



## Citywide Council for District 75



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**-RESOLUTION CCD75(19-21)(1)(5.20.20)-** Resolution to Support Pandemic Protocols on Resuming “Alternative Remote Learning” Instructional Support and Special Education Services During this Upcoming Summer 2020 for District 75, it is the Continuation of Chapter 683, into the Transitioning Phase of the Re-opening of New York City Public Schools Due to the national Pandemic of COVID-19 NYS “Executive Order” of All School Closures

### The Resolution Read as Follows:

**WHEREAS**, it is the responsibility of the Citywide Council of District 75 to promote student achievement, advising and commenting on educational policies affecting the represented students with disabilities population, issuing an annual report on how effectively the students with disabilities in District 75 Citywide Program are served, and providing recommendations to the city’s chancellor and to the Panel for Educational Policy (PEP): pursuant to NYS Education Law section 2590-b and Chancellor’s Regulation D-150;

**WHEREAS**, there are 1,126,501 students in the NYC school system, the largest school district in the United States. Of those students: 13.2 percent of students are English Language Learners/Multilingual (ELLs/MLLs), 20.2 percent are students with disabilities, 72.8 percent are economically disadvantaged, race or ethnicity: 40.6 percent Hispanic, 25.5 percent black, 16.2 percent Asian, 15.1 percent white, and 119,551 are in charter schools;

**WHEREAS**, approximately 22%, 228,205 NYC students in 2019 received special education services through an Individual Education Plan (IEP) out of 1,126,501 million students in the NYC Department of Education public school system with 26,000 students in the District 75 Citywide Program;

**WHEREAS**, students in Special Education are classified from one of the 13 disability categories on their Individual Education Plan (IEP) covered in the Individual with Disability Education Act (IDEA), as well as the Americans with Disabilities Act (ADA), a federal civil rights law protecting the discrimination on people of all ages with disabilities;

**WHEREAS**, the Individualized Education Program (IEP) is a written statement of the NYC Department of Education’s plan to provide each child with a Free and Appropriate Public Education (FAPE) in their Least Restrictive Environment (LRE);

**WHEREAS**, District 75 is an intensive specialized school district comprising approximately 26,000 students with moderate to severe physical, intellectual, developmental, and multiple disabilities;

**WHEREAS**, District 75 Citywide Program has 61 school organizations and hospitals in 380 school and medical buildings in locations across all of the five boroughs of New York City and in Syosset, NY;

**WHEREAS**, the educational funding for District 75 students received is approximately \$36,000 and more per student per school year for the unique range and severity of disabilities they may have on their Individual Education Plans (IEPs);

**WHEREAS**, under the laws of federal and states, Committee on Special Education (CSE) may determine a student's need either a 10-month or a 12-month program (July & August), also called "extended school year" (ESY) to their IEPs, with New York State Education Department (NYSED) compliance, District 75 service all students in both programs: 10-month & 12-month (Chapter 683);

**WHEREAS**, students who receive a 12-month special education service and/or program are provided a year-round basis, accordance with NYS sections 200.6(k)(1) and 200.16(i)(3)(v) of the Regulations of the Commissioner of Education whose disabilities require a structured learning environment of up to 12-months duration to prevent substantial regression. The special service and/or program must operate for at least 30 school days during the months of July and August, including the legal holidays. If the program consists solely of related service(s), it must provide the frequency and duration specified in the student's IEP;

**WHEREAS**, NYS Section 4410(5)(h) of Education Law and section 200.16(e)(4) of the Regulations of the Commissioner of Education require the IEP of a preschool student to include in its recommendation for services during the months of July and August providing a statement of the reasons for such recommendation. There is no state law and/or regulation relating to recommendations for July and August services for a school-aged student. However, the reasons for the recommendations for July and August services would need to be provided to the parent prior written notice before the end of the present school year;

