember Kevin Chavous, Chairperson, Committee on Education, Libraries, and Recreation of the Council of the District of Columbia, and Section 455 of Public Law 93-198, the District of Columbia Auditor conducted an examination of expenditures by the District of Columbia Public Schools for legal and related services generated by the special education program.

CONCLUSION

The Auditor's examination revealed that DCPS routinely paid law firms, assessment firms, and private schools, that were directly affiliated with attorneys and law firms, approximately $39 million between fiscal years 1999 and 2003 as of January 16, 2003. These attorneys and law firms engaged in the questionable business practice of functioning as the legal representative of special education children and then referring these clients to assessment firms and private schools in which they held a proprietary or pecuniary interest. Certain attorneys were able to exploit a flawed administrative hearing process in which some hearing officers permitted attorneys to choose the firm that would test and evaluate their clients, and in some cases to choose the school in which their clients would be placed. Naturally, when these attorneys were given the opportunity to select a vendor to service their clients, they selected their own businesses to provide required services to their clients at often exorbitant rates.

The Auditor found that DCPS paid approximately $11.3 million in legal fees during fiscal year 2002. Prior to that, DCPS paid $3.972 million in legal fees under a Congressionally imposed legal fee cap. Between fiscal years 2001 and 2002, legal expenditures under the fee cap increased approximately 185%. The increase in legal expenditures during fiscal year 2002 can be attributed primarily to the removal of the cap, however, the root cause remains DCPS' longstanding inability to identify, place, and provide appropriate services to students in accordance with the Individuals with Disabilities Education Act and relevant District laws.

The Auditor also found that rates charged by businesses affiliated with attorneys were substantially higher than rates charged by vendors under contract with DCPS during the majority of the audit period. Under normal circumstances, DCPS uses contractors with whom they have negotiated rates to perform all evaluations. Typically, these rates are substantially lower than the rates charged by firms selected by a parent or a law firm to conduct independent evaluations. For example, the Auditor noted, as presented in Table 5 on page 15 of this report, that rates charged by Educational Diagnostics Institute, Inc.(EDI) and the Special Education Group, Inc. to conduct independent evaluations were substantially higher than rates charged by DCPS contractors and other private companies. DCPS paid EDI $1.5 million for evaluations that could have been performed in-house or through DCPS contractors at a potential cost of only $150,000. However, on average, DCPS paid ten times more for evaluations performed by EDI than they would have paid if evaluations were conducted by a DCPS contracted firm. The Superintendent of DCPS did issue a directive in April 2002 establishing maximum rates for independent evaluations.

DCPS was also required to pay the costs of tuition and related services for students requiring nonpublic placement due to a lack of in-house programs and services or pursuant to a hearing officer decision or settlement agreement. The Auditor found that current tuition rates varied significantly from school to school and ranged from a low of approximately $8,000 to a high of approximately $52,820 annually. Recently, DCPS officials have entered into contracts with some of the nonpublic schools at lower negotiated tuition and related service rates.

During the review, the Auditor also identified relationships between law firms, advocacy groups, and individuals that provide a source of special education client referrals to attorneys. In numerous cases, these referrals translated into potential administrative and civil actions against DCPS. These relationships consisted of former DCPS employees (attorney advisors) who served as legal representatives of DCPS now working for law firms that routinely file administrative and civil actions under IDEA against DCPS. We also noted representatives from special education advocacy groups that actively work in a consultative capacity with law firms to support the filing of legal actions against DCPS. Finally, the Auditor noted direct relationships between law firms and special education advocacy groups whose role, in part, is to advocate the interests of DCPS parents of current or prospective special education students. Each of the relationships identified represented sources of potential client referrals for law firms and increased the probability of administrative and civil actions against DCPS. The employment of former DCPS attorneys by law firms pursuing rights under IDEA appears to violate 18 U.S.C.A. 207 and Sections 6-1814.4 through 1814.9 of the District's personnel rules.

Between fiscal years 2000 and 2002, DCPS received 7,883 requests for due process hearings. During fiscal year 2002, DCPS received 3,044 due process hearing requests, an increase of 642, or 26%, over the number of requests received in fiscal year 2001. The due process hearing requests filed against DCPS in fiscal year 2002 was more than the total number of due process hearing requests received by the entire State of California. During the same period of time, the State of California, with a special education population of 670,000 students, is projected to receive approximately 2,670 requests for due process hearings.

The Auditor also found an absence of effective coordinated effort among DCPS' Office of the General Counsel (OGC), Office of Special Education (OSE), Student Hearing Office (SHO), and local schools in preparing for administrative proceedings and civil litigation against DCPS. During an analysis of the roles and responsibilities of each office, as well as during interviews with the Office of the General Counsel and the Office of Mediation and Compliance, the Auditor found that: (1) critical functions that support DCPS' successful preparation for hearings or the negotiation of settlement agreements, such as activities of the Dispute Resolution Committee, were not being performed; (2) OGC had to go directly to local schools to obtain documentation needed to prepare a viable defense for the school system; and (3) local school staff failed to participate in hearings or failed to provide OGC sufficient time for witness preparation. The lack of a formal, coordinated system for addressing and preparing for administrative proceedings and civil actions, coupled with limited staffing resources, constantly undermined DCPS' effectiveness in addressing legal matters.

Finally, the Auditor found that DCPS' failure to develop and timely implement adequate programs and services necessary to meet the needs of special education students substantially contributed to its inability to avert special education lawsuits and related legal actions. For example, DCPS currently places 16% of its students with disabilities in expensive nonpublic educational settings due primarily to a lack of in-house programs to address their needs. In fiscal year 2002, DCPS spent more than $102 million, or an average of $52,632 per student, for tuition and related services for special education students in nonpublic placements. According to a national study on special education expenditures conducted by the U.S. Department of Education, the U.S. average expenditure per special education student enrolled in a nonpublic school was $26,400 during the 1999-2000 school year.

MAJOR FINDINGS

1. Uncapped fiscal year 2002 legal expenditures increased approximately 185% from $3.972 million to $11.3 million.

2. DCPS paid approximately $39 million to attorneys, assessment firms, and private schools that have direct business affiliations.

3. Certain law firms have established relationships with advocacy groups and individuals that appear to be unethical or illegal.

4. During fiscal years 2000 through 2002, DCPS received 7,883 due process hearing requests which appears to be excessive.

5. DCPS lacks formal coordinated systems to effectively address and defend itself against legal actions.

6. Weak internal controls and limited accountability of local school personnel increases DCPS' exposure to costly legal actions under IDEA and other applicable laws.

<u>MAJOR RECOMMENDATIONS</u>

1. The Superintendent, General Counsel, and Assistant Superintendent for Special Education consider establishing alternative dispute resolution policies such as scheduling a mediation for every due process hearing request filed in order to avert the need for an administrative hearing.

2. The Council of the District of Columbia consider requiring attorneys and law firms to disclose their ownership and financial interest in or remuneration from businesses and other organizations providing services to their clients at District expense.

2. The Superintendent of DCPS should continue to establish contracts at competitive rates with private schools in which DCPS must enroll students with disabilities.

3. The Assistant Superintendent for Special Education must ensure that assessments are conducted within time limits specified under 5 DCMR 3010.2 to avoid settlement agreements and hearing officer decisions requiring independent assessments by vendors that may be selected by attorneys, thereby increasing the financial burden on the school system.

4. The Superintendent of DCPS refer this matter to the appropriate law enforcement authority to determine whether federal or District laws have been violated and whether criminal prosecution is warranted.

5. The Auditor will refer this matter to the District of Columbia Bar Association to determine whether there has been a violation of the Bar's Code of Professional Responsibility.

6. DCPS' Superintendent must develop and implement better internal controls to ensure compliance with IDEA and District regulations in order to reduce the number of due process hearing requests resulting from management failures and deficiencies, especially at the local school level.

7. DCPS' General Counsel, Director of the Student Hearing Office, and the Assistant Superintendent for Special Education must develop a systematic approach for ensuring that due process hearings are conducted within the 45 day time limit under IDEA using well defined processes and systems of accountability.

8. DCPS' Superintendent must develop adequate policies and procedures to ensure the timely implementation of settlement agreements and hearing officer decisions by local school staff and to detect issues of noncompliance in order to substantially reduce, if not eliminate, the filing of multiple due process hearing requests.

9. DCPS' Superintendent must develop an effective system of monitoring and accountability through which principals and local school staff are held responsible to the fullest extent permitted under District and DCPS personnel rules, including termination, for their failure or refusal to timely perform tasks required by hearing officer decisions/settlement agreements.

10. The Board of Education and the Superintendent must clearly define the roles and responsibilities of the OGC, SHO, OSE and local schools in addressing legal actions pertaining to the special education program.

11. Principals must be held accountable to the fullest extent permitted under District and DCPS personnel rules, including termination, for failure to ensure that members of their staff participate in due process hearings, properly and timely implement hearing officer decisions and settlement agreements, and perform any related duties required of them.

12. The Assistant Superintendent for Special Education, along with the Assistant Superintendents for Elementary, Middle, and High Schools must implement and enforce policies and procedures designed to hold school level staff accountable for noncompliance

with federal and District laws as well as the timely implementation of settlement agreements and hearing officer decisions.

13. The Assistant Superintendent for Special Education, in conjunction with DCPS' CFO, must identify all special education program development needs and develop corresponding cost projections for each program to provide an array of services for all students with disabilities in an effort to limit the number of students requiring nonpublic placement.

14. The Assistant Superintendent for Special Education, along with the Assistant Superintendents for Elementary, Middle, and High Schools, must develop a data driven system and approach to monitoring central administration and local school staff activities relative to the special education program.

15. The Assistant Superintendent for Special Education and local school principals hold SETS coordinators accountable to the fullest extent permitted, including termination, under District and DCPS personnel rules for failure to input required data into the SETS system.

16. The Superintendent and Assistant Superintendent for Special Education develop standard reports based on accurate data obtained from SETS and use these reports in the monitoring process.

