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**COMMISSION ON INNOVATION AND EXCELLENCE IN EDUCATION
TESTIMONY OF DISABILITY RIGHTS MARYLAND
OCTOBER 25, 2017**

Disability Rights Maryland (DRM) is the protection and advocacy organization for the state of Maryland; in this role, DRM advocates on behalf of children and adults with disabilities throughout the state. Over the years, DRM has dedicated considerable attention to representation of students with disabilities in individual and systemic special education matters and to working on education policy issues that affect students with disabilities in Maryland. We appreciate the opportunity to testify before the Commission.

At the outset, I want to set forth a few of the legal principles that guide the education of students with disabilities. Federal and state laws mandate a “free appropriate public education” for students with disabilities from birth through the age of 21. The United States Supreme Court recently made clear that an appropriate education is one that, for most students, allows them to become academically proficient and to advance from grade to grade and, for the small number of students with the most significant disabilities, is one that is designed to enable them to meet challenging and appropriately ambitious goals. Students with disabilities are to be educated in general education classes with their nondisabled peers to the greatest extent possible and may be removed to more restrictive settings only when they cannot be educated satisfactorily in less restrictive settings even with supplementary aids and services and programmatic modifications and supports. Placement decisions cannot be based on the nature or severity of the student’s disability, on administrative convenience, or on the configuration of the service delivery system.

With these principles in mind, let me address several issues regarding funding and students with disabilities:

- 1) **Infants and toddlers/early intervention system:** Although the intent of the early intervention system is to provide services to children and their families to try to decrease or eliminate the need for intensive services when children reach school-age, early intervention services are often minimal or non-existent. For example, in one jurisdiction, infants and toddlers who are identified as needing mental health services receive referrals but no actual services. The infants and toddlers/early intervention system needs sufficient funding to ensure that the youngest children with developmental delays and disabilities and their families receive all needed services in needed amounts to enable them to begin school as ready as possible to achieve alongside their peers without disabilities.
- 2) **Teacher and administrator preparation/Professional development:** Too often, those of us who represent students with disabilities find that the reason our clients are not making progress in school is not because of their disabilities but because the teachers and administrators entrusted with their education do not understand how to deliver educational and support services to them. Administrators and general educators typically get “drive by” exposure to special education; special educators often have little understanding of the general education curriculum. Administrators often do not understand how to support special education instructional and support services within their schools. The result can be poor quality services at best and significant violations of the law at worst. Sufficient funding is necessary to ensure that Maryland’s institutions of higher education can develop programs that truly prepare teachers and administrators to serve all the students who will come through the doors of their schools, and to ensure that ongoing professional development for teachers and administrators is well-designed, of high quality, and equitable across districts throughout the state.
- 3) **Base amount of student funding should include implementation of universal design for learning:** In the same way that a curb cut or a ramp benefits parents with strollers,

skateboarders, cyclists and others in addition to people with disabilities who use wheelchairs, a classroom that adheres to the principles of universal design for learning uses natural supports and curriculum adaptations that can be used by everyone in the class. Adherence to the principles of universal design for learning has been required by COMAR since the 2014-15 school year. Costs can be built into the base funding amount and spread among all students. Some students with disabilities may not need additional special education services if universal design for learning is implemented effectively. For those that do, additional funds should be allocated. For an explanation of the principles of universal design for learning, see <http://community.strategictransitions.com/weblearn/udl/resources/udlinfo/udlfaq.pdf> , a fact sheet from CAST, which also compares the likely costs of implementing versus not implementing universal design for learning.

- 4) **Weighting system for students with disabilities cannot result in an incentive to place students in segregated settings:** If the Commission recommends additional funding on top of the base amount for students who require special education services and supports, it must do so in a way that does not create an incentive to place students in more restrictive settings, either deliberately, which would violate federal and state laws, or inadvertently, for example, by linking funding to class size or teacher-student ratio.
- 5) **Special education decisions must not be made on the basis of cost or availability of services or the perceived cost or availability of services:** Federal and state laws require that students receive instruction and services designed to meet their unique needs. Too often, however, what students receive is dictated by the availability of staff (e.g., the speech pathologist is only at the school once a week), and services depend on the student's zip code (e.g., a school in one jurisdiction has two reading specialists and a school in another jurisdiction has only a half-time reading specialist). Or, decisions are made by school-based teams based on whether or not they

think they will be penalized by administrators for recommending services that are considered expensive, such as a one-to-one instructional assistant to enable a student to remain in the general education classroom. Nickel and diming the education of students with disabilities, sometimes explicitly, when school staff tell parents their child would benefit from a service but there is no money for it, only underscores the inherent institutional discrimination that still exists against people with disabilities. Funding needs to be sufficient to enable all of Maryland's local school systems to implement the mandates of federal and state law, regardless of whether the district is large or small, urban, rural or suburban.

6) **Failing to provide sufficient funding to educate students with disabilities comes at a high price:**

It costs more than \$140,000 a year to incarcerate a young person. *See, e.g.,* http://rudermanfoundation.org/white_papers/criminalization-of-children-with-non-apparent-disabilities/ . Also *see:* <https://www.teenvogue.com/story/why-disabled-youth-are-more-at-risk-of-being-incarcerated> . According to the National Council on Disability, studies show that up to 85% of youth in juvenile detention facilities have disabilities that make them eligible for special education services, but only 37% actually receive those services while in school. *See:* <https://www.ncd.gov/publications/2015/06182015> . Given these statistics, it is clear that it is financially sensible to invest money up-front in the education of students with disabilities. However, it is also clear that it is unconscionable not to do so.

The Commission faces the monumental task of determining how to structure school funding for the foreseeable future. DRM thanks you for the opportunity to share our testimony, and we hope that you will consider the points we have made as you move forward.

For additional information or questions, please contact: Leslie Seid Margolis, Managing Attorney: lesliem@disabilityrightsmd.org or 410-727-6352, extension 2505.

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