**WHEREAS**, an IEP is developed for either a 10-month or 12-month service and/or program with a focus on annual goals, the student needs, written relating to areas of concern or regression. Most often services provided in July and August focus on annual goals of the previous school year. If a student needs new or additional annual goals applied for only July and August, then the Committee on Special Education (CSE) must revise the student's IEP accordingly. If the Committee on Special Education (CSE) selects the goals to address during the July and August program, they must document it under the section of the IEP for 12-Month Service and/or Program with a narrative of clarification of those goals recommended to the student's IEP;

**WHEREAS**, approximately 29,000 students with disabilities in New York City did not receive their full mandated special education instruction by the end of the 2019-'20 school year (revealed by the city's educational department in a new report sent to the NYC City Council) amounting to 15% of all special education students in which schools are legally mandated to provide or being in violation of the State Law, **Article 81 (Sections 4001-4006) Education of Children Residing in Child Care Institutions** and **Article-89 (Sections 4401-4410) Children with Handicapping Conditions** & Parts of 200 and 201 of the Regulations of the Commissioner of Education and Federal Laws: Individual with Disabilities Education improvement Act (IDEA-2004), followed by Federal Regulations to Implement IDEA Parts 300 and 301, Section 504 of the Rehabilitation Act of 1973, and Family Educational Rights and Privacy Act of 1974;

**WHEREAS**, NYC parental complaints to the Department of Education have increased by 51% between 2014 and 2018, with only 78% of special education students are receiving their recommended services, with 19% receiving partial services and 2.5% receiving no services at all;

**WHEREAS**, in early March due to the COVID-19 pandemic, NYS Governor Cuomo gave the liberty to the state's 700 school districts to decide for themselves whether to remain open or closed. Nearly 80% of school districts decided to close on their own, the governor shifted course and acted quickly to cancel all classroom instruction and school sessions statewide and gave the directive for school districts to create plans for distance learning and the continuation of distributing meals to students with free and/or reduced breakfast and lunch. On March 16, 2020, all NYC Department of Education public & public charter school buildings were closed for all students; staff came in for the four days for professional development and to prepare for the "Learn at Home" curriculum. On March 22, 2020 Governor Cuomo placed the state

on “pause” by executive order. On March 23, 2020 remote learning began and affected 1,866 NYC schools, 1,126,501 million students including the 26,000 District 75 students and over 75,000 teachers. This overrides the NYC mayoral control of NYC Department of Education public schools;

**WHEREAS**, the NYC Mayor’s Office and the NYC Department of Education have announced and promised to ship-out approximately 300,000 requested tech devices to their public school families in order to conveniently transition to remote learning via multiple online platforms, as an example: google classroom. All NYC public school students will have an individual school account to access their individual plan for remote learning and the access to their schools’ google classroom(s);

**WHEREAS**, these devices that are loaned by the NYC Department of Education or the devices that students already own can access “Live” lessons, posted assignments, links to other educational on-line sites, posted lesson videos, and virtual calls among classmates like: Zoom, Google Meets, Microsoft Teams, and other meeting platforms. These virtual platforms can also be used to service tele-therapy, which is the on-line delivery of speech, occupational, physical, and mental health therapy;

**WHEREAS**, in the beginning on March 23, 2020 device requests were submitted via the online survey, telephone connection to the DOE, or the verbal communication a family may have with their child(ren) schools(s) and seeing the Department of Education not fulfilling those requests expeditiously until the end of April, 2020 (6 full weeks) leaving thousands of students, including District 75 students without the ability to continue their academic success and/or their supported related services, provided in their IEP;

**WHEREAS**, the State of New York has begun to see a decline in the number of deaths and new cases of COVID-19, a possibility of reopening the educational institution system will slowly soon be reinstated, a decision on summer services and/or programs will hopefully be announced by the end of May. No clear and concrete solution has been announced in how special needs students will transition back into routine and into the new norm, while considering the range of regressions from lack of therapy and counseling services and the additional vision and hearing services and the decrease or none socialization this pandemic has impacted them;

