



Chancellor Joel Klein
New York City Department of Education
52 Chambers Street
New York, NY 10007

BY E-MAIL

August 13, 2009

Dear Chancellor Klein:

We are writing from the ARISE Coalition in response to your invitation to provide comments on Garth Harries' memorandum of July 2, 2009 articulating his "recommendations to improve services to students with disabilities." We find much about Mr. Harries' recommendations to be encouraging, but we also have a number of concerns that we set forth below.

Your request to Mr. Harries to take a serious look at what can be done to improve special education services coincides with an unprecedented coming together of parents, advocates and educators concerned with long-standing deficits of service and outcomes for students with disabilities. This is an ideal time to move forward with meaningful and positive reform of the special education system in New York City's public schools.

As you may know, the ARISE Coalition is a group of over thirty-five parents, educators, and advocates who have come together to push for systemic changes to benefit all students, including students with disabilities, in New York City's public school system.¹ We are a diverse group and have united largely out of collective frustration that students with disabilities and their parents have been disenfranchised over the years. We seek, among other things: consideration of all students, including students with disabilities, in all decisions involving education policy and budget; broad and meaningful parental input

¹ The members of the ARISE Coalition include: Advocates for Children of New York; AHRC New York City; Cathy Albisa; David C. Bloomfield, Brooklyn College, CUNY; Brooklyn Center for the Independence of the Disabled; Center for the Independence of the Disabled of New York; The Cooke Center for Learning and Development; Richard and Lora Ellenson; Families Helping Families; Ben Fox; Carol A. Greenburg; Paul Hutchinson; Aurelia Mack; Diana Mendez; The Mental Health Association of New York; Metropolitan Parent Center of Sinergia, Inc.; National Economic and Social Rights Initiative; New Alternatives for Children; New York Branch of the International Dyslexia Association; New York Lawyers for the Public Interest; New York Performance Standards Consortium; Parents for Inclusive Education; Parent to Parent of New York State; Parent to Parent of Staten Island; Raphael Rivas; Resources for Children with Special Needs; Cathy Rikhye, Ed. D., Department of Curriculum and Teaching, Teachers College, Columbia University; Iriss Shimony; Jo Anne Simon, P.C.; United Cerebral Palsy of New York City; United Federation of Teachers; United We Stand; and RueZalia Watkins.

in the full scope of administrative and programmatic policies and practices that impact special education; growth in the system's capacity to serve the needs of all youth, including those with a full array of disabilities; and transparency and accountability for the education of this vulnerable and diverse population.

During the months Mr. Harries reviewed data and explored concerns with parents, advocates, Department of Education (DOE) staff and other experts, he met with the ARISE Coalition on a number of occasions. In the end, although not everything we would have liked to see made its way into his memorandum, we valued the opportunity to provide meaningful input. We echo Mr. Harries' encouragement that the DOE "ensure a collaborative approach to implementation, accessing the perspectives and expertise that exists outside the Department."

We note your recent appointment of Laura Rodriguez as Chief Achievement Officer for Special Education and English Language Learners as an immediate step towards addressing the goals set forth in Mr. Harries' memorandum. Ms. Rodriguez and her Deputy, Dov Rokeach, have reached out already to continue the conversations begun by Mr. Harries. Introductions have been made and further meetings are scheduled.

Before we delve into some of the specific comments we have with regard to the goals proposed by Mr. Harries, we offer four general observations. First, while Mr. Harries did recognize that the DOE needs to "facilitate informed parental engagement in the education of students with disabilities" as his fourth goal, we would advise the Department to build parent and stakeholder input into every facet of Mr. Harries' recommendations rather than to view parent input as something separate and distinct. Only by building and fostering a true partnership with parents will reform succeed in the long run.

Second, Mr. Harries was clear that his memorandum is not an implementation document. However, his recommendations will not produce benefits, and may in fact cause great harm, if they are not realized both thoroughly and skillfully. As you know, there have been previous documents, generated internally by the DOE and offered by outside stakeholders and researchers, which have proposed changes to special education that were never put into place. Success will require strong leadership by you as well as a full commitment from the Department - from your office, the Chief Achievement Officer's office, the Central DOE offices working on behalf of all students, the districts, School Support Organizations, Integrated Service Centers, and the schools. Every staff person working on behalf of New York City students, with or without disabilities, must be part of a concerted effort to produce long-lasting, systemic reform. Additionally, all those responsible for implementation need to assure that novel approaches to educating students with disabilities do not come at a cost to compliance with special education laws and regulations that are in place to protect children.

