

AUDIT REPORT

Special Education Attorney Certifications (FY 2023)

OIG No. 24-1-01MA

October 16, 2024



DANIEL W. LUCAS
INSPECTOR GENERAL



OUR MISSION

We independently audit, inspect, and investigate matters pertaining to the District of Columbia government in order to:

- prevent and detect corruption, mismanagement, waste, fraud, and abuse;
- promote economy, efficiency, effectiveness, and accountability; inform stakeholders about issues relating to District programs and operations; and
- recommend and track the implementation of corrective actions.

OUR VISION

We strive to be a world-class Office of the Inspector General that is customer focused and sets the standard for oversight excellence!

OUR VALUES

Accountability: We recognize that our duty extends beyond oversight; it encompasses responsibility. By holding ourselves accountable, we ensure that every action we take contributes to the greater good of the District.

Continuous Improvement: We view challenges not as obstacles, but as opportunities for growth. Our commitment to continuous improvement drives us to evolve, adapt, and enhance our practices.

Excellence: Mediocrity has no place in our lexicon. We strive for excellence in every facet of our work.

Integrity: Our integrity is non-negotiable. We act with honesty, transparency, and unwavering ethics. Upholding the public's trust demands nothing less.

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Transparency: Sunlight is our ally. Transparency illuminates our processes, decisions, and outcomes. By sharing information openly, we empower stakeholders, promote understanding, and reinforce our commitment to accountability.





DISTRICT OF COLUMBIA | OFFICE OF THE INSPECTOR GENERAL

MEMORANDUM

To: Mr. Glen Lee, Chief Financial Officer for the District of Columbia
Dr. Lewis D. Ferebee, Chancellor
District of Columbia Public Schools
Hon. Phil Mendelson, Chairman
Council of the District of Columbia

From: Daniel W. Lucas
Inspector General 

Date: October 16, 2024

Subject: **Special Education Attorney Certifications (FY 2023) OIG No. 24-1-01MA**

This memorandum transmits our report, *Special Education Attorney Certifications (FY 2023)*, OIG No. 24-1-01MA. We conducted this audit pursuant to DC Code § 1-301.115a(a)(3)(J), which requires the OIG to annually determine the accuracy of attorney certifications made to the Office of the Chief Financial Officer (OCFO) in special education cases brought under the Individuals with Disabilities Education Act (IDEA)¹ in the District. This audit was included in our *Fiscal Year 2024 Audit and Inspection Plan*. We performed the audit in accordance with generally accepted government auditing standards (GAGAS) and District law governing this annual audit.

Our audit found that attorneys representing students with special education complaints billed the District \$5.4 million (rounded) in FY 2023 under IDEA. Settlements were reached reducing this amount to approximately \$3.1 million. We obtained sufficient evidence to determine that attorney certifications to OCFO in

¹ 20 U.S.C.S. §§ 1400 – 1482 (Lexis current through Pub. L. No. 118-78, Jul. 30, 2024).

IDEA cases were accurate due to DCPS Office of General Counsel's robust internal control mechanisms at every stage of the attorney certification process.

We also determined that DCPS has not implemented a recommendation from a prior audit report to track IDEA complaints and their outcomes. Tracking the progress of complaints is crucial because the attorneys' fees and costs incurred by DCPS may escalate based on the time it takes to resolve cases. Additionally, data on outcomes can inform and enhance the District's negotiation strategies. We therefore reiterate our recommendation that DCPS develop the capacity to track and analyze IDEA complaints and outcomes.

We appreciate the cooperation and courtesy extended to our staff during this audit. If you have any questions about this report, please contact me or Dr. Slemo Warigon, Assistant Inspector General for Audits, at slemo.warigon@dc.gov or (202) 792-5684.



EXECUTIVE SUMMARY

Special Education Attorney Certifications (FY 2023)

Why We Did This Audit

The Office of the Inspector General (OIG) conducted this audit of Special Education Attorney Certifications (OIG No. 24-1-01MA) pursuant to DC Code § 1-301.115a(a)(3)(J), which requires the OIG to annually determine the accuracy of attorney certifications made to the Office of the Chief Financial Officer (OCFO) in special education cases brought under the Individuals with Disabilities Education Act (IDEA) in the District. This audit was included in our *Fiscal Year 2024 Audit and Inspection Plan*.

We conducted this audit in accordance with generally accepted government auditing standards (GAGAS) to determine the accuracy of the 130 attorney certifications made to OCFO in fiscal year (FY) 2023.