**WHEREAS**, by reinstating and continuing Chapter 683 for District 75 students, this will greatly help with minor to extreme regressions that many students are facing and their families who have noticed obvious signs of lack in interest to make eye contact, the loss of skills in Activities of Daily Living (ADL), or aggressive behaviors that may stimulate a child to self-harm, losing all progress made during the 2019-2020 school year. This will also help to slowly introduce our District 75 students back into their daily school routine including bus transportation, teacher/ therapist in-person instructions, socialization practices and social interactions with their peers adding-on the additional supports that may be necessary to implement once all students are reassessed returning back to school. Anticipation of more mental health services and mental health professionals to provide social-emotional, trauma-and-crisis interventions, self-care, and wellness for students, teachers, schools, families, and the communities;

**WHEREAS**, the Citywide Council for District 75, through its standing Committee on Outreach (herein “the Committee”) received information regarding significant issues and concerns around remote learning and the lack of delivery of service for Speech Therapy (ST), Occupational Therapy (OT), Physical Therapy (PT), Vision Services (VS), Hearing Services (HS), and/or counseling during the COVID-19 “executive order” school closure, which places District 75 students at immediate risk to their mental and physical health, safety, and well-being;

**WHEREAS**, the committee created, formatted, approved, produced, shared, and disseminated a well-rounded survey tailored to the District 75 community sent out to all parents in the five boroughs via email, sharing on council’s social

media accounts, sharing with District 75 Presidents' Council and PAs/PTAs, sharing with other CCECs, sharing with other advocacy groups and community board organizations, and sharing within the District school communities;

**WHEREAS**, the committee's data exhibited: (updated on 5/18/20, into week 9 of RL) 89.8% of 100% (246/277 parent responses) child has received related services in school and/or remotely on a regular basis before the school closure; 62.1% of 100% (172/277 parent responses) has personal device and 35.7% of 100% (99/277 parent responses) the NYC DOE has loaned a device to the student; 73.1% of 100% (201/277 parent responses) student has received a work packet from school before the school closure; 77.6% of 100% (215/277 parent responses) student is logged on to their school account; 95.3% of 100% (264/277 parent responses) student has a google classroom; and 56.4% (150) related service(s) has helped the student, 20.3% (54) related service(s) has not helped the student, and 23.3% (62) not sure. The remaining data can be referenced on the committee's survey responses from 277 parents of District 75, (attached hereto as Exhibit -);

**WHEREAS**, the statistics collectively exhibited: (updated on 5/18/20, into week 9 of RL) 25.9% (71) parents have seen a general improvement in their child, 43.1% (118) parents have seen no general improvement in their child, and 31% (85) parents are unsure if improvement exists in their child during remote learning; 39.3% (108) parents have noticed a regression phase in their child, 36% (99) parents have not yet noticed a regression phase in their child, and 24.7% (68) parents are unsure if the regression phase has begun for their child and 48% (133) parents selected 5 (very concerned) on a scale of 1 to 5 and 28.5% (79) parents selected 3 (moderately concerned) on a scale of 1 to 5 for how concerned they were to their child's regression relating to mental, emotional, physical, and/or educational development. In the survey, 219 parents indicated their child is in a 12-month self-contained classroom, 31 parents indicated their child is in a 10-month self-contained classroom, and 47 parents indicated their child is either in a 10-month or 12-month District 75 Inclusion Program. The measures of concern these 277 parents have indicated in the committee's survey are exhibited throughout the five boroughs (Staten Island, Queens, Brooklyn, Bronx, and Manhattan) in which District 75 Citywide Program serves. Parent comments can be referenced on the committee's survey responses from 277 parents of District 75, ( attached here to as Exhibit - ) ;

"Remote learning is extremely difficult when you have more than one child that requires related services. We are doing tele-therapy almost all day with multiple children. We had to decline at-least two of their related services. We've had additional assessments and assignments to complete that require hands on learning. We are working beyond normal school hours. It's also harder when there is only one parent to work with the child and the other has to go back to work. We've noticed that one of our children has regressed in his handwriting, his attention span, and behavior. The work load does not encourage you to continue with remote learning rather to homeschool your children independently where they working at their own pace."-D75 parent

