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Education Law Center
Public Testimony
to the
National Council on Disability

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My name is Leigh Loman. I am an attorney with the Education Law Center. The Education Law Center (www.elc-pa.org) is a nonprofit public interest legal advocacy and educational organization dedicated to ensuring that all Pennsylvania's children have access to a quality public education. Our focus is on the most at risk students, including students with disabilities.

Thank you for the opportunity to present public testimony today and for the Council's good work on behalf of individuals with disabilities.

The Education Law Center is a trusted and reliable source of timely, accurate legal advice and information on issues of access and equity in public education. We have offices in Pittsburgh and Philadelphia and are recognized locally, statewide and nationally as experts on public education, and particularly on the educational rights of students with disabilities.

For four decades we have provided legal representation, advice and consultation to thousands of parents, students, advocates and community stakeholders. Our cases, our legislative advocacy and our community engagement work are all strategically selected to ensure that students with disabilities have equal access to the full range of public education programs with the supports and services they need to succeed.

Our Public Comments today focus on two major concerns:

- (1) The increasing need to identify and serve students with disabilities who are also members of other at risk populations.
- (2) The increasing need to address the disproportionate number of students with disabilities, particularly those of color, who are subjected to discriminatory school discipline and school exclusion.

Now more than ever before, we are being drawn to address the barriers to education faced by students with disabilities who are also members of other at risk student populations. These include students involved in the child welfare and juvenile justice systems, pregnant and parenting students, students experiencing homelessness and English language learners. We refer to these students as “intersectional” students – because they often stand at the intersection of two or more public service systems – and frequently fall between the cracks.

Today, we urge the National Council on Disability to join us in raising and addressing the needs of these “intersectional” students with disabilities.

Specifically, we urge you to take the following actions:

- **To support reauthorization of the Elementary and Secondary Education Act (ESEA)**, including support for the amendment on educational access and stability for youth in foster care.
- **To support the effective use and enforcement of current Title IX protections, and the reintroduction of the Pregnant and Parenting Students Access to Education Act** to protect the educational rights of these young parents and their children, some of whom also have disabilities.

- **To support enforcement of the IDEA’s mandates for the use of native language and appropriate translation** for students and parents throughout the system of special education.
- **To support the rights of students with disabilities who are also involved in the juvenile justice system,** by promoting greater oversight of their educational programs and strict compliance with recent federal guidance, and
- **To increase the accuracy and proper identification of students with disabilities,** taking specific steps to address the needs of culturally diverse learners and parents.

Turning to our second concern - the increasing number of students with disabilities, particularly those of color, who are subjected to discriminatory school discipline and school exclusion.

Scholars, research and national data continue to make clear that the over-identification of students of color in special education and the disproportionate number of students being unfairly excluded from school is significant to the system of special education, because it lies at the intersection of race, class and disability prejudice.

Racial disparities in special education and school discipline are reflective of the broader problems in general education. The inequitable distribution of resources among and within school districts tends to flow along lines of class and race. These disparities reveal themselves in the voices of parents and students who complain of overburdened and inadequately trained school personnel, including school

psychologists, teachers and school resource officers. We also hear about the lack of rigorous implementation and enforcement of the rights guaranteed by the IDEA.

We also see it in the data. The data across the state of Pennsylvania, consistent with national statistics, reveals that African American students and students with disabilities are being unfairly disciplined and disproportionately removed from school for the same behavior as their white and non-disabled peers. This has given rise to the Education Law Center's Complaint to the Department of Justice – which is currently under investigation - focused on disproportionate referrals of students with disabilities and students of color to inferior alternative education programs.

We ask the National Council to support and encourage the active participation of the Office of Civil Rights and the Department of Justice to investigate and resolve complaints, such as ours, to address discrimination and unfair practices that continue to create barriers to success for students of color and students with disabilities.

Additionally, we urge the Council to encourage federal and state law and policy makers to require state and local educational agencies to:

- Reduce the use of restrictive and segregated educational settings – and the use of special education as a form of discipline or remedial teaching, especially for minority students who struggle, but are without a qualifying disability.
- Reduce the use of exclusionary disciplinary practices and support the use of school-wide positive behavior supports and trauma informed practices that promote positive school climate and student achievement.

- Identify ways to reduce the financial disparities across school district and within school district so that resources can be aligned to meet the needs of students, and
- Support funding and interagency collaboration for early childhood education programs that provide high quality inclusive early learning experiences for all students beginning in early childhood.

Thank you for your time and consideration.