Audit Objectives

The objective of this audit engagement was to determine the accuracy of certifications made to OCFO by attorneys in special education cases brought under IDEA in the District.

In addition, we assessed the status of recommendations published in previous audit reports.

Our Findings

Attorneys representing students with special education complaints billed the District \$5.4 million in FY 2023 under IDEA. Settlements were reached reducing this amount to approximately \$3.1 million.

- (1) We obtained sufficient evidence to determine that attorney certifications to OCFO in IDEA cases were accurate and compliant with DC Code § 1-204-24d(28).
- (2) We also found DCPS had robust internal controls to ensure accuracy and compliance with certification requirements under DC Code § 1-204-24d(28).
- (3) Finally, we found DCPS has not implemented a prior recommendation that they develop the capacity to track and analyze IDEA cases and their outcomes.

Recommendation

We recommend the DCPS Chancellor:

- Track IDEA complaints to help identify opportunities for reducing attorney fees and provide better service to students with disabilities, consistent with Recommendation 5 from our November 15, 2019, audit report ([OIG No. 19-1-26AT](#)).





Special Education Attorney Certifications (FY 2023)

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INTRODUCTION

Objective

The objective of this audit was to determine the accuracy of certifications made to the Office of the Chief Financial Officer (OCFO) by attorneys in special education cases successfully brought under IDEA in the District.

See Appendix 1 for our audit scope and methodology.

Background

The Individuals with Disabilities Education Act (IDEA) is a federal law that guarantees students with disabilities the right to a free and appropriate public education. Section 615 of this Act (20 U.S.C.S. § 1415) includes procedural safeguards to ensure that students who file a complaint about their education can access legal representation, even if they cannot afford to pay attorneys' fees. If a student prevails in an administrative hearing, they can secure attorney services and recover attorneys' fees from the local education agency.

In the District of Columbia, the complaint resolution process starts with filing a complaint at the Office of Dispute Resolution within the Office of the State Superintendent of Education (OSSE). The District of Columbia Public Schools (DCPS) can offer a settlement within 30 days of receiving the complaint. If the complainant and DCPS reach an agreement within this period, they sign a legally binding settlement agreement, which will include attorneys' fees. If no settlement is reached, the complaint moves to an administrative hearing.

During the administrative due process hearing, attorneys from both sides present expert witnesses and evidence to support their arguments. If the hearing officer rules in favor of the complainant, DCPS is required to reimburse the complainant's attorneys' fees. It is now common practice for complainants to authorize their attorneys to invoice fees directly to DCPS and receive payment directly from them.

DCPS Process for Reviewing Attorney Invoices

The DCPS Office of the General Counsel (DCPS-OGC) is responsible for receiving, reviewing, and approving attorney invoices for payment by the Office of the Chief Financial Officer (OCFO). To facilitate this process, DCPS-OGC has developed an attorney invoice submission packet that must be completed by attorneys seeking payment. This packet includes a certification signed by the attorney, detailing each activity, the individual performing it, the allowed rate, and the amount claimed. The DCPS-OGC policies and procedures manual provides comprehensive instructions for

staff on evaluating the accuracy of attorney invoices, including fee rates and allowable costs.

Once the invoices have been reviewed and approved, DCPS-OGC prepares a cover sheet indicating the approved payment amount. The team then forwards the packet to the OCFO Business Center for processing.

OCFO Process for Paying Attorneys

OCFO receives the attorney invoice submission packet from DCPS-OGC with the approved amounts for payment. OCFO staff enter the payee's name and approved payment into the Procurement Automated Support System (PASS) and the District Integrated Financial System (DIFS). Also, OCFO submits quarterly reports to the House of Representatives and Senate Committees on Appropriations to comply with DC Code § 1-204.24d(28)(C).

Court-Ordered Attorney Fee Payments

Attorneys who prefer not to have their invoices evaluated by DCPS-OGC can pursue their claims in court. Section 615 of the IDEA, codified at 20 USCS § 1415(i)(3)(B), grants courts the authority to award reasonable attorneys' fees to the prevailing party in an IDEA proceeding. The District of Columbia Office of the Attorney General (OAG) represents the District in these court cases. Additionally, the OAG may engage in negotiations with the attorney for potential out-of-court settlements. Once the court awards fees or a negotiated settlement is reached, the OAG communicates the outcome to DCPS-OGC. DCPS-OGC then prepares a payment sheet for the court-ordered fees or amount negotiated by OAG.