"If there is a bright side to this it is remote learning it has been beneficial in the sense I can see first had my child's interaction with school work, teachers and therapist, I personally have a better understanding of what he is excelling at and subjects were he needs further guidance and practice and as a parent I can help out in the moment with further guidance at home so he stays on track for meeting his goals. Teachers and Therapists have been great and informative." - District 75 parent

"I am sad to say that I don't know much about my son's IEP. I should be more knowledgeable about what is going on with my child's education. Its just hard for me to do as I have various medical conditions that are hard to maintain without the proper medical treatment. Also, I have no idea how to use the device that is on loan from the D.O.E. I'm currently having my child still use my laptop to do his work when I can help to educate him."-District 75 parent



**WHEREAS**, the committee has invited Mr. Ketter Louissaint, Superintendent of District 75 and his district team to its committee public meetings to hear direct concerns and the questions of parents who are struggling to find whom may help them with their challenges and positive feedbacks from those parents that have great support from their school communities during this unprecedented time of COVID-19;

**WHEREAS**, the committee hosted a public webinar on May 11, 2020 topic: "Regression in Students with Disabilities, conducted an inquiry regarding regression to clinicians, to wit: a board certified neurologist, a doctor of physical therapy (PT), a doctor of clinical psychologist, a licensed occupational therapist(ST), and a licensed speech therapist/speech-language pathologist ST/SLP), (herein, the "Panelists");

**WHEREAS**, *said panelist*, all attending their opinions within a reasonable degree of certainty within their respective professions, that hands-on therapy must resume, either in school or in-home, utilizing CDC pandemic protocols, in order to prevent a potential "irreversible" regression;

**WHEREAS**, *said panelist*, Gershon Ney, MD, who stated that the rate of regression in children in the disability population is significant and fast, if prolonging to do little of nothing can be difficult to reverse and cause a significant impact towards the development into adulthood, ( attached hereto as Exhibit -);

**WHEREAS**, *said panelist*, Rita Levey, OT Director, REDDY-CARE, "Students with disabilities are dependent on routine." Many services for students with disabilities have no online (remote learning) substitute. R. Levey has transitioned to tele-therapy, since in-person sessions with her students were no longer possible. "They're also dependent on individual relationships with providers.", (attached hereto as Exhibit - ) ;

**WHEREAS**, *said panelist* Mary Beth Sivaka, PSYS, "Individuals with disabilities are at higher risk for increased anxiety and depression compared to those of typical cognitive abilities. This risk is further elevated for children who already have histories of anxiety or depression.", ( attached hereto as Exhibit -);

**WHEREAS**, on Tuesday, May 19, 2020, the NYC Mayor Bill De Blasio and Chancellor Carranza announced the summer learning plan for approximately 177,700 students, offering education and services to students with disabilities and provide academic support for students in grades 3-8 and 9-12 who need an additional time to master grade-level standards. The NYC Department of Education will continue to follow the previous policy and practice with the additional recommendations for students who may not be in jeopardy, but could receive additional help to prepare for the next school year. The mayor's office and the DOE are continuing to focus on what summer remote learning will look like in coming weeks, leaving parents currently with many questions and concerns with how successful will the summer learning plan meet the progress of 177,700 students identified in need of the additional support.

"Programming will run in three-time frames:

- Students with 12-month IEP services will participate in remote summer programming from July 1 to August 13, five days a week. They will receive instruction and related services based on their IEPs.
- Students in grades 3-8 will attend summer learning via remote instruction from July 13 to August 18. Students will engage four days a week, receiving ELA and/or math support via live or pre-recorded instruction, self-paced activities, and small group and 1:1 check-ins. Grade 8 students may attend summer learning in math, ELA, social studies, and/or science, as proficiency in those subjects is contingent on beginning high school.
- Students in grades 9-12 who have a Course in Progress, or who need to retake a course they failed in a prior term, will participate in remote instruction from July 13 to August 21. Students will engage five days a week for six weeks in subjects they did not pass. They will have individual check-ins with teachers, guidance counselors and/or social workers."-NYC Department of Education