PURPOSE

Pursuant to a request from Councilmember Kevin Chavous, Chairperson, Committee on Education, Libraries, and Recreation of the Council of the District of Columbia, and Section 455 of Public Law 93-198, the District of Columbia Auditor conducted an examination of expenditures by the District of Columbia Public Schools for legal and related services generated by the special education program.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of the examination were to:

1. identify all law firms and attorneys receiving payment from DCPS for serving as legal representatives of parents of special education children;

2. quantify attorneys' fees paid during the audit period by DCPS to law firms and attorneys serving as legal representatives of parents of special education children;

3. determine where DCPS sends students for special education testing and related costs;

4. determine DCPS' private school placement rate and average tuition costs;

5. determine whether fees charged by educational assessment firms and private schools were reasonable; and

6. determine whether related party transactions occurred between attorneys representing special education students and businesses in which the attorneys held financial or ownership interest that provided special education and related services to their clients.

The scope of the examination covered fiscal years 1999 through 2003, as of January 16, 2003.

In conducting the examination, the Auditor reviewed applicable laws and regulations pertaining to the provision of special education and related services with particular emphasis on legal issues such as the right to due process hearings, mediation, and attorneys' fees. Additionally, the Auditor interviewed representatives from the DCPS Office of Special Education (OSE), Office of the Chief Financial Officer (OCFO), Student Hearing Office (SHO), and Office of the General Counsel (OGC). The Auditor also reviewed financial data and other documentation related to expenditures for legal services and DCPS' strategy for addressing legal issues. The Auditor performed tests deemed appropriate under the circumstances.

BACKGROUND

The Individuals with Disabilities Education Act (IDEA) guarantees a free appropriate public education for all students with disabilities enrolled in the public school system. Under IDEA, state education agencies (SEA) must ensure that local education agencies (LEA) establish, maintain, and implement procedural safeguards to ensure that each child and parent are fully informed of their right to a free appropriate public education under federal law.[1] To that end, public school systems must design an education program to address the needs of all students with disabilities. Failure to provide a free appropriate public education under IDEA may result in legal action to enforce this right.

When certain criteria are met under IDEA, DCPS is required to pay for the cost of attorneys' fees, fees for tests and evaluations, non-public school placement, transportation, and tutoring when children are found eligible for special education services.

IDEA requires state agencies to establish, maintain, and implement procedural safeguards to ensure the provision of a free appropriate public education, including:[2]

- obtaining consent from the parent prior to evaluating a child for special education program services;

[1]State education agency as described in the U.S. States Department of Education General Administrative Regulations, Part 77, means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law. Local education agency means a public board of education or other public authority legally constituted within a State for either administrative control of or direction of, or to perform service functions for, public elementary or secondary schools in: (1) a city, county, township, school district, or other political subdivision of a State; or (2) such a combination of school districts or counties a State recognizes as an administrative agency for its public elementary or secondary schools....

[2]34 CFR 300.500-529

conducting the proper evaluations to determine if a child has a disability and the nature and extent of the special education and related services required;
ensuring parents have the opportunity to participate in meetings with respect to identification, evaluation, and educational placement of a child;
notifying a parent of the right to have an independent evaluation if the parent disagrees with the evaluation conducted by the school system;
submitting a written notice to parents when a public school plans to initiate or change the identification, evaluation, or educational placement of a child, or the provision of a free appropriate public education to the child; and
providing written notification of procedural safeguards available to all parents of a child with a disability.

A parent or a public agency may request an impartial due process hearing as a result of a complaint related to the initiation of or change in a child's special education identification, evaluation, educational placement, or the provision of a free appropriate public education.[3] These hearings must be coordinated by either the SEA or the local education agency (LEA), depending on state law. In the District, due process hearings are conducted by the SEA through its SHO.

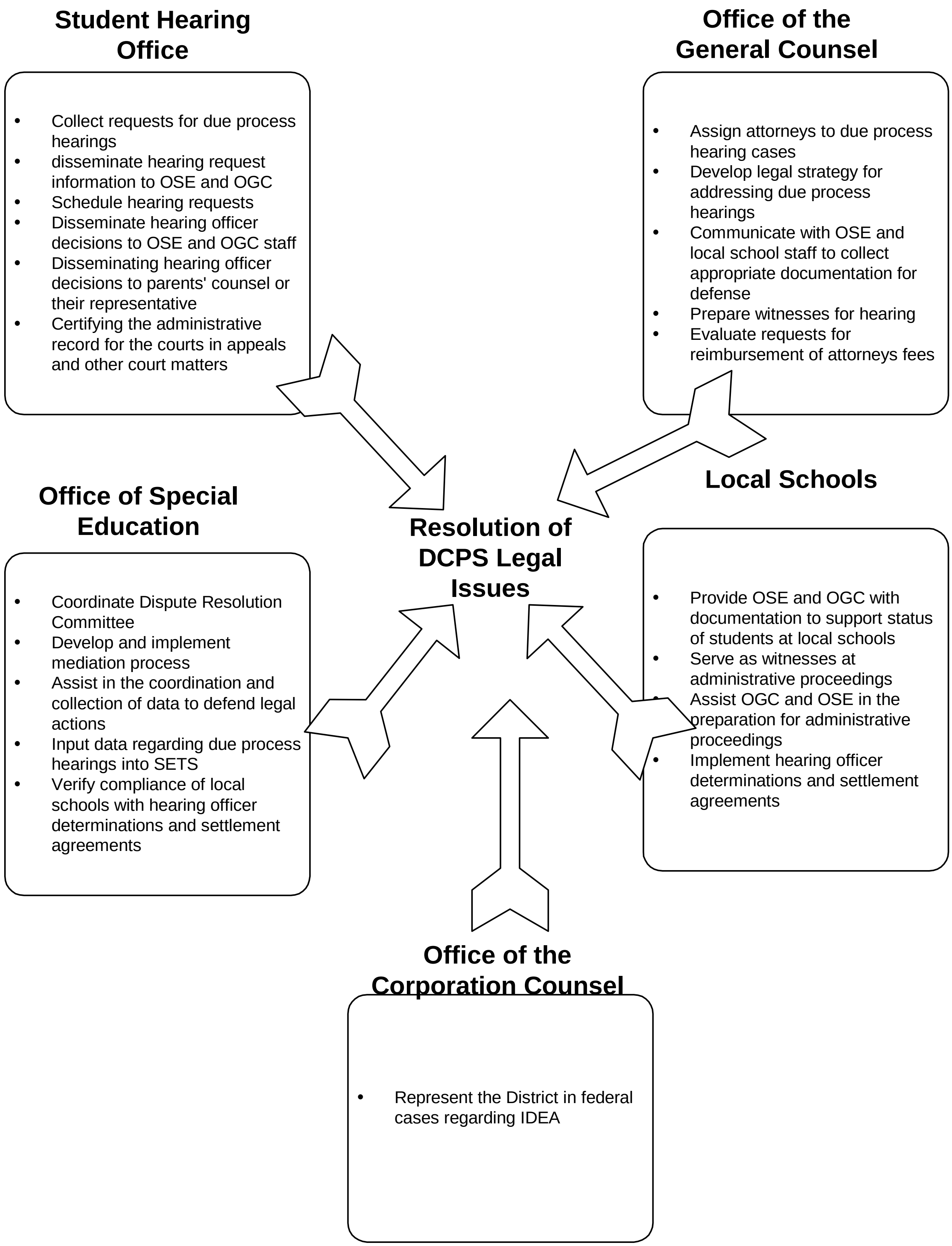
All hearing officer decisions rendered in due process hearings are considered final. However, a party has the right to bring a civil lawsuit in the state or federal court if aggrieved by the findings reached in a due process hearing when they do not have the right to appeal the decision to the SEA because the SEA actually conducted the hearing.

<u>DCPS Organization</u>

The responsibility for implementing the special education program and curriculum lies within OSE. DCPS faces potential liability–legal and financial–when OSE fails to meet requirements under the law or a parent seeks additional redress from the school system. The responsibility for resolving legal issues resides within DCPS' OGC, OSE, local schools, and the SHO. Additionally, the District of Columbia Office of the Corporation Counsel handles civil litigation relative to special education issues. Figure 1 presents each entity's responsibility with regard to legal actions pertaining to DCPS' special education program.

[3] 34 CFR section 500.507

Figure 1
DCPS Organization as it Relates to
The Resolution of Legal Issues



Cap on Attorneys' Fees

Beginning with the fiscal year 1999 District of Columbia Appropriations Act and continuing through fiscal year 2001, Congress established a cap on attorneys' fees in special education cases. Under the fiscal year 1999 Appropriations Act, the hourly rate paid to attorneys from appropriated funds could not exceed $50 per hour and the overall compensation for legal representation could not exceed $1,300 for each IDEA administrative or civil case.[4] The cap did not apply to expenditures for related services such as expert consultants and independent evaluations that were also billed by attorneys. In fiscal year 2002, Congress removed the cap on attorneys' fees for IDEA civil and administrative proceedings.[5] Table 1 presents an overview of the statutory cap on attorneys' fees for IDEA administrative and civil proceedings during fiscal years 1999 through 2002.

Table 1
Overview of Attorney Fee Cap

Fiscal Year	Statutory Cap on Attorneys' Fees
1999	# Hourly rate capped at $50 # Overall compensation not to exceed $1,300
2000	# Hourly rate capped at $60 # Overall compensation not to exceed $1,560
2001	# Hourly rate capped at $125 # Overall compensation not to exceed $2,500
2002	# **NO CAP**

Source: DCPS

In Calloway v. District of Columbia[6], the Court ruled that Congress had a rational basis in passing Section 130 of the District of Columbia Appropriations Act of 1999 (Public Law 105-277), which imposed a cap on attorneys' fees in cases brought under the Individuals with Disabilities Education Act (IDEA). The Court held that Section 130 applied only to attorneys' fees and does not apply to related costs including expert fees.