FISCAL YEAR 2023 SUMMARY

When a plaintiff prevails in a special education administrative hearing with a resulting award from the court, attorneys primarily seek payments through the District of Columbia Superior Court or DCPS-OGC. Special education attorneys may also seek payment by directly negotiating payments with DCPS-OGC during legal proceedings or settlement negotiations.

OCFO reviewed and processed 130 special education attorney certifications seeking payments of approximately \$5.4 million (rounded) during FY 2023. DCPS-OGC, OAG, and OSSE agreed to make payments totaling \$3.1 million (rounded), reducing the total amount by 42 percent, or \$2.3 million (rounded). See Table 1 on the next page.

Table 1: Amount Attorneys Certified vs. Amount Paid During FY 2023.

Resolution Type	Cases Resolved	Amounts Certified	Final Amounts Paid	Reductions ("Amounts Certified" Minus "Final Amounts Paid")
Court Ordered	0	\$ -	\$ -	\$ -
OSSE Settlements	13	\$ 166,477.47	\$ 148,422.66	\$ 18,054.81
OAG Settlements	7	\$ 943,312.26	\$ 590,000.00	\$ 353,312.26
DCPS-OGC Settlements	110	\$ 4,286,215.68	\$ 2,375,375.00	\$ 1,910,840.68
Total	130	\$ 5,396,005.41	\$ 3,113,797.66	\$ 2,282,207.75

SOURCE: OIG ANALYSIS OF DCPS AND OCFO RECORDS

OUR FINDINGS

Finding 1: The District Paid \$3.1M in FY2023 IDEA Attorney Fees.

OCFO reviewed and processed 130 special education attorney certifications seeking payments of \$5.4 million (rounded) in requests for fee payments during FY 2023. To resolve these fee payment requests, DCPS-OGC, OAG, and OSSE agreed to reduce the total amount by 42 percent, or \$2.3 million (rounded). The final amount paid totaled \$3.1 million (rounded).

Finding 2: Attorneys Accurately Certified Their IDEA Fees to the Chief Financial Officer.

Certifications made to OCFO by attorneys in special education cases brought under IDEA in the District in FY 2023 were accurate.

To assess the accuracy of the certifications, we examined a sample of 45 out of the 130 attorney fee payments (see Methodology section for detail). We found that all attorney fee payments in our sample were accurate and that all invoice packages included the required attorney certifications.

Finding 3: DCPS' Robust Internal Controls Ensure Attorney Certification Accuracy.

DCPS-OGC's robust internal control mechanisms ensured the accuracy of information contained in invoice packages at every stage of the attorney certification process. Accordingly, DCPS ensured the accuracy of certifications made to OCFO of attorneys in special education brought under IDEA in the District of Columbia as required by DC Code § 1-204-24d(28).

Finding 4: DCPS Has Not Implemented IDEA Tracking, as Previously Recommended.

Pursuant to generally accepted government accounting standards (GAGAS), we decided to follow up on prior findings and the five recommendations from the OIG's November 15, 2019, audit report ([OIG No. 19-1-26AT](#)). However, this follow-up was not part of our stated audit objective.

In the 2019 audit report, we found that DCPS did not track IDEA complaints and their outcomes. Tracking the progress of complaints is crucial because the attorneys' fees and costs incurred by DCPS may escalate based on the time it takes to resolve cases. Additionally, data on outcomes can inform and enhance the District's negotiation strategies. Accordingly, we recommended DCPS track and analyze the outcome of IDEA complaints on a monthly basis.

This recommendation (Recommendation 5) remains open and unresolved. DCPS informed us that a database to track open IDEA complaints and their outcomes has yet to be developed and implemented, and the individual who previously served as DCPS' liaison regarding this recommendation separated from the agency in 2021. Due to its importance, we are reiterating this recommendation in the current audit report.

Our 2019 audit report recommended that DCPS maintain documentation and evidence of the basis on which negotiated settlements were determined (Recommendation 4). Our engagement has found that DCPS implemented corrective action. We received the attorney fees worksheet that itemizes all the professional services charged and the negotiated settlement amounts, which appropriately supported the reduction of fees. Based on our verification of relevant evidence, this recommendation is now closed.

In response to our inquiry about the implementation for our prior recommendations, DCPS indicated they would not implement corrective actions for two recommendations (Recommendations 1 and 3) from the 2019 report. DCPS officials indicated their attorneys could not implement the recommendations without violating attorney-client privilege regarding case files. However, we developed an approach to complete this engagement and address the audit objective without

access to the underlying case files (see Methodology for details). As a result, we have determined that the scope limitation first described in our 2019 audit report is no longer present, and we are closing these recommendations.