***The Citywide Council for District 75 hereby puts forth the following:***

1. **LET IT BE RESOLVED THAT**, the Citywide Council for District 75 propose “alternative distance learning plans in a child’s IEP” under the current official emergency procedure with the Centers of Disease Control and Prevention (CDC) interim guidance for administrators; of NYC public school closure due to the COVID-19 outbreak.
2. **LET IT BE RESOLVED THAT**, this proposal for an “alternative distance learning” would greatly assist the most vulnerable students in our community, to prevent any further significant possible irreversible regressions and depressions; to regain the improvements that have been made in the past months before NYC schools had to close due to COVID-19. Parents have the right to choose scaling on their comfort level determined by their child’s health & medical severity, safety, and wellbeing.
3. **LET IT BE RESOLVED THAT**, participation in “alternative distance learning” is voluntary on parental consent to have optional fairness of District 75 application of Chapter 683. Parents/Guardians of a District 75 student(s) may have the option to opt-out if they choose not to participate in July and August for Chapter 683, the same opportunity that has been given to parents/guardians in the past. If parents/guardians choose to continue Chapter 683 remotely for their child, that will be acceptable for parents/guardians that have not felt remote learning and/or tele-therapy has worked for them, may have the option to request some sort of in-person session to continue their child’s IEP mandated annual goals. The committee advise the following as examples that include but not limited to: special education and related service curriculum-based instructional activities in person at a Regional Enrichment Center (REC) or give families RSA(s) Rehabilitation Services Administration) to seek outside community or private providers to service Speech Therapy (ST), Occupational Therapy (OT), Physical Therapy (PT), and/or counseling or giving a parent/guardian the option to request the continuation of their child’s 12-month service and/or program via an in-house session arrangement to continue those annual goals and possibly to reassess those goals to adjust to the child’s current capability due to any regression that may have taken place during this school year 2019-2020.
4. **LET IT BE RESOLVED THAT**, the Citywide Council for District 75 propose an “alternate days” or “half-days” Chapter 683 summer program (for 12-month program IEP students) in-person at a Regional Enrichment Center (REC) to help children transition back during summer while offering a structured routine with their related services, in order to reverse any regression and to limit any regression further due to the loss of in-person interaction instructional support and services, possibly also the addition to the lack of a device, assistive technology, and/or technology skills, and/or other restricted factors within the last 3 months of home-based remote instruction.
5. **LET IT BE RESOLVED THAT**, “alternate days” or “half-days” can ensure social distancing. All of District 75 programs are small class sizes, self-contained: 6;1;1, 8;1;1, 12;1;1, and 12;1;4 and typically 12-month program Inclusion students are joined into the 12;1;1 class, this is a possible realistic solution.
6. **LET IT BE RESOLVED THAT**, minimizing indoor classroom usage, and allowing more outdoor activities, weather permitting can better manage social distancing. These feasible social distance activities can include but not limited to: sprinklers, nature walks & hikes, yoga, dance, obstacle courses, playing “Simon says” or other “non-close contact” games. while ensuring washing hands before and afterwards and sterilizing all used equipment or toys daily.
7. **LET IT BE RESOLVED THAT**, The Citywide Council for District 75 propose The NYC Department of Education offer RSA(s) Rehabilitation Services Administration) to parents of District 75 students the opportunity to seek outside community or private providers to service Speech Therapy (ST), Occupational Therapy (OT), Physical Therapy (PT), and/or counseling whom may be open; these providers are essential workers who can provide support and services to the communities of individuals with disabilities immediately. An executive order can be issued to expedite billing to the

NYS Medicaid Office or the family's private insurance for the student and the parent to be transported to and from on-site therapy (ex: Access-A-Ride). Or a reimbursement in travel expenses.