[4] See District of Columbia Appropriations Act of 2000 and 2001

[5] Under the Fiscal Year 2002 Appropriation Act, attorneys' fees for work performed prior to December 21, 2001 was subject to the cap on attorneys' fees.

[6] Civil Action No. 99-0037, United States District Court for the District of Columbia

The plaintiffs in Calloway challenged the District of Columbia's application of Section 130 retroactively and its application to related costs, including expert fees. The Court concluded that Section 130 did not apply to work performed prior to October 21, 1998, regardless of when a plaintiff prevails in an administrative proceeding or court action. The Court issued an injunction specifically stating the following:

> There appear to be a number of fee applications pending with the District of Columbia that will be affected by the injunctions issued in this case, especially the injunctions with respect to the retroactive application of Section 130 and the application of Section 130 to related costs. When the District of Columbia refuses to pay those pending fee applications on the grounds that Section 130 limits payment of those fees, the plaintiffs' attorneys will be entitled to file an action in this Court seeking to recover those fees.

A potential problem exists with serious financial consequences that the District must eventually face that has not been adequately quantified or disclosed by DCPS or the Office of the Corporation Counsel. The resolution of all cases affected by the Calloway Case is still pending. However, it is estimated that, if the eventual outcome is in favor of plaintiffs, DCPS faces a potential unfunded liability of $30 million that has not been adequately planned for or disclosed by accountable officials in DCPS, the Office of the Chief Financial Officer, or the Office of the Corporation Counsel.

FINDINGS

UNCAPPED FISCAL YEAR 2002 LEGAL EXPENDITURES INCREASED APPROXIMATELY 185% FROM $3.972 MILLION TO $11.3 MILLION

DCPS paid $3.972 million in legal fees under the Congressionally imposed cap in fiscal year 2001. In fiscal year 2002, after Congress removed the cap on legal fees, DCPS paid $11.3 million. This represented an increase of $7.35 million, or approximately 185%, above fiscal year 2001 expenditures for legal fees. Table 2 presents DCPS' legal expenditures related to the special education program from fiscal years 1999 through 2002. Attachment I presents total legal expenditures made by DCPS during fiscal year 2002.

Table 2
DCPS Legal Expenditures Related to Administrative Proceedings for the Special Education Program: Fiscal Years 1999-2002

Fiscal Year	Amount
1999	$3,513,824
2000	2,468,287
2001	3,972,045
2002	11,330,741*
Grand Total	**$21,284,897**

Source: DCPS' report to Congress dated March 29, 2002, and DCPS CFO.

* The cap on legal fees was lifted during fiscal year 2002.

In accordance with IDEA, reasonable attorneys' fees may be awarded to parents of a child with a disability who is the prevailing party in administrative proceedings and civil actions brought against the school system. Prevailing parties are entitled to recover attorneys' fees and related costs from DCPS. The award of attorneys' fees in civil actions, or where fees for administrative cases are disputed, falls under the jurisdiction of the United States District Court for the District of Columbia. Fees awarded must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished.[7] DCPS also paid attorneys to represent DCPS

[7] 34 CFR 300.513

in administrative proceedings and for their assistance in reducing a backlog of administrative cases that developed during fiscal years 1999 through 2000.[8]

Attorneys seeking payment for legal fees and related costs must submit a fee application to DCPS within 45 days of completion of matters for which they are seeking compensation.[9] The application must be accompanied by supporting documentation, including the hearing officer determination and/or settlement agreement and a bill itemizing hourly rates, number of hours worked, description of work performed, and other expenses sought. At the time of our fieldwork, the responsibility for reviewing fee applications was assigned to the Executive Director of Mediation and Compliance within DCPS' OSE. Prior to December 1998, this function was performed by the DCPS OGC. During fiscal years 1999 through 2001, the years that the cap was in place, the review consisted primarily of examining the amount billed for attorneys' fees and other related costs for compliance with the statutory fee cap.

During fiscal year 2002, in the absence of a cap, the Director of Mediation and Compliance reviewed overall attorney bills for reasonableness based on attorney experience and the effort necessary to service clients. This review was more substantial than in the past when a cap was in place. According to DCPS' current Executive Director of Mediation and Compliance, the District of Columbia Office of the Corporation Counsel was consulted prior to making any decisions concerning attorneys' fees awarded if there was a significant variance between the amount the attorney billed and the amount DCPS determined was reasonable. Notwithstanding the higher level of scrutiny during fiscal year 2002, DCPS legal expenditures still increased 185% without the cap.

In fiscal year 2002, the increase in legal expenditures can be attributed primarily to the removal of the cap, however, the root cause remains DCPS' longstanding inability to identify, place, and provide appropriate services to students with disabilities in accordance with procedures and time limits established under District and federal laws. As a result in part of these deficiencies, the number of due process hearings held and settlement agreements reached increased from 1,879 in fiscal year 2001 to 2,261 in fiscal year 2002, or a 20% increase.

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[8]During fiscal years 1999 and 2000, DCPS retained the services of outside law firms to address the backlog in due process hearing requests. These fees were not included in the legal expenditures identified in Table 1.

[9]District of Columbia Public Schools Office of Policy and Planning. *Attorneys' Fees Under the Individuals with Disabilities Education Act for Parents Who Prevail Against the District of Columbia Public Schools.* February 1999. As a result of federal court decisions attorneys' fees are no longer awarded in matters resolved by settlement agreement's.

Due to recent federal court rulings, a parent cannot be considered a prevailing party in a settlement agreement and, therefore, attorneys' fees are not reimbursable.[10] Thus, during fiscal year 2002, there was a dramatic shift in the number of due process hearings held versus settlement agreements reached. For example, during fiscal year 2001, DCPS resolved 1,208 due process hearing requests through settlement agreements compared to 671 hearing officer decisions. In fiscal year 2002, however, when attorneys' fees could not be paid for settlement agreements, DCPS resolved 462 due process hearing requests through settlement agreements compared to 1,799 through hearing officer decisions. In fact, the total expenditures per due process hearing increased to approximately $6,298 in fiscal year 2002 compared to $2,114 in fiscal year 2001.[11]

RECOMMENDATION

> The Superintendent, General Counsel, and Assistant Superintendent for Special Education consider establishing alternative dispute resolution policies such as scheduling a mediation for every due process hearing request filed in order to avert the need for an administrative hearing.

DCPS PAID APPROXIMATELY $39 MILLION TO ATTORNEYS, ASSESSMENT FIRMS, AND PRIVATE SCHOOLS THAT HAVE DIRECT BUSINESS AFFILIATIONS

DCPS paid law firms, assessment firms, and private schools that have direct business affiliations approximately $39 million between fiscal years 1999 and 2003, as of January 16, 2003.

The Auditor found attorneys and law firms that engaged in the questionable business practice of functioning as the legal representative for special education children and then referring those same children to assessment firms and private schools in which they held a proprietary or pecuniary interest. At the expense of DCPS, the majority of their clients were ordered by hearing officers to obtain testing, evaluation, and educational services from attorney affiliated firms through SEA's administrative hearing process. In many cases, DCPS was ordered to use these particular firms because accountable DCPS managers failed to timely evaluate and test special education children, or because they were unable to offer an alternative educational placement for these children at the time a hearing decision or settlement was reached. Certain attorneys were then able to exploit an ethically flawed administrative hearing process in which some hearing officers permitted attorneys

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[10] Although the change in case law preventing parents that settle cases as a prevailing party, settlements often include a flat amount of fees and costs.

[11] The figure does not include all additional costs associated with hearing officer decisions and settlement agreements such as the cost of witnesses and DCPS attorney representatives.

to select the firm that would test and evaluate their clients, and in some cases to choose the school in which their clients would be placed. The Auditor believes the circumstances of these arrangements constituted a conflict of interest. Prior to May 15, 2002, the Auditor notes that there were no policies and procedures established by DCPS requiring attorneys or law firms to disclose such relationships. Further, the Auditor was not provided any documentation to demonstrate that voluntary disclosures were made by attorneys to hearing officers or DCPS regarding their business interests. Additionally, it appears that some, if not most, hearing officers willingly facilitated or accommodated the practice of allowing attorneys to steer clients to related businesses that provided services to their clients. Hearing officers, generally, did not seek to assure themselves that these selections did not serve the financial interest of the attorney. On May 15, 2002, the Board of Education enacted emergency rulemaking requiring full disclosure of any financial interest held by attorneys in businesses providing special education and related services to DCPS students. Table 3 presents the fees paid to various firms during the period under review.

TABLE 3
Fees Paid to Law Firms, Assessment Companies, and Private Schools with Business Affiliations
Fiscal Years 1999-2003 as of January 16, 2003

Name of Firm/Company	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	Accruals	Total
Murrell & Brown, P.L.L.C.	$942,850	$294,649	$10,919	$3,421,000	$125,812	$383,632	$5,178,862
James E. Brown, Atty.	7,564		479,653	12,695	478,280	90,521	1,068,713
Travis A. Murrell, Atty.	$3,639	$48,350	384,803	59,690	145,764		642,245
Educational Diagnostics Institute, Inc.	655,665	182,864	699,617	588,295	76,260	382,508	2,555,209
Educational Transition Services, Inc.	102,900	2,715,557	7,811,292	10,880,691	2,878,027		24,388,467
Rock Creek Academy			118,078	1,472,697	785,340		2,376,116
Advocates for Children's Education, Inc.*	—	—	—	—	—	—	—
Carolyn Houck, Atty.	187,396	205,238	481,812	636,700	100,392	150,932	1,762,470

Total							**$37,972,081**
Clarence Featherson, Atty.		$19,246	$39,384	$2,890	$15,737	$25,671	$102,928
Olivia D. Featherson (Special Education Group)			8,346	3,110		1,620	13,076
Total							**$116,005**
Ronald Drake, Atty			127,272	18,180	75,885	134,911	356,247
Tutors for Kids		106,377	256,536	195,549	30,560	17,970	606,992
Total							**$963,239**
Total							**$39,051,324**

Source: DCPS Office of Special Education and Office of the Chief Financial Officer

*Advocates are often paid when a parent is considered the prevailing party. Some payments are made through attorneys or law firms and some through individuals. DCPS could not provide a breakdown in costs related to Advocates for Children's Education, Inc.