WHAT WE RECOMMEND

Recommendation
We recommend that the DCPS Chancellor: <ol style="list-style-type: none">1. Track IDEA complaints to help identify opportunities to reduce attorney fees and provide better services to students with disabilities, consistent with Recommendation 5 of our November 15, 2019 (OIG No. 19-1-26AT) audit report.

Management Response:

DCPS currently utilizes a Hearing Officer Determination (HOD) tracker, a system built to replace the system previously known as the Blackman/Jones database. The HOD tracker tracks the complaints, the activity associated with resolving the complaints, inclusive legal activity and outcomes. The HOD tracker also houses all documents generated after the complaint is filed much like a court docket system but also includes programmatic documents related to the complaint and outcomes.

DCPS continues to collaborate with the Office of the Chief Technology Officer (OCTO) to update and enhance this system. The goal is to gain better insights into the issues raised in complaints by identifying trends, and to track the outcomes of the complaint process. The HOD tracker currently tracks the relief awarded or granted and will track the associated programmatic costs. This enhanced system will enable DCPS to assess the actual value of IDEA cases from start to conclusion, helping us identify opportunities to reduce attorney fees and improve services for students with disabilities.

CONCLUSION

We determined that the certifications made to OCFO under DC Code § 1-204.24d(28) of attorneys in special education cases brought under IDEA in the District of Columbia were accurate and, and DCPS's internal controls to ensure accuracy and compliance are robust.

Our assessment of recommendations from a previous audit report revealed that DCPS has not implemented our recommendation that DCPS develop the capacity to track and analyze the outcomes of IDEA complaints monthly. Accordingly, we reiterate our recommendation to DCPS to develop this capacity.



APPENDIX 1. OBJECTIVE, SCOPE & METHOD

Objective

The objective of this audit was to determine the accuracy of certifications made to the Office of the Chief Financial Officer (OCFO) by attorneys in special education cases successfully brought under IDEA in the District.

Scope

The scope encompassed attorney fee payments made during fiscal year (FY) 2023. These payments were certified to ensure accuracy and compliance with established procedures. The audit evaluated the processes and controls involved in the review, approval, and payment of these attorney fees, ensuring that all payments were properly authorized and correctly processed in accordance with relevant policies and regulations.

Additionally, the scope included OIG audit recommendations made to DCPS in prior audit reports. We analyzed the status of the recommendations to determine which should be closed and which required additional follow-up.

Methodology

We conducted interviews with staff members and officials from DCPS, DCPS-OGC, and OCFO, reviewed and assessed compliance with laws and regulations, and acquired an understanding of procedures for approving, recording, and reporting attorney certification payments. We also reviewed OCFO's financial data and quarterly reports, and policies and procedures.

Although we were denied access to the underlying case files, DCPS provided relevant and sufficient evidence, including certifications, invoices, and other supporting documentation of equivalency to determine the accuracy of the attorney fee payments.

To assess the accuracy of the certifications, we examined a sample consisting of 45 out of a total 130 attorney fee payments. We randomly selected 42 of these payments and selected the remaining 3 payments because they had incomplete or missing invoice numbers.

All attorney fee payments in the sample, and their associated invoice packages, were compared with DCPS' Quarterly IDEA Attorney Fees Reports. These are statutorily mandated reports that OCFO submits to Congress in accordance with DC Code § 1-204.24d(28)(C). We checked all invoice packages in the sample for certification that the attorney rendered all services for which the attorney received an award and disclosed any relationship with any special education services or schools, in accordance with DC Code § 1-204.24d(28)(A)-(B). Additionally, we ensured that each

invoice package followed DCPS-OGC policies and procedures governing special education attorney fee payments.

During this engagement, we also reviewed prior audit reports, follow-up correspondence, and internal tracking to ascertain the status of open recommendations. In addition, we sent DCPS a questionnaire regarding the status of each open recommendation, which they returned to us, and we met to discuss the open recommendations (see Appendix 2).



