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Landmark Class Action Lawsuit Targets D.C. and Federal Bureau of Prisons for Denying Education to Incarcerated Students with Disabilities

Decade-Long Civil Rights Violation Exposes Systemic Denial of Education to D.C.'s Incarcerated Students with Disabilities

Monday, April 1, 2024 (Washington, D.C.) - Today, Washington Lawyers' Committee, School Justice Project and the law firm Nixon Peabody LLP [filed a federal class action lawsuit](#) alleging the District of Columbia has deprived every eligible D.C. student with disabilities serving a sentence in the Bureau of Prisons (BOP) the education to which they are entitled for the entire time they are incarcerated. The lawsuit is brought by two students with disabilities, on behalf of themselves and similarly situated students, against District of Columbia Public Schools (DCPS), the Office of the State Superintendent (OSSE), and the Federal Bureau of Prisons (BOP) for the District of Columbia's failure to provide them with special education and related services while they are incarcerated in the BOP.

"The District is denying D.C. students with disabilities incarcerated in the BOP their right to an education – plain and simple. Young people in the BOP want their education," said Marja Plater, Senior Counsel at the Washington Lawyers' Committee for Civil Rights and Urban Affairs. "Their rights matter, and they deserve to return home having had an opportunity to gain the skills necessary to successfully reintegrate into the community."

"Our clients have been deprived of their rights to special education instruction and services while incarcerated for violations of the D.C. Code solely because of their status as D.C. residents," said Tayo Belle, Deputy Director of School Justice Project. "If our clients were from any other jurisdiction, they would be serving their terms of incarceration for violating state law in a state facility where they would have access to the education they are entitled to under federal law. Instead, our clients who only want access to an education so they may earn a high school diploma and return to their community are being denied this opportunity."

"The District of Columbia and the BOP have known for years that these students have a right to special education and related services," said Brian Whittaker, Partner at Nixon Peabody LLP. "It is time to finally ensure that these students receive the education to which they are entitled."

These students are entitled to special education under federal law and District of Columbia law, yet there are no appropriate high school programs available to them in the BOP.

Since 2001, the District of Columbia has not maintained a local prison for individuals to serve sentences from a conviction of a felony violation of the D.C. Criminal Code. Instead, the District of Columbia relies on the BOP to incarcerate its citizens. This means these students are placed at BOP facilities throughout the country, often far from their home, family, and community. D.C. students with disabilities transferred to BOP facilities are entitled to special education under the

Individuals with Disabilities Education Act (IDEA) and corresponding federal and District of Columbia regulations. Yet, these students have been wholly denied their education. In contrast, adult students incarcerated in local prisons in other states can access their education. These students must grapple with the challenges caused by their disabilities while being left to languish without the benefit of their education and related services to which they are entitled.

There is nothing in the law that permits the District of Columbia to ignore students incarcerated in the BOP. In *Brown v. District of Columbia*, the federal court held that the District of Columbia is responsible for providing special education to D.C. Code offenders incarcerated in the BOP. Recent decisions in the plaintiffs' administrative proceedings in this lawsuit reinforced the *Brown* decision, but the new federal class action is necessary to ensure that the District of Columbia and the BOP correct the lack of appropriate education in the BOP.

Failure to provide special education and related services, including transition services, has real and devastating consequences. Adult students with disabilities who are incarcerated are triply impacted: only 40% of District of Columbia students with special education needs graduate; fewer than 30% of older students aged 18-22 graduate; and graduation rates for court-involved students are even lower. Educational access while incarcerated leads to later improvements in public safety and a greater likelihood of the formerly incarcerated person contributing to their community. The students in this case are seeking to enforce their federal and local rights and order the District of Columbia to develop a system to ensure that D.C. students incarcerated in the BOP can access their special education and related services.

The plaintiffs are represented by the Washington Lawyers' Committee for Civil Rights and Urban Affairs, School Justice Project, and Nixon Peabody LLP. Defendants are the District of Columbia Public Schools, the Office of the State Superintendent of Education, and Federal Bureau of Prisons.

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ABOUT THE WASHINGTON LAWYERS' COMMITTEE: Founded in 1968, The Washington Lawyers' Committee for Civil Rights and Urban Affairs works to create legal, economic and social equity through litigation, client and public education and public policy advocacy. While we fight discrimination against all people, we recognize the central role that current and historic race discrimination plays in sustaining inequity and recognize the critical importance of identifying, exposing, combatting and dismantling the systems that sustain racial oppression. For more information, please visit www.washlaw.org or call 202.319.1000.

ABOUT SCHOOL JUSTICE PROJECT: School Justice Project (SJP) is a non-profit legal services and advocacy organization serving D.C.'s older court-involved students with disabilities. SJP uses special education law to ensure that older, court-involved students with disabilities have access to a quality education, both during incarceration and throughout reentry. SJP works to build racial justice by increasing educational equity and decreasing mass incarceration through direct representation, systemic advocacy, and community outreach and legal training. Using special education law in the juvenile and criminal contexts, SJP aims to spark a system-wide overhaul, transforming the educational landscape for older court-involved students with disabilities. For more information, please visit www.sjpdc.org.

ABOUT NIXON PEABODY LLP: Nixon Peabody LLP is an *American Lawyer* top-100 law firm in the United States and has 15 offices worldwide. Our firm delivers exceptional service to our clients and our communities by combining high performance, entrepreneurial spirit, deep engagement, and an unwavering commitment to a culture of collaboration, diversity, and humanity. Visit us at www.nixonpeabody.com.