Note: Payments include all settlements, attorneys' fees and fees for related services and experts. Payments reflect payment release date, not necessarily fiscal year in which expenditures were incurred.

Relationships Between Law Firms, Assessment Companies, Private Schools and Advocacy Groups Appear Improper

Table 4 below illustrates the relationships between several law firms, assessment companies, private schools, and advocacy groups. The Auditor found that the relationships between the entities identified below resulted in a pattern of questionable practices. For example, the principals of Murrell & Brown had a pecuniary interest in both ETS and Rock Creek Academy. The majority of students enrolled in ETS and Rock Creek Academy were clients of Murrell & Brown. The majority of representatives on the Board of Directors for ETS and Rock Creek Academy included Mr. Murrell, Mr. Brown and their relatives by blood or marriage. Similarly, Ronald Drake and Tutors for Kids occupy the same office location and approximately 100 percent of students receiving services from Tutors for Kids were clients of Ronald Drake. In examining services provided and payments made to Tutors for Kids, the Auditor found that in one instance Ronald Drake referred a client for a psychiatric evaluation to this organization. Upon further inspection, the Auditor found that the evaluation was conducted by a relative of the child and DCPS was charged $900 for the evaluation.

TABLE 4
Relationships Between Law Firms Serving as Legal Representatives, Assessment Companies, Private Schools, and Advocacy Groups

Firm Name	Principal Name(s)/Office Location	Incorporation Date	Purpose of Corporation
Murrell & Brown, P.L.L.C.	Travis A. Murrell James E. Brown Office Location: 1401 New York Avenue, NW Washington, DC 20005 1220 L Street, NW Washington, DC 20005	June 21, 2002	No incorporation documents on file with the Department of Consumer and Regulatory Affairs (DCRA)
Carolyn W. Houck, P.L.L.C.	Carolyn W. Houck, P.L.L.C. James E. Brown, Registered Agent Office Location: 1401 I Street Suite 250 Washington D.C. 20005 5505 Connecticut Ave. N.W. Suite 174 Washington, D.C. 20015	June 17, 2002	No incorporation documents on file with DCRA
Educational Diagnostics Institute, Inc.	Travis. A. Murrell, Registered Agent and Board Member James E. Brown, Board Member Sanford W. Coleman, Board Member Office Location: 1401 New York Avenue, NW Washington, DC 20005	April 16, 1988	(1) To provide advocacy and consulting services to disabled children and their parents to secure an appropriate education and related services, as are provided by law and public interest; (2) To assist the general public in locating the appropriate education for disabled children, and; (3) For such other reasons as are necessary, proper and legal to carry out the specific purposes above named.

Educational Transition Services, Inc.	Travis A. Murrell, Registered Agent and Board Member James E. Brown, Board Member Sanford W. Coleman, Board Member Office Location: 4401 Connecticut Ave. N.W. Washington, D.C. 20008	June 4, 1999[12]	(1) To provide advocacy and consulting services to disabled children and their parents to secure an appropriate education and related services, as are provided by law and public interest; (2) To assist the general public in locating the appropriate education for disabled children, and; (3) For such other reasons as are necessary, proper and legal to carry out the specific purposes above named.
Rock Creek Academy, Inc.	Travis A. Murrell, Registered Agent Richard K. Henning, CEO, Board Member Sanford W. Coleman, Board Member Michele B. Torry, Board Member Michele A.M. Henson, Board Member - Daughter of Travis A. Murrell Sylvia L. Brown, Board Member - Wife of James E. Brown Office Location: 4401 Connecticut Avenue, NW Washington, DC 20008	March 2, 2001	(1) To provide educational support services to disabled children and their parents or guardians to secure an appropriate education and related services, as provided by law and public interest; (2) To assist the general public in locating the appropriate education for disabled children, and; (3) For such other reasons as are necessary, proper and legal to carry out the specific purposes above named.
Advocates for Children's Education, Inc.	James E. Brown, Registered Agent Michele B. Torry, President Sylvia L. Brown, Director Sanford W. Coleman, Director Office Location: 1220 L St., N.W. Suite 700 Washington, D.C. 20005	April 19, 2001	Education Advocacy
Clarence Featherson, Atty	Office Location: 7600 Georgia Avenue, NW Washington, DC 20012		Not incorporated

[12] The original Certificate of Incorporation was revoked on September 11, 2000, for failure and/or refusal to file any annual report for two consecutive years, next preceding June 30, 2002. This certificate was dated January 23, 2002.

The Special Education Group, Inc., Dr. Olivia D. Featherson,	Crystal L. Evans, Registered Agent Mark Dickson, Esq., Incorporator Troy A. Featherson, Incorporator Crystal L. Evans, Esq Office Location: 7600 Georgia Avenue, NW Washington, DC 20012	September 1, 1999	Provides assessment services.
Ronald Drake, Atty	Office Location: 5 P Street SW Washington, DC 20024		Not incorporated
Tutors for Kids	Office Location: 5 P Street SW Washington, DC 20024		Not incorporated

Source: Department of Consumer and Regulatory Affairs

Rates Charged by Firms Affiliated With Attorneys Were Significantly Higher Than DCPS' Contract Rates

As previously noted, DCPS is required to cover the cost of attorneys' fees, evaluations, private school tuition, transportation, and tutoring services pursuant to IDEA under certain circumstances when children are found eligible for special education services. Further, under 34 CFR 300.52, parents may have their children independently assessed and evaluated under the following circumstances:

1. If the parent disagrees with an evaluation obtained by the public agency.

2. If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—

    (i) Initiate a hearing under Section 300.507 to show that its evaluation is appropriate; or

    (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing under Section 300.507 that the evaluation obtained by the parent did not meet agency criteria.

DCPS' failure to comply with provisions regarding the timeline for completion of initial evaluations and reevaluations, in many instances, has resulted in DCPS having to pay for independent evaluations that were often arranged by attorneys having a pecuniary interest in the firm conducting the evaluation. Under normal circumstances, DCPS uses contractors with whom they have negotiated rates to perform all evaluations. Typically, these rates are substantially lower than the rates charged by firms selected by a parent or a law firm to conduct independent evaluations. For example, the Auditor noted that rates charged by Educational Diagnostics Institute, Inc. and the Special Education Group, Inc. to conduct independent evaluations were significantly higher than rates charged by DCPS contractors and other private companies. Table 5 provides a comparison of rates charged for various types of evaluations performed by independent firms, contracted firms, Educational Diagnostics Institute Inc., and the Special Education Group, Inc. On April 20, 2002, the Superintendent of DCPS issued Directive 530.4, which established maximum rates, by category, to be paid by DCPS for independent evaluations.

Table 5
Comparison of Rates Charged for Evaluations

Assessment	DCPS Contracted	Independent Firms	Educational Diagnostics Institute Inc.	Special Education Group, Inc.
Psycho-educational	$280	$1,750	$2,400	$2,800
Clinical Psychological	$290	$1,020	$3,200	-
Psychiatric	nrc*	$735	$900	-
Occupational Therapy	nrc	$1,050	$2,400	-
Physical Therapy	nrc	$335	$2,400	-
Speech and Language	$265	$1,450	$2,960	$1,900
Social Work	nrc	$500	$2,700	-
Neuropsychological	$290	$2,040	$4,240	-

Source: DCPS survey of diagnostic firms and a review of invoices and documentation for firms charging for independent assessments.

* Indicates no rate contracted
\- Indicates no rates or charges to DCPS were noted for this type of service

As shown in Table 5, rates charged by EDI, the Special Education Group, Inc., and other private firms that conduct independent evaluations were substantially higher than DCPS' contracted rates. Failure to ensure that evaluations were performed in-house or at negotiated rates has resulted in a high incidence of these services being provided at steep noncompetitive rates which in turn generate a substantial financial obligation to DCPS. For example, between fiscal years 2000 and 2002, DCPS paid $1.5 million to Educational Diagnostics Inc., for independent evaluations required by settlement agreements and hearing officer decisions stemming primarily from DCPS' failure to timely conduct evaluations or to conduct appropriate evaluations. On average, DCPS paid ten times more for evaluations performed by EDI than they would have paid if evaluations were conducted by DCPS contracted firms. As a result, DCPS paid EDI $1.5 million for evaluations that could have potentially cost DCPS only $150,000 if these evaluations had been conducted appropriately in-house or through its contractors.

Tuition Costs

DCPS pays for tuition and related services for students requiring nonpublic placement. These costs can vary significantly from school to school. Table 6 illustrates the tuition differentials among various nonpublic schools in which DCPS has had to place special education students. As shown, private schools, such as Educational Transition Services, Inc,. that are affiliated with law firms charge tuition rates that are significantly higher than tuition rates charged by other private schools servicing DCPS students. Recently, DCPS began the practice of entering into contracts with nonpublic schools for lower negotiated tuition and related service rates. To date, DCPS has established contracts with some nonpublic schools at rates lower than previously charged without contracts.