Third, Mr. Harries' document assumes that students currently have access to programs designed to meet the standards and approaches detailed in their Individualized Education Program (IEP). The reality, however, is that there are numerous students at any given time awaiting placements and services agreed by all to be appropriate. Sometimes the waits result in significant loss of educational opportunity or important skills. Furthermore, based on what we see, students with disabilities still have trouble getting into smaller schools and programs, at the middle school and high school levels.

Fourth, to measure the success of the proposed changes significantly improved accountability measures for the Central DOE, the districts, and schools will be required. We are aware that the DOE already collects a tremendous amount of data. The DOE should make this data public and accessible and should start by sharing baseline data to provide a basis for measuring the impact of any changes implemented. Simultaneous to that, the DOE should begin working with parents, advocates, unions and other stakeholders to determine how data can best be made public and best reflect success in educating and including the full range of students with disabilities.

We now offer some specific comments on each of the goals identified by Mr. Harries.

1. Organize to integrate students with disabilities into the fabric of DOE initiatives and schools.

We are encouraged by this goal, and we appreciate the example of a District 75 student in an inclusion program who was excluded from the graduation ceremonies at her community school. However, we see nothing in these recommendations that would prevent a similar act of discrimination from happening again. True integration requires a major change in the culture of the school system. That change in culture must be initiated from the top starting with a strong policy statement from the Chancellor that discrimination and exclusion of students with disabilities will not be tolerated. The leader of the school system needs to make clear that the whole system is responsible for change, with every individual principal, administrator, and educator subject to real consequences if they illegally exclude or discriminate against students with disabilities in the future.

2. Match short-term educational planning for students with disabilities to long-term goals.

We were pleased to see this goal in Mr. Harries' memorandum. In particular, we appreciate the attempt to link school choice and transition planning with IEP development, the use of the IEP process as a vehicle for moving children with disabilities successfully through the system, and the call for schools to take more responsibility for the long-term success of all students.

We are wary, however, that most schools do not have the knowledge and expertise to do what is being called for here. Preexisting institutional challenges at every level of the

DOE will need to be addressed to move this recommendation forward. As an example, those responsible for identifying the short-term and long-term goals for students with disabilities will need appropriate and on-going professional development, adequate time to meet and to plan, and sufficient and appropriate resources to complete the tasks. There is a danger that without all the above, this recommendation will yield nothing more than another form of routine list-checking and no meaningful changes with regard to specific, individualized planning for students.

Moreover, while we appreciate the focus on the various points of transition in a student's career, we caution that conversations among staff and with parents about students' strengths and weaknesses must be on-going. The DOE needs to assure that critical discussions about progress and necessary modifications to IEPs are not put off until scheduled IEP meetings, but transpire throughout the course of each academic year.

Finally, adjusting the timing of IEP meetings is just a first step. The actual content of the IEPs also needs to be carefully synchronized with each student's academic schedule to avoid the danger Mr. Harries points out of leaving "students stranded in high school without the skills necessary to succeed and without time to close their academic gaps."

3. Empower schools to design successful educational programs for students with disabilities.

This goal, empowering schools to design successful educational programs for students with disabilities, is welcome in that it recognizes the dire need to address how students with special needs are instructed at the school level. However, while we recognize Mr. Harries' work was not intended to articulate the road to implementation, we caution that the key to success here will clearly be in the details of implementation – keeping the students, collectively and individually, in mind at all points. Without care, a framework that characterizes students by their instructional needs, as opposed to their classroom ratios, could result in just a different type of pigeon-holing. A successful framework, on the other hand, would encourage much-needed flexibility to consider individual student strengths and needs in IEP development and school programming.

In order to meet this goal, the Department will need to build significant capacity in the schools. First, appropriate measures for tracking individual students' progress and success must be identified, publicized, and clarified to facilitate the accessibility, meaning, and significance of these measurements to the widest possible audience of students, parents, and other stakeholders. The DOE must improve schools' ability to assess and determine individual students' long-term goals at the earliest points so that on-going efforts to educate can then be evaluated and adapted when they are failing to lead to appropriate outcomes. On this point, we caution that it will be important to maintain sight of those children who may not be academically competitive and their needs and ability to progress none-the-less.

In addition, the DOE will need to develop an increased and significantly expanded base of research to guide program development. It should tie research to practice, allow for innovation, and document what works as well as which schools are most successful in educating all students, including those with disabilities. Within the framework of principal empowerment, schools should have a briefcase, or toolkit, of proven and promising practices from which to choose. Schools must be required to develop essential competencies in educating students with disabilities, but they should not have to develop their tools from scratch. On a related note, a significant investment in hands-on and on-going professional development and support at the school level must accompany any effort to assure success in empowering schools to design successful programs for students with disabilities.

