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TESTIMONY OF:

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Presented Before

The New York City Council Committee on Education

Oversight Hearing on Transfer Schools

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My name is Anna Arkin-Gallagher, and I am the Associate Director of the Civil Justice Practice at Brooklyn Defender Services (BDS). BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. For nearly 30 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. After 29 years of serving Brooklyn, we expanded our criminal defense services in Queens. We are proud to bring the same dedication and excellence to Queens. We thank the Committee on Education and Chair Joseph for the opportunity to address the Council about transfer schools and data reporting on manifestation determination reviews (MDRs) conducted for students with disabilities in New York City.

BDS's Education Unit delivers legal representation and informal advocacy to our school-age clients and to parents of children in New York City schools. Many of the people we serve are involved in the criminal legal system or in family court proceedings. A significant number of the students we work with qualify as "over-age and under-credited" and have been retained at least one grade, and more than half of the students we work with are classified as students with disabilities. We also represent parents in Article 10 proceedings in family court and advocate for their children to access educational resources while placed in the foster system. As an interdisciplinary legal and social work team, we work to improve access to education for the people we represent and their families. Much of our advocacy is to ensure youth have access to the special education services they are entitled to as well as to defend youth in school discipline proceedings to ensure they have access to an education. We also have expertise in educational matters related to those who are in detention and jails, and work to ensure our clients who are incarcerated or leaving incarceration are able to access the education to which they are entitled or find alternative pathways to graduation.

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Transfer Schools

Our team works with many young people who have become disconnected from school and fallen behind. For these students, transfer schools offer them a chance to reconnect with their education. Many of the young people our office has served have appreciated the small size, flexible programming, and internship opportunities available at transfer schools. It has been meaningful for these students to come closer to graduating on time – or even catch up to their graduation cohort.

Despite the positive experiences that many of our clients have had with transfer schools, our office finds that it is often challenging to help our clients enroll in transfer schools because of the decentralized nature of the application process. In order to apply to transfer schools, prospective students need to contact each school that they are interested in applying to one-by-one. While the NYC Public School (NYCPS) online [Transfer Schools Guide](#) contains some basic information about each transfer school and the types of students it serves, it is out of date. In fact, it still implies that all students are participating in remote learning, which has not been the case since the first years of the COVID-19 pandemic – and simply directs students to individually contact schools that they are interested in.

When our office is working to help students enroll in transfer schools, we find that it is often difficult to figure out which transfer schools are enrolling, what the enrollment process is, what the criteria are for admissions, or what the timeline is for admissions. Transfer school websites often do not contain up-to-date information on enrollment, it can be difficult to reach someone by phone who is familiar with the admissions process, and emails often go unanswered. An attorney from BDS recently visited a Family Welcome Center with a young person interested in enrolling in a transfer school. The enrollment counselor printed some information for the student on two nearby transfer schools. However, when the attorney followed up, neither school was accepting new students.

Young people interested in exploring transfer school options are, by definition, behind in school. Many of them have become disconnected from their education; some of them haven't attended school for some time. But often, when we first meet them, these young people are excited about the prospect of reengaging with school and working at an accelerated pace towards their high school graduation. Time and time again, however, the lengthy process of enrolling in a transfer school means we cannot seize upon this moment when students are excited to re-enroll. Our office has worked with many students who become so frustrated by the transfer school enrollment process that they drop out of school for good.

When students are rejected from transfer schools, there is often little transparency about why they have been rejected, and no support is provided in finding another option that might work for them. Our office worked with a young person last year who – at almost 19 – was rejected by several transfer schools. Our best guess was that schools were reluctant to accept a student who

was so close to aging out of school eligibility, but the transfer schools never stated this explicitly and so we could only speculate about why he was being rejected. What is more, when rejected, this young person was given no information from NYCPS about what educational options might have been more appropriate for him.

It is particularly difficult to find transfer school options that serve students with disabilities. We have seen situations where students with relatively common special education placements, like an Integrated Co-Teaching classroom, have been told that there is no room for them at transfer schools, and students with IEPs at transfer schools do not always receive their mandated services. But the lack of accelerated options is especially acute for students with specialized school placements. Our office has worked with many young people who have the academic capacity to do accelerated work. However, because their IEP indicates that they require a District 75 placement – often for behavioral disabilities – transfer schools are unavailable to them.

Another issue we find when working with young people is that many of the transfer schools in Brooklyn are clustered in a relatively small geographic area. When we are working with young people who live far from the neighborhoods with transfer school options – or who have safety concerns about being in these neighborhoods – there are few other options to explore with them. For clients in Queens, where there are only a few transfer school options in the entire borough, there are often no transfer schools located within reasonable commuting distance of a young person's home.

Finally, the accelerated options for middle school students are very limited. ReStart Academy has been a wonderful option for some of the young people we work with, who have been able to work at a faster pace to get into high school, and who appreciate being with their same-aged peers, as well as the support that ReStart offers. However, ReStart Academy is the *only* option for students in middle school, and younger middle school students (in sixth grade, and some seventh graders) have no options for catching up with their cohort. ReStart has also rejected some students our office has worked with and has dismissed some students from the program just days after they began if they exhibit behavioral challenges or have attendance issues. Once kicked out of ReStart, these young people have no other option but to return to a traditional middle school, where they may be years older than their peers.

In light of these difficulties, we urge the city to work towards improving access to transfer schools by making the following investments and policy changes:

Simplify the enrollment process for transfer schools. NYCPS must make it easier for over-age and under-credited students to enroll in transfer schools. Prospective students and families should be able to easily learn which transfer schools are currently accepting students, what the enrollment process is, and what the criteria for admission are. The Transfer School Guide on the NYCPS website should be regularly updated with this information and enrollment counselors at



Family Welcome Centers should be able to connect students with transfer school options that are appropriate for the student, and that have open seats.

Provide more support regarding alternative options for students who are not accepted to transfer schools. When a student is rejected from a transfer school, they should be immediately connected with an enrollment counselor for assistance finding another transfer school or program that may be appropriate for them.

Ensure that transfer schools are geographically distributed so that students have a choice of schools in a variety of neighborhoods. Students interested in attending transfer high schools should be able to find schools convenient to their homes, or in other neighborhoods where they feel safe attending school.

Expand the services at transfer schools available to students with disabilities. NYCPS should expand special education supports available to students at transfer high schools to allow more students with disabilities the opportunity to attend these schools, including creating options – such as District 75 inclusion programs – that will allow District 75 students to enroll in these schools when appropriate.

Increase accelerated options for younger students. Accelerated options like ReStart Academy should be extended to all middle school students and should be more widely available. Students should be given the opportunity to remain in this accelerated program, even if they are exhibiting behavioral challenges or have attendance issues.

Int. 1359

BDS supports Int. 1359, which will improve transparency regarding Manifestation Determination Reviews (MDRs) in New York City.

Over the past decade that our education team has attended MDRs, we have seen a wide range in how these meetings are conducted. MDRs we have attended have ranged from meetings where the intricacies of a student's disability and its relationship to the behavior leading to a suspension are thoughtfully considered to quick meetings where discussion is minimal, and a decision about whether a student's behavior is related to their disability appears to have been made before the family enters the MDR meeting.

We are hopeful that the reporting of data regarding MDRs will have the effect of improving how MDR meetings are conducted and also help the city to target areas where more support might be needed.

We thank you for the opportunity to submit testimony on this critically important topic. If you have any questions, please feel free to contact me at aarkingallagher@bds.org or (646) 971-2719.