Table 6
Nonpublic Tuition Costs for Various Schools

School	Average Annual Tuition	Disability	Related Services Included?
Academy for Ideal Learning	$30,080	SLD, MR, SLI,ED, OHI	No
Accotink Academy	$31,980	ED, LD	No
Center for Life Enrichment	$41,000	MD,ED,LD,MR	No
Chealsea School	$31,020	LD	No
CHI Center	$13,130	MD	No
Children's Guild	$47,270	ED	No
City Lights	$30,150	ED, LD, MR	No
Educational Transition Services	$49,400	ED	No
Florence Bertell	$52,820	ED	Yes
For Love of Children	$40,000	ED, LD	Yes
Harbour–Baltimore	$26,220	SLI, LD	Yes
Kennedy–Upper	$27,650	ED, LD, OHI, MR, TBL	Yes
Kingsbury	$23,000	LD	No
Lab School of Washington	$32,210	LD	Yes
Rock Creek School	$35,000	LD, SLI, OHI, MD	No
St. Coletta	$28,630	MR	No
St. John's	$36,460	All	Yes
Sunrise Academy	$35,500	MR, ED, LD	Yes
Vallis Treatment Center	$8,000-20,000	ED, LD, Autism	Yes
Villa Maria	$44,890	ED	Yes
Youth in Transition	$37,200	ED, LD	No

Source: DCPS Office of Special Education

RECOMMENDATIONS

1. The Council of the District of Columbia consider requiring attorneys and law firms to disclose their ownership and financial interest in or remuneration from businesses and other organizations providing services to their clients at District expense.

2. The Superintendent of DCPS should continue to establish contracts at competitive rates with private schools in which DCPS must enroll students with disabilities.

3. The Assistant Superintendent for Special Education must ensure that assessments are conducted within time limits specified under 5 DCMR 3010.2 to avoid settlement agreements and hearing officer decisions requiring independent assessments by vendors that may be selected by attorneys, thereby increasing the financial burden on the school system.

CERTAIN LAW FIRMS HAVE ESTABLISHED RELATIONSHIPS WITH ADVOCACY GROUPS AND INDIVIDUALS THAT APPEAR TO BE UNETHICAL OR ILLEGAL

The Auditor identified relationships between law firms, advocacy groups, and individuals that may result in referrals of special education clients to law firms thus giving rise to legal actions against DCPS. Specific relationships identified during the analysis included the following:

- Former attorneys (also known as Attorney Advisors) who served as legal representatives for DCPS and reported directly to OGC and other individuals who worked for or were under contract with DCPS to provide legal services. Some of the former DCPS employees now work for law firms that actively file administrative proceedings and civil actions against DCPS under IDEA. The interaction between DCPS and these individuals and firms may constitute a post-employment conflict of interest under federal law and District personnel rules, and may constitute a violation of the District of Columbia Bar's Code of Professional Responsibility;

- Representatives from special education advocacy groups who actively work with law firms in a consultative capacity to support the filing of legal actions against DCPS; and

#	Direct relationships between law firms and advocacy groups representing the interests of DCPS parents of children with disabilities.

Each of the relationships identified above represents potential client referral sources for law firms and increases the probability of legal actions against DCPS. The employment of former DCPS attorneys by law firms pursuing rights under IDEA for students with disabilities through the state education agency's administrative due process hearing system appears to violate 18 U.S.C.A. 207 and Sections 6-1814.4-1814.9 of the District's personnel rules. The Auditor identified six individuals who were employed by DCPS as attorneys that now work for law firms representing parents/students in special education administrative hearings. Specifically, 18 U.S.C.A.207(a) and (b) states, in relevant part, the following:

§§ 207. Disqualification of former officers and employees; disqualification of partners of current officers and employees

> (a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to--
>
> > (1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and
> > (2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and
> > (3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or
>
> (b) Whoever, (i) having been so employed, within two years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within two years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in

representing any other person (except the United States) by personal presence at any formal or informal appearance before--

> (1) any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and
> (2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and
> (3) , as to (i), which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or, as to (ii), in which he participated personally and substantially as an officer or employee; or....--shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

Table 7 provides a detailed description of the nature of the relationships between law firms, advocacy groups, and individuals that were identified by the Auditor. The law firms identified in Table 7 below represented clients filing 1,487, or approximately 50%, of the due process hearing requests received by DCPS in fiscal year 2002.

TABLE 7
Former DCPS Employees Presently Advocating Against DCPS and Law Firms with Relationships to Advocacy Groups

Firm/Ind	Description of Relationship	Total Payments for Fiscal Year 2002
Former DCPS Attorney Advisors/Legal Representatives	The Auditor identified six individuals that were employed by DCPS that now work for law firms representing parents/students in administrative proceedings under IDEA: ▸ **Talib Abdus-Shahiel, Attorney Advisor** DCPS Employment Date--7/15/01-5/13/02 Firm now employed–Dalton & Dalton ▸ **Donovan Anderson, Attorney Advisor** DCPS Employment Date–4/9/93- 11/12/99 Firm now employed–Donovan Anderson, P.C. ▸ **Tracy Givens, Attorney Advisor** DCPS Employment Date–10/23/00- 12/21/01 Firm now employed–Donovan Anderson, P.C. ▸ **Christopher West, Attorney Advisor** DCPS Employment Date–10/30/00-12/28/01 Firm now employed–Murrell & Brown ▸ **Travis A. Murrell, Hearing Officer** DCPS Employment Date–not available Firm now employed–Murrell &Brown, Travis A. Murrell, Esquire ▸ **James E. Brown, General Counsel** DCPS Employment Date–1979-1981 Firm now employed–Murrell & Brown, James E. Brown, Esquire **Due Process Hearings Requested in FY 02** **Murrell & Brown–734** **Dalton & Dalton–78** **Donovan Anderson–341**	▸ Dalton & Dalton $315,917 ▸ Donovan Anderson $756,436 ▸ Murrell & Brown $2,508,551

Parent Watch, Inc.,	Longstanding unincorporated organization of parents and children with disabilities enrolled in DCPS. Group consisted of six core members and core founders, parents, and other District citizens. The organization is actively involved in the education of District students with disabilities and served in an advisory capacity to DCPS leadership. The organization has no revenue generating activities. ‣ **Incorporated:** Organization incorporated in April 2002 by three members (Public Information Officer, Treasurer, and Community Outreach Coordinator), excluding the President and the Vice President of the organization. ‣ **Dalton & Dalton, PC:** Paul Dalton first met with Parent Watch in March 2002. After the organization was incorporated in April 2002, Dalton began actively attending Parent Watch, Inc. meetings and identifies himself as legal counsel to the organization. ‣ **Parent Watch, Inc. Location:** 601 Pennsylvania Avenue, NW, Suite 900 Washington, DC 20004 ‣ **Dalton & Dalton, PC Location(s):** 601 Pennsylvania Avenue, NW, Suite 900 Washington, DC 20004 6303 Little River Turnpike Alexandria, VA 22912 ‣ **Recruitment Practices:** Parent Watch, Inc. distributes a "Call for Action Sheet" to parents with children enrolled in DCPS. The form requests information such as a parent's name, child name and school, DCPS contact person, and problems. ‣ **Meetings:** Parent Watch, Inc., meets the second Friday of each month. Recent agenda topics included the following: ✓ recruiting and contracting parent consultants ✓ lack of timely payment of attorneys fees ✓ fostering parent advocates/consultants to nurture better relationships ✓ improvement of DCPS special education and regular education ✓ status of individual cases	Dalton & Dalton, PC See above

Advocates for Justice in Education, Inc.	Advocates for Justice, Inc. (AJE), is an organization whose purpose is to develop and implement parent and youth seminars that will encourage parents to advocate on behalf of themselves an their children. During fiscal year 2001 and 2002, AJE was awarded a $186,700 grant by the U.S. Department of Education to develop Parent Training and Information Centers. The purpose of the centers includes: (1) providing training and information that meets the training and information needs of parents of children with disabilities in the area served by the center and (2) assisting parents to understand the availability of, and how to effectively use, procedural safeguards under IDEA, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in IDEA. ‣ **AJE representatives** - served as parent representative in the initiation of 29 due process hearing requests during fiscal year 2002 ‣ **Iweanoge & Anwah** - law firms billed DCPS for 37 meetings for consultations with representatives of AJE regarding due process hearings for 13 special education students ‣ **Steven Boretos, Esquire** - attorney billed for 22 meetings with an AJE representative for consultations regarding 2 students ‣ **Due Process Hearing Requests in FY 02** **Iweanoge & Anwah - 253** **Steven Boretos, Esquire - 52** **AJE Representatives - 29**	‣ Iweanoge & Anwah $520,526 ‣ Steven Boretos $182,295

Source: Office of the D.C. Auditor, DCPS SETS system and DCPS Office of the Chief Financial Officer

RECOMMENDATIONS

1. The Superintendent of DCPS refer this matter to the appropriate law enforcement authority to determine whether federal or District laws have been violated and whether criminal prosecution is warranted.

2. The Auditor will refer this matter to the District of Columbia Bar Association to determine whether there has been a violation of the Bar's Code of Professional Responsibility.

DURING FISCAL YEARS 2000 THROUGH 2002, DCPS RECEIVED 7,883 DUE PROCESS HEARING REQUESTS WHICH APPEARS TO BE EXCESSIVE

Between fiscal years 2000 and 2002, DCPS received 7,883 requests for due process hearings. During fiscal year 2002, DCPS received 3,044 due process hearing requests, an increase of 642, or 26%, over the number of requests received in fiscal year 2001. The 3,044 due process hearing requests filed in fiscal year 2002 were more than the total number of due process hearing requests received by the entire State of California. During the same period of time, the State of California, with a special education population of 670,000 students, was projected to receive approximately 2,670 requests for due process hearings.[13]

Table 8 presents the total number of DCPS due process hearing requests for fiscal years 2000 through 2002 and the resolution, or the lack thereof, in each case.

Table 8
DCPS Due Process Hearing Requests
FY 2000 to 2002

Fiscal Year	Total Number of Due Process Hearing Requests	Resolved through Settlement Agreement	Resolved through Hearing Officer Decision	Resolved through Mediation	Open* Requests
2000	2,437	916	429	33	1059
2001	2,402	1208	671	25	498
2002	3,044	462	1799	22	761
Total	**7,883**	**2,586**	**2,899**	**80**	**2,318**

Source: DCPS Special Education Tracking System
*Open cases reflect due process hearing requests in SETS with no outcome related data available

The Auditor examined student hearing files for a random sample of 150 students on whose behalf a due process hearing request was filed during fiscal years 2001 and 2002.[14] The purpose of the examination was to gather quantitative and qualitative information regarding the experiences of

[13]California Department of Education. The anticipated number of requests for due process hearings was derived from data on hearing requests for the first three quarters for fiscal year 2002 and an average of the three for the fourth quarter, which has not been reported yet.