8. **LET IT BE RESOLVED THAT**, The Citywide Council for District 75 propose The NYC Department of Education to service "at-home" related service therap(ies) with the guidance of the Centers of Disease Control and Prevention (CDC) public safety COVID-19 procedure; proper medical face masks, PPE, medical gloves, and social distance guide of 6 feet apart. Any appropriate supplies or assistive technology required to service "at-home" therapy be provided by the NYC Department of Education and/or New York State Education Department. "At-home" related service therap(ies) can be arranged by choice of scheduling flexibility between the parent and the service provider.
9. **LET IT BE RESOLVED THAT**, all of the proposed recommendations made by the Citywide Council for District 75 "alternative distance learning plans in a child's IEP" are within the utmost priority of Centers of Disease Control and Prevention (CDC) safety protocols: a face-mask or any cloth face-covering is required at all times, appropriate body-distance if possible, washing hands before and afterwards, and sterilizing/disinfecting all used equipment and/or toys after every use. Although face masks or any cloth face-coverings are mandated by the CDC and in the NYS "Executive Order" issued by Governor Cuomo, individuals (children) with medical conditions to include but not limited to asthma, breathing tubes, sensory sensitivity, the hearing impaired and/or verbal ailments that may need lip reading services oral conditions are excluded to wearing any surgical, cloth, or filtered masks or any cloth face-coverings. Students are encouraged to wear face masks or any cloth face coverings at all times as much as possible (including on-site service for hours) other than: eating, drinking, and talking during therapies while complying with all health department wellness & safety protocols. Any modeling or repetition necessary for the student to abide by should be available regularly.
10. **LET IT BE RESOLVED THAT**, online "remote learning" would still continue on the alternate days when students are not in the physical classroom or in a physical in-person therapy session, with google classroom and attendance, This will keep the consistency with the student's academic education. All related therapies would resume in person unless the parent and/or therapist prefer to remain via teletherapy, to approach the student's IEP success.
11. **LET IT BE RESOLVED THAT**, per the parent's request, District 75 students can have their IEP re-evaluated and adjusted based on new or additional needs within 14 days to include any additional services and/or support. The evaluation and referral from the Committee on Special Education (CSE) should be considered accordingly to process and timeframe, therefore, the need of the student is being met in the next school year 2020-2021, either September when in-person classroom academic instruction resumes or "Learn at Home" remote learning continues till New York City Department of Education re-opens all public school buildings for instructional sessions.
12. **LASTLY, LET IT BE RESOLVED THAT**, the Citywide Council for District 75 calls for all school bus routes that service the District have bus attendants, IEP 1:1 bus paras/matrons, and IEP 1:1 bus nurses receive certification they were properly tested for the coronavirus and trained to recognize and/or assist in resolving traumatic behaviors associated with COVID-19 experiences when preparing to return to duty once NYC school buildings reopen. In addition, all District 75 teachers and staff obtain similar documentation verifying coronavirus test results as well as instruction on crisis intervention, social-emotional, trauma, self-care, and all other relevant NYC Department of Health (DOH) health and wellness guidelines in order to be fully prepared to recognize, identify, and assist in the struggles students may face in returning to the new adjusted school practices. This should include but not be limited to a variety of coping mechanisms to teach in their classrooms. These efforts will increase parents' confidence and strengthen their resolve towards sending their child(ren) back to a clean and safe learning environment once schools re-open.

## References:

1. Results from the Committee on Outreach Survey
2. Letter of Clinical Providers
3. U.S. Department of Education, 20 USC Chp 33: Education of Individuals with Disabilities (Individuals with Disabilities Education Act)(B. DeVos, Secretary of Education) has not waive this policy)
4. U.S. Department of Education, Title II, Americans with Disabilities Act
5. U.S. Department of Education, Every Student Succeeds Act (ESSA)
6. U.S. Department of Education, Family Educational Rights and Privacy Act

## Authors:

- Committee on Outreach: Grisel Cardon, Chair and Amy Ming Tsai, Co- Chair
- Committee on Busing & Safety: Amy Ming Tsai, Chair
- Ad-hoc Committee on Legislation: Debra Altman, Chair

***The Citywide Council for District 75, During the Calendar Meeting (Virtual Calendar Meeting) held on Wednesday, May 20, 2020 UNANIMOUSLY APPROVED and RATIFIED RESOLUTION CCD75 (19-21)(1) (5.20.20).***