To effectuate this third goal, the DOE also will need to reevaluate and critically analyze budgeting and resources to serve students with IEPs. The Department needs to assess whether funds allocated to schools for special education are, in fact, being used to meet the needs of students with disabilities. The impact of Fair Student Funding on resource allocation must be reexamined. Finally, the DOE should continue assessing and seeking other funding streams, including, but not limited to, the Individuals with Disabilities Education Act (IDEA) funds from the American Recovery and Reinvestment Act of 2009 (ARRA).

As schools design and develop programs, the DOE will need to create clear pathways of access to ensure that the very students with disabilities who need these innovative programs can easily enter and attend these programs. The DOE must provide parents with information on the various programs and methods to access them so they can make informed decisions about the right schools for their children. The sharing of this information is a critical step not to be missed as the school-parent partnership discussed elsewhere in this letter continues to improve.

4. Facilitate informed parental engagement in the education of students with disabilities

As stated already, the ARISE Coalition strongly believes this section of Mr. Harries report, recognizing the valuable input of informed parents in the special education process, needs to be woven into every aspect of a plan to improve special education in New York City.

We note that while this document recommends “engaging” parents, we would have preferred to see greater recognition of the already existent and abundant efforts by parents to obtain information about their own children’s strengths, needs, experiences, options, and outcomes. We saw this parental desire to be involved evidenced repeatedly last year in a series of parent speak-outs cosponsored by the ARISE Coalition and one of our member organizations, Parents for Inclusive Education. Between October and January, we visited each of the boroughs and heard from hundreds of parents. More

recently, members of the ARISE Coalition have been visiting the boroughs again for forums sponsored by the United Federation of Teachers to provide parents with a similar opportunity. Again, at these meetings, parents have shown they are eager for input and meaningful reform. We recognize there is a spectrum of parent ability to participate in children's planning and progress, but that does not counter the fact that most parents want to be fully included in the process. It is the task of the DOE to provide information about educational rights, programming options, and parent participation opportunities to make the goal of a partnership with parents a reality.

To move the DOE and parents to a place where parents can more frequently contribute to the planning and support of their children with disabilities, we call for better distribution of all parent information, including the new guide soon to be published by the DOE, and also the State's Parent Guide which we have been told parents frequently do not receive. Furthermore, we heartily support Mr. Harries recommendations to improve usability and accessibility to the DOE website for parents of students with disabilities.

Finally, far too many parents have been made to feel like outsiders in their children's education. Their intimate knowledge of their children and their input have been largely pushed aside as they have tried to work with schools and upward through the Central DOE. The members of the ARISE Coalition regularly hear from parents that anytime they make a request for increased services or additional support, regardless of whether they are requesting additional support within the public school programs or at non-public programs, they are directed to file for an Impartial Hearing. This climate makes it very difficult for parents and advocates trying in good faith to settle disputes without due process hearings. A New York State Education Department (NYSED) report released last December documented the consequences of this adversarial climate. Based on the NYSED numbers, New York City had almost all the hearing requests in New York State for the 2007-2008 year. Of just over 5,500 impartial hearings filed in NYC that year, over 87% were settled before hearings were completed.

Clearly, more effective mechanisms for resolving recurring conflicts need to be explored and implemented. At the school level, we suggest that administrators at IEP meetings be empowered to think creatively and include services on an IEP to benefit individual students, regardless of how uncommon they may be. At CSEs and ISCs, we urge that administrators assigned to participate in resolution sessions be appropriately trained and authorized to settle hearing claims in accordance with the IDEA. Where appropriate in cases involving mandated services, those administrators must have authority to authorize increased rates as well. Streamlining the resolution process and assigning representatives capable of settling matters will diminish the frustration of all participants, and should ultimately work as a cost-saving measure for the DOE. Lastly, we propose the Central DOE offices supporting special education analyze impartial hearing requests to identify and address systemic concerns.

We appreciate the opportunity to comment and respond to Mr. Harries' memo. As we noted earlier, we are encouraged by the DOE's apparent readiness for system change that involves a stronger school-parent partnership and emphasizes higher expectations for outcomes and experiences of students with disabilities. We are looking forward to on-going dialogue with the Department on these critical issues. If you or any of your staff would like to discuss our response further I can be reached at (212) 822-9523. The Coalition will, as stated above, be meeting with Ms. Rodriguez and Mr. Rokeach in the near future. We trust that we will be able to establish then a process for assuring parents, advocates, and educators an avenue for on-going input and conversation with your office and the office of the Chief Achievement Officer.

Best,

Maggie Moroff
Coordinator of the ARISE Coalition

Cc: Laura Rodriguez, Chief Achievement Officer for Special Education and English Language Learners
Dov Rokeach, Deputy Chief Achievement Officer