[14]The Auditor used a 90% confidence interval with an expected rate of error of 4% based on sample sizes for attributes sampling developed by the Institute of Internal Auditors.

parents and students with disabilities within DCPS and to identify common variables that impacted their decision to pursue a due process hearing. Of the 150 student records selected for review, DCPS was unable to produce records for 40 students (26%). The results of the Auditor's analysis of the remaining 110 files indicated that the preeminent factors contributing to administrative and legal actions being initiated against DCPS on behalf of students with disabilities stemmed from the following issues:

- failure to comply with federal and District laws and regulations governing the special education program, including failure to conduct evaluations within legally mandated time limits; failure to develop adequate individualized education plans (IEPs); and failure to identify an appropriate educational placement. These compliance deficiencies were traced to failures at the local school level; and

- chronic failure to implement settlement agreements or hearing officer decisions at the local school level, which gave rise to additional administrative and legal actions.

The outcome of the analysis indicated that in fiscal years 2001 and 2002, greater than 60% of the requests for due process hearings resulted from local school principals and accountable employees failing to comply with IDEA and District laws and regulations pertaining to the provision of a free appropriate public education to students with disabilities. That is, DCPS failed to complete initial evaluations and/or reevaluations within the time limits required by law, failed to develop appropriate IEPs to address the needs of students with disabilities, and failed to identify within the 120-day time limit established by law the optimal educational placement for students identified as having a particular disability.

Additionally, the Auditor found that 13% of the requests for due process hearings in the sample resulted from DCPS' failure to comply with a previous hearing officer decision/settlement agreement. As a consequence, multiple hearing requests were filed for students as a result of local school principals' failure to ensure the prompt implementation of hearing officer decisions and settlement agreements. During fiscal years 2001 and 2002, 41% and 35% respectively of all due process hearing requests resulted in multiple hearing officer decisions and settlement agreements, thus generating additional legal expenses for DCPS. Also, as a result of the aforementioned issues, many students were placed in nonpublic schools at significant additional expense to DCPS. For example, the Auditor noted that one attorney filed six different due process hearing requests for one particular student during fiscal year 2002 as a result, primarily, of the failure of DCPS to implement or comply with a previous hearing officer decision or settlement agreement. As mentioned previously, the average cost per due process hearing during fiscal year 2002 was $6,298. As a consequence of DCPS' failure to comply with hearing officer decisions and settlement agreements in this case, five additional hearings were requested. Thus, a case that should have cost DCPS not more than $6,298 ballooned into a potential payment of approximately $37,788 for multiple hearings that could have been avoided.

The Auditor's findings are further corroborated by a review conducted by the U.S. Department of Education during March 2001, which examined DCPS' implementation of IDEA and assisted in the development of strategies to improve results for children with disabilities.[15] The study found major deficiencies in the provision of special education and related services in the District, including the failure to ensure that initial evaluations, reevaluations, and placements were completed in a timely manner, and that hearing officer decisions were not implemented within the time limits required by the hearing officer.

In accordance with IDEA, DCPS must ensure that a due process hearing is held, a final decision is reached, and a copy of the decision is mailed to each party no later than 45 days from the date of the initial request.[16] The Auditor's examination revealed that more than 50% of all due process hearings conducted by the Student Hearing Office were completed well after IDEA's 45 day time limit. During fiscal year 2002, an average of 53 days elapsed between the date a due process hearing request was filed and the date the case was decided.[17] The length of time between the filing of a due process hearing request and the issuance of a hearing officer decision ranged from a low of 3 days to a high of 280 days. Clearly, the manner in which DCPS, particularly at the local school level, has consistently mismanaged certain aspects of its special education function have violated federal law and increased DCPS' exposure to administrative proceedings and civil lawsuits, which are very costly to the school system.

RECOMMENDATIONS

1. DCPS' Superintendent must develop and implement better internal controls to ensure compliance with IDEA and District regulations in order to reduce the number of due process hearing requests resulting from management failures and deficiencies, especially at the local school level.

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[15] White paper analysis issued by the Department of Education, March 2001.

[16] 34 CFR 300.511 (a)

[17] Does not include cases that are considered open and an hearing officer decision pending because the time elapsed could not be determined.

2. DCPS' General Counsel, Director of the Student Hearing Office, and the Assistant Superintendent for Special Education must develop a systematic approach for ensuring that due process hearings are conducted within the 45 day time limit under IDEA using well defined processes and systems of accountability.

3. DCPS' Superintendent must develop adequate policies and procedures to ensure the timely implementation of settlement agreements and hearing officer decisions by local school staff and to detect issues of noncompliance in order to substantially reduce, if not eliminate, the filing of multiple due process hearing requests.

4. DCPS' Superintendent must develop an effective system of monitoring and accountability through which principals and local school staff are held responsible to the fullest extent permitted under District and DCPS personnel rules, including termination, for their failure or refusal to timely perform tasks required by hearing officer decisions/settlement agreements.

DCPS LACKS FORMAL COORDINATED SYSTEMS TO EFFECTIVELY ADDRESS AND DEFEND ITSELF AGAINST LEGAL ACTIONS

There is a lack of an effective coordinated effort among the OGC, OSE, SHO and local schools in preparing for administrative proceedings and civil litigation against DCPS. The responsibility for addressing requests for hearings lies with OGC. The OGC must effectively communicate with OSE and local school staff to prepare a proper defense and for evidence gathering purposes. During an analysis of the roles and responsibilities of each office, as well as during interviews with the Office of the General Counsel and the Office of Mediation and Compliance, the Auditor found that:

- critical functions that support DCPS' successful preparation for hearings or the negotiation of settlement agreements, such as activities of the Dispute Resolution Committee (DRC), are not being performed. Thus, OGC must develop DCPS' response to issues raised in hearing requests without the benefit of sufficient knowledge, information, and assistance from the OSE and local school personnel;

- OGC must go directly to local schools to obtain documentation needed to prepare a defense for the school system; and

- OGC noted many instances in which local school staff failed to participate in hearings or failed to provide OGC sufficient time for witness preparation.

Ideally, after the OGC is notified by the SHO that a request for an administrative hearing has been filed, the OGC should then begin the fact-finding process. This process entails coordinating with local schools and the OSE to gather evidence, gain insight as to the status of a child on whose behalf a hearing request was filed, and to develop a strategy for addressing the issues raised in hearing requests.

The purpose of the DRC is to allow OGC and leadership in OSE to come together to discuss upcoming cases, develop strategies for addressing them, and to identify any outstanding data needs. In recent months, the DRC has not convened. The Executive Director for Mediation and Compliance acknowledged that the DRC had not been active due to limited staffing within the OSE. Additionally, with the current transformation ongoing within DCPS, no new staff has been hired. According to the Executive Director for Mediation and Compliance, the DRC was scheduled to reconvene in September 2002. However, it did not reconvene until March 2003. As a result of the DRC's inactivity over the past year, DCPS may not have had enough time to prepare effective legal strategies, resolve or mitigate contested issues, or to propose cost efficient, achievable settlement agreements.

OSE and OGC staffing issues may also present a significant problem to DCPS in successfully addressing legal actions in a coordinated way. The OGC has six attorneys assigned to special education issues with an average caseload of 80-100 pending cases monthly. Likewise, according to the Executive Director of Mediation and Compliance, OSE has three Compliance Specialists, with an average case load of 500 cases per specialist. These three compliance specialists are responsible for overseeing the implementation of hearing officer decisions and settlement agreements and assisting the OGC in collecting data from local schools.

The lack of a formal, coordinated system for effectively addressing and preparing for legal actions, coupled with limited staffing resources, undermines DCPS' effectiveness in addressing legal matters. As a result, DCPS is constrained in the strategies it can employ to address or avert administrative and legal actions. Due to these deficiencies, attorneys may enter into settlement agreements with time limits and program offerings that cannot be met by DCPS. Ultimately, the inability to develop effective systems for addressing legal actions, along with proper coordination among DCPS units, results in significant financial liability to the school system.

<u>RECOMMENDATIONS</u>

1. The Board of Education and the Superintendent must clearly define the roles and responsibilities of the OGC, SHO, OSE and local schools in addressing legal actions pertaining to the special education program.

2. Principals must be held accountable to the fullest extent permitted under District and DCPS personnel rules, including termination, for failure to ensure that members of their staff participate in due process hearings, properly and timely implement hearing officer decisions and settlement agreements, and perform any related duties required of them.

<u>WEAK INTERNAL CONTROLS AND LIMITED ACCOUNTABILITY OF LOCAL SCHOOL PERSONNEL INCREASES DCPS' EXPOSURE TO COSTLY LEGAL ACTIONS UNDER IDEA AND OTHER APPLICABLE LAWS</u>

Management within DCPS has failed to establish an adequate functioning system of internal controls which ensures timely and competent performance of duties and responsibilities under District and federal laws governing DCPS' special education program. The Auditor found that critical functions necessary to effectively administer federal and District laws pertaining to special education services were ineffectively performed by accountable DCPS managers and employees, especially at the local school level. Further, there appears to have been a lack of effective measures of accountability applied to school level and central administration employees who failed or refused to adhere to applicable policies and procedures and administrative hearing decisions. As a result, DCPS has become increasingly vulnerable to administrative and legal actions, thereby increasing its financial exposure.

