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Mr. Guy Stephens  
Member, CCPS Restraint and Seclusion Committee

April 25, 2019

RE: The Arc Maryland's position regarding the use of seclusion and restraint in schools

Dear Mr. Stephens,

I am glad to hear that the recent Calvert County Public School (CCPS) Board of Education meeting about this issue went well and was productive. On behalf of The Arc Southern Maryland I thank you and CCPS for creating and participating on the newly formed Calvert County Board of Education Restraint and Seclusion Committee. Per our recent conversation I am pleased to share The Arc Maryland's official position with regard to the use of seclusion and restraint in school settings.

### *Position*

To ensure students with I/DD receive the education to which they are legally entitled, all those involved in the education of these students must work to fully implement our nation's civil rights and education laws and accomplish the following actions.

#### **All Means All: Zero Reject**

- Assure timely evaluation, identification, and provision of education and related services to all students with I/DD, incorporating all aspects of the students' diversity, including age, gender, ethnicity, culture, language, socio-economic circumstances, sexual orientation, and family environment.
- Disciplinary actions (suspension, expulsion, segregation) and alternate placements should not exclude the student from access to appropriate education and related services.

#### **Non-Discriminatory and Comprehensive Eligibility Evaluations and Appropriate Assessments**

- Assure that the needs of the individual are considered fairly and comprehensively, including cognitive, emotional, functional, and developmental needs, as well as all areas of suspected disability and mental health needs.
- Assure that multiple assessments, including those that identify a student's strengths and abilities, are used and that IQ is not the sole measure of human functioning, nor does IQ alone determine placement or access to the general curriculum.

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- Exercise clinical judgment that is built upon respect for the person and emerges from specialized training and experience in I/DD, specific knowledge of the person and his/her environments, extensive data, and use of critical thinking skills.
- Assure that any predictions about a student's potential learning are evidence-based and founded in high expectations for further education, employment, and independent living.
- Assure that all educators implement appropriately ambitious goals and challenging objectives and use measurements of progress that are aligned to the unique ways that students with I/DD learn. Develop adaptations for assessment and grading, when necessary, that accurately capture the strengths and limitations of students with I/DD.

**High Expectations and Free Appropriate Public Education (FAPE)**

- Develop and implement IEPs with high expectations that include appropriately ambitious personalized goals and challenging objectives and that build on a student's strengths; meet the student's learning, employment, and independent living needs; and offer related services and supplementary services necessary and likely, based on evidence, to ensure the student will make progress toward achieving the nation's four policy goals.
- Ensure that all students have access to the general education curriculum. General education includes the academic curriculum, extracurricular activities, and other school activities.
- Incorporate evidence-based, peer-reviewed instructional strategies and interventions, provided by professionally qualified teachers, related services personnel, and other staff, all of whom receive the training, preparation, and supports they need to be effective professionals.
- Ensure that a range of appropriate technology options are made available in a timely and culturally and linguistically appropriate manner to all students who could benefit from them, and that the necessary training for use of the technology is provided immediately and consistently.

**Autonomy, Self-Determination, and Decision-Making Supports**

- Incorporate and support the development of autonomy, self-determination, self-advocacy, and leadership skills throughout students' educational experiences, including meaningful participation in the student's IEP.
- Assure that school policy and semi-annual in-service training emphasizes autonomy, self-determination, and decision-making supports, and that teachers and other non-lawyers do not give families legal advice related to guardianship.

**Inclusion and the Least Restrictive Environment (LRE)**

- To the maximum extent appropriate, every student has a right to be educated in their inclusive neighborhood school and in the general education curriculum in that school. Any exception should be rare and considered only when education in the general education classroom cannot be satisfactorily achieved. Each student has a right to the related services, supplementary aids and services, accommodations, and modifications needed to learn alongside students without disabilities.
- Assure that the student is integrated in academic and social aspects of the general curriculum.
- Include an explicit written plan to achieve more integration in both academic and social aspects of the general curriculum when the student is currently in a restricted setting.
- Foster the development of peer relationships and membership in the school community to create a receptive, welcoming atmosphere, including extracurricular activities and school trips.
- Avoid the long-term costs of segregating students with I/DD, including the reduced opportunities for learning, employment, independent living, and social engagement.

- Ensure that all teachers and related services personnel are trained, prepared, and supported to teach and support students effectively in the general education curriculum and in inclusive settings.

**Safe and Supportive Education Environments**

- Ensure safe school environments that provide mental health supports and protection against bullying.
- Ensure that all students with I/DD have effective culturally and linguistically appropriate communication systems and technology that reduces the need to use behavior to communicate and maximize educational engagement.
- Assure development and ongoing use of school-wide and system-wide intervention models, including school-wide positive behavioral supports and using the principles of universal design for learning (UDL) in designing curricula, materials, instruction, and assessments to create maximum access to learning environments for students with diverse abilities and learning styles.
- Avoid harsh policies and procedures, such as “zero tolerance”, that lead to exclusion, injury, loss of education, or involvement with the criminal justice system by implementing school-wide positive behavior support that includes students with disabilities to prevent or eliminate such situations. Assure appropriate evaluations and IEPs, and avoid the criminalization of behaviors that are the manifestation of the student’s disabilities.
- Prohibit the use of mechanical or chemical restraint, isolation, or aversives. Emergency, time-limited, monitored restraint may be used only by trained personnel and only when the student’s behavior presents an imminent danger of serious physical harm to the student or others and less restrictive interventions are insufficient to mitigate the imminent danger of serious physical harm. Physical restraint which restricts airflow, including prone restraint, and mechanical restraint must be prohibited.
- Ensure that supports and strategies are planned and implemented to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.
- Assure that students are not disciplined for the manifestation of their disabilities.
- Assure safe school transportation for all students with disabilities, provided by trained and monitored drivers with background checks, in order to avoid abuse and maltreatment of students. Schools must assure the sufficient allocation of transportation resources such that transportation is not used to justify early departures, late arrivals, or excessive travel times.