APPENDIX 2. MANAGEMENT RESPONSE



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Office of the Chancellor

VIA EMAIL: daniel.lucas@dc.gov; slemo.warigon@dc.gov

September 27, 2024

Daniel W. Lucas
Inspector General
717 14th Street, N.W.
Washington, DC 20005

Subject: Audit of Special Education Attorney Certifications (Fiscal Year 2023)
OIG No. 24-1-01MA

Dear Inspector General Lucas:

The District of Columbia Public Schools (DCPS) is in receipt of your office's September 12, 2024, draft audit report entitled: *District of Columbia Public Schools AND Office of the Chief Financial Officer: Access to Attorney Records is Needed to Determine the Accuracy of Attorney Certifications*. Thank you for conducting this statutorily required audit and providing your opinion as well as allowing us the opportunity to respond and provide feedback. Our responses to the audit recommendations are detailed below.

RECOMMENDATION:

We recommend the DCPS Chancellor:

1. Track IDEA complaints to help identify opportunities for reducing attorney fees and provide better service to students with disabilities, consistent with Recommendation 5 from our November 15, 2019, audit report ([OIG No. 19-1-26AT](#)).

DCPS Response:

DCPS currently utilizes a Hearing Officer Determination (HOD) tracker, a system built to replace the system previously known as the Blackman/Jones database. The HOD tracker tracks the complaints, the activity associated with resolving the complaints, inclusive legal activity and outcomes. The HOD tracker also houses all documents generated after the complaint is filed much like a court docket system but also includes programmatic documents related to the complaint and outcomes.

DCPS continues to collaborate with the Office of the Chief Technology Officer (OCTO) to update and enhance this system. The goal is to gain better insights into the issues raised in complaints by identifying trends, and to track the outcomes of the complaint process. The HOD tracker currently tracks the relief awarded or granted and will track the associated programmatic costs. This enhanced system will enable DCPS to assess the actual value of IDEA cases from start to conclusion, helping us identify opportunities to reduce attorney fees and improve services for students with disabilities.

DCPS Response – OIG Audit of Special Education Attorney Certifications
September 27, 2024

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Thank you for the opportunity to respond to the draft report. DCPS has made great strides to correct deficiencies as evidenced in the audits previously conducted of special education attorney certifications made to the Office of the Chief Financial Officer in Individuals with Disabilities Education Act (IDEA) cases.

Sincerely,



Lewis D. Ferebee, Ed.D.
Chancellor
District of Columbia Public Schools



APPENDIX 3. RECOMMENDATION STATUS

Recommendation	Status	Action Required
1. Track IDEA complaints to help identify opportunities to reduce attorney fees and provide better services to students with disabilities, consistent with Recommendation 5 of our November 15, 2019 (OIG No. 19-1-26AT) audit report.	Resolved	Tracking implementation



APPENDIX 4. PRIOR RECOMMENDATIONS

Finding	Recommendations	Agency Response	Recommendation Status
Accuracy of attorney certifications cannot be verified due to attorney-client privilege.	1. Address the attorney-client privilege issue discussed above so OIG can determine the accuracy of certifications made to the Chief Financial Officer as required by DC Code § 1-301.115a(a)(3)(J).	Disagree	Closed
DCPS-OGC omitted disclosure language from Attorney Certification Form.	2. Cite DC Code § 1-204.24d(28)(B) in the certification section of the packet.	Agree	Closed ²
DCPS did not establish policies and procedures over IDEA complaint settlement process.	3. Establish standard operating procedures to provide guidance on how DCPS-OGC staff attorneys determine fees in negotiated settlements.	Disagree	Closed
	4. Maintain documentation or evidence of the basis on which negotiated settlements were determined.	Agree	Closed
DCPS does not track and analyze the outcome of IDEA complaints.	5. Track and analyze the outcome of IDEA complaints on a monthly basis.	Agree	Open

² This recommendation was closed in the OIG audit report dated May 27, 2022 (OIG #21-1-26AT)



APPENDIX 5. AUDIT STANDARDS

Government Accounting Standard (GAS) § 9.08³ states that the purposes of audit reports are to (1) clearly communicate the results of audits to those charged with governance, the appropriate officials of the audited entity, and the appropriate oversight officials, and (2) facilitate follow-up to determine whether appropriate corrective actions have been taken. In addition, GAS § 8.30 requires auditors to evaluate whether the audited entity has taken appropriate corrective action to address findings and recommendations from previous engagements that are significant within the context of the audit objectives.

DC Code § 1-301.115a(a-1)(3) requires the OIG to provide a means for keeping the Mayor, Council, and District government department and agency heads fully and currently informed about problems and deficiencies relating to the administration of District programs, and operations and the necessity for and progress of corrective actions.

³ United States Government Accountability Office's *Government Auditing Standards*, 2018 Revision with April 2021 Technical Update.

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