For example, according to DCPS' OGC, 75% of all due process hearing requests relate to DCPS management's failure to: (1) ensure the timely evaluation of students; (2) implement an appropriate individualized education program (IEP); (3) timely identify an appropriate school placement for students with disabilities; and (4) timely implement settlement agreements or hearing officer decisions. More generally, an increase in due process hearing requests has also resulted from the following:

1. limited accountability of school level principals and staff for their failure to adhere to laws, policies, procedures, and other requirements applicable to DCPS' special education program;

2. failure of DCPS' executive management and OSE to develop and implement programs to serve the needs of students with disabilities; and

3. ineffective monitoring of the provision of special education services.

As a result of a weak internal control environment, DCPS has chronically failed, at great financial exposure to the revenues of the District of Columbia, to comply with District and federal laws pertaining to the provision of special education and related services.

Local School Accountability Does Not Exist

Local schools are the first point of contact that parents and students have with DCPS. Therefore, it is imperative that local school staff are competent and knowledgeable about DCPS' programs and services, with particular emphasis on special education and related procedural safeguards. These employees must possess excellent communication skills in order to clearly and effectively provide information and guidance to parents about the right to have their child educated appropriately in the District's public school system.

Generally, students are referred to the special education program for evaluation due to difficulties they experience with the general education curriculum as noted by a parent, teacher or administrator at the local school. Under DCPS' policies, a student first receives intervention services from the Teacher Assistance Team (TAT) which assists him/her in addressing any perceived difficulties. The TAT is comprised of general education personnel, classroom teachers, school administrators, parents, counselors, and elective and remedial teachers. The goal of the TAT is to provide opportunities within the general education program to improve students' learning experiences. If the services provided by the TAT result in no discernable improvement, the student is referred to the Multidisciplinary Team (MDT) for testing, after parental approval is obtained, to determine whether the student possesses a disability that may affect his/her ability to perform in the general education curriculum. All testing and evaluation must be completed within 60 days of referral to the MDT. If test and evaluation results in a determination that a student has a particular disability, the MDT must develop an appropriate IEP and identify an appropriate placement for the student within 60 days.

Initial complaints or requests for a due process hearing typically center around the failure of DCPS staff at the central office and local school level to identify and provide special education and related services in a timely and effective manner in accordance with District and federal laws. For example, in two of 150 due process hearing cases examined by the Auditor, local school administrators denied parents the right to have their child tested for a disability. In one instance, although the child was school-aged, the parent was erroneously informed by a school administrator that DCPS did not test children at such a young age. In another instance, local school staff twice denied a parent's request to have her child tested. Each case resulted in multiple settlements and administrative hearings in which these parents prevailed thus leading to the unnecessary payment of attorneys' fees, related costs, and resulted in a nonpublic school placement.

As settlement agreements and hearing officer determinations are issued, a memorandum on behalf of the Superintendent is sent by OSE to the principal of the school notifying him/her of the conditions of the hearing officer decision or settlement agreement and the responsibility of the school to properly implement the order or directives contained therein. The memorandum has express language that states that an investigation and disciplinary action will occur if the school fails to implement the hearing officer decision or settlement agreement. Specifically, the memorandum states:

> Failure to comply with this hearing officer decision or settlement agreement could result in violation of a court-approved settlement agreement. Therefore, it is critical that you effect implementation consistent with the timelines set out above. Whenever implementation does not occur in a timely manner, an investigation will be conducted into the reasons for noncompliance. If someone is found to have impeded the implementation without good cause, appropriate disciplinary action will be taken.

Notwithstanding the explicit directive and warning in the notice, full compliance frequently does not occur, and there is no evidence that employees responsible for implementing the terms of the hearing officer decision or settlement agreement ever suffer any consequences for their failure to perform. Thus, there appears to be no real accountability for poor performance or nonperformance. For example, there were a significant number of hearing officer decisions and settlement agreements issued during fiscal years 2001 and 2002 resulting from local school personnel failing to implement the terms of a hearing officer decision or settlement agreement. Yet, there were no records available to the Auditor indicating that appropriate corrective or adverse personnel actions were ever initiated in response to these failures.

The Auditor also noted numerous instances where the memorandum setting forth the terms of an settlement agreement or hearing officer decision was transmitted from OSE, on behalf of the Superintendent, to the principal on, or well after, the due date for implementation, thus providing school administrators limited or no time to implement the agreement. The OSE is responsible for ensuring that schools are timely notified and comply with all terms of hearing officer decisions and settlement agreements, however, it has failed to effectively perform this responsibility.

DCPS Has Failed to Establish In-house Programs and Services to Meet the Needs of Its Special Education Students

DCPS' failure to develop and timely implement adequate programs and services necessary to meet the needs of special education students is directly related to DCPS' inability to avert lawsuits and other legal actions pertaining to its special education program. For example, DCPS currently places 16% of its students with disabilities in nonpublic educational settings due primarily to a lack of in-house programs to address their needs. In fiscal year 2002, DCPS spent more than $102 million, or an average of $52,632 annually per student, in tuition expenditures and related services for nonpublic placements. According to a national study on special education expenditures conducted by the U.S. Department of Education, the U.S. average special education expenditure per student enrolled in a nonpublic school was $26,440 during the 1999-2000 school year.[18]

In fiscal years 2001 and 2002, DCPS established goals to reduce the number of students referred to nonpublic placements through the development of new programs. Nevertheless, DCPS has failed to develop or implement sufficient programs to address the needs of special education students in a manner which significantly reduces the number or costs of nonpublic placements.

Ineffective Monitoring of Activities at Local Schools

A strong internal control environment enables management to detect noncompliance and operational problems early. A significant part of the process is the development of an effective system of monitoring. Monitoring ensures that activities, tasks, and functions designed to achieve established goals and objectives are being successfully performed and the system or program is operating as intended. Monitoring, however, is effective only when it is performed in a systematic, comprehensive, ongoing manner and the results are communicated, received, and acted upon by management. Further, the system is only as good as the data collected, analyzed, and communicated.

Within DCPS, the responsibility for monitoring the adequacy of controls, and ultimately compliance with District and federal laws and regulations governing the provision of special education and related services, resides with DCPS' OSE. Compliance Specialists and other OSE staff are assigned the responsibility of ensuring that policies and procedures are adhered to by local school personnel and that any settlement agreements and hearing officer decisions are implemented within specified time frames. These responsibilities, however, are not supported by the level of authority necessary to compel and ensure compliance with laws and regulations and timely implementation of hearing officer decisions and settlement agreements.

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[18] U.S. Department of Education. *What Are We Spending on Special Education Services in the United States, 1999-2000?,pg. 13*

The Auditor observed during site visits to schools, as well as a review of data contained in SETS, that assessment and other special education related data often was incomplete or not available, although current procedures require school level staff to input this data. Thus, critical data that should have been used by management for decision making was not being entered into SETS by local schools' staff. Each school has a designated SETS coordinator who is responsible for ensuring that critical data for students is input into the system, however, our examination indicated that most local school SETS coordinators are failing to perform this critical function, and accountable DCPS managers in turn are failing to adequately monitor this process and ensure compliance.

The Auditor observed that DCPS' current system of monitoring local school activities is broken and thus does not timely, if at all, detect procedural violations, hearing officer decision and settlement agreement implementation deficiencies, and other related performance problems early enough to avert administrative and civil actions initiated against DCPS. Under the current ineffective monitoring practices, DCPS continuously experiences and tolerates blatant noncompliance, especially at the local school level, as evidenced by the increasing number of requests for due process hearings.

Ideally, monitoring of the special education program and related activities should be the responsibility of the Assistant Superintendent for Special Education, Assistant Superintendent for Elementary Schools, Assistant Superintendent for Middle Schools, and the Assistant Superintendent for High Schools. The Auditor found limited evidence to suggest the involvement of the general education program leadership in monitoring beyond the TAT process. Instead, the OSE is primarily responsible for this function. As previously noted, according to OSE management, there are three Compliance Specialists, with an average caseload of 500 cases per specialist. Given the Compliance Specialists' current workload, effective monitoring is not being achieved and most likely is not achievable under these conditions. Monitoring systems must be put into place that include participation from leadership in the special education and general education program to identify schools with high rates of referrals, placements, and noncompliance with settlement agreements and hearing officer decisions.

<u>RECOMMENDATIONS</u>

1. The Assistant Superintendent for Special Education, along with the Assistant Superintendents for Elementary, Middle, and High Schools must implement and enforce policies and procedures designed to hold school level staff accountable for noncompliance with federal and District laws as well as the timely implementation of settlement agreements and hearing officer decisions.

2. The Assistant Superintendent for Special Education, in conjunction with DCPS' CFO, must identify all special education program development needs and develop corresponding cost projections for each program to provide an array of services for all students with disabilities in an effort to limit the number of students requiring nonpublic placement.

3. The Assistant Superintendent for Special Education, along with the Assistant Superintendents for Elementary, Middle, and High Schools, must develop a data driven system and approach to monitoring central administration and local school staff activities relative to the special education program.

4. The Assistant Superintendent for Special Education and local school principals hold SETS coordinators accountable to the fullest extent permitted, including termination, under District and DCPS personnel rules for failure to input required data into the SETS system.

5. The Superintendent and Assistant Superintendent for Special Education develop standard reports based on accurate data obtained from SETS and use these reports in the monitoring process.

CONCLUSION

The Auditor's examination revealed that DCPS routinely paid law firms, assessment firms, and private schools, that were directly affiliated with attorneys and law firms, approximately $39 million between fiscal years 1999 and 2003 as of January 16, 2003. These attorneys and law firms engaged in the questionable business practice of functioning as the legal representative of special education children and then referring these clients to assessment firms and private schools in which they held a proprietary or pecuniary interest. Certain attorneys were able to exploit a flawed administrative hearing process in which some hearing officers permitted attorneys to choose the firm that would test and evaluate their clients, and in some cases to choose the school in which their clients would be placed. Naturally, when these attorneys were given the opportunity to select a vendor to service their clients, they selected their own businesses to provide required services to their clients at often exorbitant rates.