**School Choice**

- Charter schools and private schools that accept public funds through a voucher or voucher-like system must comply with IDEA, the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act (Section 504). Specifically, they must provide zero reject and free appropriate public education in the least restrictive environment, including nondiscriminatory evaluation, individualized appropriate education plan, access to the general curriculum (academic, extracurricular, and other school activities), procedural safeguards, and parent participation.
- Ensure that school choice efforts do not diminish the resources and effectiveness of public school systems in which they operate.

**Family and Student Participation**

- Ensure the meaningful participation of students, families, and their chosen advisors in the evaluation of students and the design and monitoring of the students’ IEPs.
- Assure that parents with special needs, including those with disabilities or language or cultural differences, receive the information, supports, services, and full ADA/504 rights to effectively exercise their rights to partner in the education of their children.



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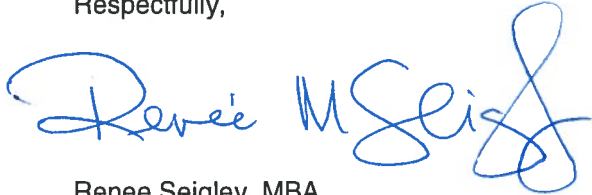
- Expediently connect students and families with information, resources, and training that help them understand and exercise their rights under the IDEA, Section 504, the ADA, Family Educational Rights and Privacy Act (FERPA), and the Every Student Succeeds Act (ESSA).
- Assure that school personnel provide timely explanations that are understandable and use functional descriptive language for special education and related services being proposed for the student.  
**Lifelong Education, Transition, and Post-Secondary Education**
- Provide early intervention and preschool services to infants, toddlers, and preschool-age children with disabilities alongside their typical peers and provide transition planning for children to ensure access to the general education curriculum and full integration in neighborhood schools as they move to kindergarten or first grade.
- Develop and implement transition plans based on student strengths, preferences, and interests to facilitate each student's successful movement from school to adult life, including postsecondary and vocational education, competitive integrated employment, independent living, and community participation.
- Develop an individualized postsecondary and/or pre-employment program, including choices and creative career exploration through apprenticeships and internships, in coordination with IDEA and the Workforce Innovation and Opportunity Act (WIOA).
- Ensure that all students receive meaningful evidence of their school achievements including diplomas.  
**System Capacity Development, Funding, Oversight, and Accountability**
- Assure that the training, preparation, compensation, supports, and accountability systems needed to build a cadre of effective professional teachers, other education personnel such as school principals, related services personnel, paraprofessionals, and other staff are evidence-based and effective to meet the child's specific needs.
- Assure a cadre of effective lay and legal advocates to assist families and individuals to exercise their rights.
- Increase active monitoring and enforcement through local, state, and federal agencies to ensure that the IDEA, ADA, Section 504, and state special education laws and mandates are met.
- Fulfill the federal commitment to fully fund the IDEA.
- Ensure that all students with disabilities, including those with the most significant cognitive disabilities, continue to be included in public school, district, and state level accountability systems. Ensure that states are not allowed to exempt more than 1% of students (that is, exempt only those students that the state determines have the most significant cognitive disabilities up to 1%) from their general accountability data.

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Respectfully,



Renee Seigley, MBA

Director of Development

The Arc Southern Maryland

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Joint Statement with the American Association on Intellectual and Developmental Disabilities (AAIDD).

<sup>1</sup> "People with intellectual disability (ID)" refers to those with "significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social, and practical adaptive skills. This disability originates before age 18", as defined by the American Association on Intellectual and Developmental Disabilities (AAIDD) in its manual, *Intellectual Disability: Definition, Classification, and Systems of Supports* (Schalock et al., 2010), and the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5), published by the American Psychiatric Association (APA, 2013). "People with developmental disabilities (DD)" refers to those with "a severe, chronic disability of an individual that- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is manifested before the individual attains age 22; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated," as defined by the Developmental Disabilities Assistance and Bill of Rights Act 2000. In everyday language people with ID and/or DD are frequently referred to as people with cognitive, intellectual and/or developmental disabilities.

<sup>2</sup> In March 2017, the U.S. Supreme Court issued a unanimous decision in *Endrew F. v. Douglas County School District RE-1* clarifying the test for determining whether school districts have met their obligation to provide a free appropriate public education (FAPE) to students with disabilities guaranteed by the Individuals with Disabilities Education Act. The Court ruled that a child's educational program must be "appropriately ambitious in light of his circumstances," a more demanding standard than the "merely more than de minimis" test applied by the Tenth Circuit.