The Auditor found that DCPS paid approximately $11.3 million in legal fees during fiscal year 2002. Prior to that, DCPS paid $3.972 million in legal fees under a Congressionally imposed legal fee cap. Between fiscal years 2001 and 2002, legal expenditures under the fee cap increased approximately 185%. The increase in legal expenditures during fiscal year 2002 can be attributed primarily to the removal of the cap, however, the root cause remains DCPS' longstanding inability to identify, place, and provide appropriate services to students in accordance with the Individuals with Disabilities Education Act and relevant District laws.

The Auditor also found that rates charged by businesses affiliated with attorneys were substantially higher than rates charged by vendors under contract with DCPS during the majority of the audit period. Under normal circumstances, DCPS uses contractors with whom they have negotiated rates to perform all evaluations. Typically, these rates are substantially lower than the rates charged by firms selected by a parent or a law firm to conduct independent evaluations. For example, the Auditor noted, as presented in Table 5 on page 15 of this report, that rates charged by Educational Diagnostics Institute, Inc.(EDI) and the Special Education Group, Inc. to conduct independent evaluations were substantially higher than rates charged by DCPS contractors and other private companies. DCPS paid EDI $1.5 million for evaluations that could have been performed in-house or through DCPS contractors at a potential cost of only $150,000. However, on average, DCPS paid ten times more for evaluations performed by EDI than they would have paid if evaluations were conducted by a DCPS contracted firm. The Superintendent of DCPS did issue a directive in April 2002 establishing maximum rates for independent evaluations.

DCPS was also required to pay the costs of tuition and related services for students requiring nonpublic placement due to a lack of in-house programs and services or pursuant to a hearing officer decision or settlement agreement. The Auditor found that current tuition rates varied significantly from school to school and ranged from a low of approximately $8,000 to a high of approximately $52,820 annually. Recently, DCPS officials have entered into contracts with some of the nonpublic schools at lower negotiated tuition and related service rates.

During the review, the Auditor also identified relationships between law firms, advocacy groups, and individuals that provide a source of special education client referrals to attorneys. In mumerous cases, these referrals translated into potential administrative and civil actions against DCPS. These relationships consisted of former DCPS employees (attorney advisors) who served as legal representatives of DCPS now working for law firms that routinely file administrative and civil actions under IDEA against DCPS. We also noted representatives from special education advocacy groups that actively work in a consultative capacity with law firms to support the filing of legal actions against DCPS. Finally, the Auditor noted direct relationships between law firms and special education advocacy groups whose role, in part, is to advocate the interests of DCPS parents of current or prospective special education students. Each of the relationships identified represented sources of potential client referrals for law firms and increased the probability of administrative and civil actions against DCPS. The employment of former DCPS attorneys by law firms pursuing rights under IDEA appears to violate 18 U.S.C.A. 207 and Sections 6-1814.4 through 1814.9 of the District's personnel rules.

Between fiscal years 2000 and 2002, DCPS received 7,883 requests for due process hearings. During fiscal year 2002, DCPS received 3,044 due process hearing requests, an increase of 642, or 26%, over the number of requests received in fiscal year 2001. The due process hearing requests filed against DCPS in fiscal year 2002 was more than the total number of due process hearing requests received by the entire State of California. During the same period of time, the State of California, with a special education population of 670,000 students, is projected to receive approximately 2,670 requests for due process hearings.

The Auditor also found an absence of effective coordinated effort among DCPS' Office of the General Counsel (OGC), Office of Special Education (OSE), Student Hearing Office (SHO), and local schools in preparing for administrative proceedings and civil litigation against DCPS. During an analysis of the roles and responsibilities of each office, as well as during interviews with the Office of the General Counsel and the Office of Mediation and Compliance, the Auditor found that: (1) critical functions that support DCPS' successful preparation for hearings or the negotiation of settlement agreements, such as activities of the Dispute Resolution Committee, were not being performed; (2) OGC had to go directly to local schools to obtain documentation needed to prepare a viable defense for the school system; and (3) local school staff failed to participate in hearings or failed to provide OGC sufficient time for witness preparation. The lack of a formal, coordinated system for addressing and preparing for administrative proceedings and civil actions, coupled with limited staffing resources, constantly undermined DCPS' effectiveness in addressing legal matters.

Finally, the Auditor found that DCPS' failure to develop and timely implement adequate programs and services necessary to meet the needs of special education students substantially contributed to its inability to avert special education lawsuits and related legal actions. For example, DCPS currently places 16% of its students with disabilities in expensive nonpublic educational settings due primarily to a lack of in-house programs to address their needs. In fiscal year 2002, DCPS spent more than $102 million, or an average of $52,632 per student, for tuition and related services for special education students in nonpublic placements.

According to a national study on special education expenditures conducted by the U.S. Department of Education, the U.S. average expenditure per special education student enrolled in a nonpublic school was $26,400 during the 1999-2000 school year.

Respectfully submitted,

Deborah K. Nichols
District of Columbia Auditor

ATTACHMENT I

Vendor	Payments
MURRELL & BROWN	$1,868,811
DONOVAN ANDERSON, P.C.	$756,436
CAROLYN W. HOUCK	$670,353
IWEANOGE & ANWAH, P.A.	$520,526
JAMES E. BROWN	$493,976
DALTON & DALTON P.C.	$315,917
O'CONNOR JESTER & WILLIAMS	$255,604
MICHAEL J. EIG &	$216,412
DAVENPORT, ANTHONY R.	$205,777
ENEFE CHAMBERS	$167,224
TRAVIS A. MURRELL	$145,764
KAREN D. ALVAREZ	$112,728
LAW OFFICES OF DONNA L WULKAN	$150,544
RONALD L. DRAKE LAW OFFICE	$94,065
FAWCETT & FAWCETT, ATTORNEYS	$86,524
STEVEN J. BORETOS	$82,295
MATTHEW B. BOGIN	$78,293
MARGARET A. KOHN	$72,455
MARSHALL W. TAYLOR	$66,807
BRIAN K. GRUBER, ATTORNEY	$60,947
KOHN & EINSTEIN	$48,452
JESTER & WILLIAMS	$47,656
MICHELLE S. TUWINER	$40,838
CHRISTOPHER ANWAH	$39,706
RONALD L. THOMAS	$38,111
SCI EDUCATIONAL CONSULTANTS	$34,610
ROBERT BERLOW, ESQ.	$29,925
SEYMOUR DUBOW	$29,700

ATTACHMENT I

Vendor	Payments
DAVID SMITH	$28,900
IRIS S BARNETT	$28,780
EDWARD M. GALIBER	$27,062
HERBERT ST. CLAIR	$24,600
CORINNE K. JENSEMA, PH.D	$24,000
CHARLES A. MORAN	$23,408
CATHOLIC UNIVERSITY OF AMERICA	$22,129
LEONARD PINKNEY	$19,200
CLARENCE H. FEATHERSON	$17,858
LOIS HACKHAUSER	$17,800
GEORGETOWN UNIVERSITY LAW CTR	$17,023
MASHA EPPS EDWARDS	$17,000
CHILDREN'S LEGAL ADVOCAY FO.	$15,029
B FRANKLIN KERSEY IV	$14,838
ANTHONY CADE	$14,524
MARGARET V. HATHAWAY	$14,033
JOHN O. IWEANOGE, ESQ.	$13,515
EVANGELINE COVINGTON	$12,321
ANNA JENEFSKY	$11,736
ROBIN BOUCHER	$11,250
BETTY A. UNDERDUE, ESQ.	$10,800
ABC'S FOR LIFE SUCCESS, LLC	$10,250
LAW OFFICE OF ANNE LEWANDOWSKI	$7,289
RANDY MCRAIE	$7,200
LAW OFFICES OF STEPHEN L.WATSK	$6,271
PARKER & STARBUCK, P.C.	$6,001
LAWRENCE H. HUEBNER	$5,816
DEBORAH HAWKINS	$4,646

ATTACHMENT I

Vendor	Payments
UNIVERSITY LEGAL SERVICES	$3,443
SHARYN DANCH, ATTORNEY	$3,421
LEON LITOW	$3,400
THE RIGHT TO LEARN TUTORING	$2,520
DR. OLIVA J. FEATHERSON	$2,310
ROBERT D L'HEUREUX	$2,130
DEBORAH CASON DANIEL	$2,046
TRACEY E. ELLIS	$1,680
ILENE SCHWARTZ	$1,540
AMERICAN ARBITRATION ASSOC.	$1,450
STEPHEN WATSKY	$1,200
PERRY HANDY	$1,185
MADELEINE TOLMACH	$1,013
SUSAN COLE	$880
KLING FINSTON, SUSAN	$821
PATRICIA A. JENKINS, PH.D	$775
CAROLYN TAYLOR	$645
MULTICULTURAL REHAB INC.	$600
GRACE M. DICKERSON	$585
THE CHESAPEAKE CENTER, INC.	$585
ANKUR J GOEL	$525
JOSHUA J MICHNEY	$450
LINDAMOOD-BELL LEARNING PROCES	$375
B MARIAN CHOU, ESQ.	$354
KRISTIN S. CONABOY, OTR/L	$270
DCPS**	$4,109,362
TOTAL EXPENDITURES*	$11,330,741

Source: DCPS Office of the Chief Financial Officer

** DCPS set up an accural for legal expenditures incurred in FY 2002, but will not be paid until FY 03. This accrual may include charges other than those for due process hearings.

AGENCY COMMENTS

Agency Comments

On April 2, 2003, the Office of the District of Columbia Auditor submitted this report in draft for review and comment to the Superintendent of the District of Columbia Public Schools (DCPS), General Counsel for DCPS, Chief of Special Education Reform for DCPS, Chief Financial Officer for DCPS, and the Interim Corporation Counsel, Office of the Corporation Counsel.

Written comments were received from the District of Columbia Public Schools on April 24, 2003. Where appropriate, changes were made to the final report to reflect the comments received. All written comments received by the Auditor are appended, in their entirety, to the final report.