

# DISTRICT OF COLUMBIA OFFICE OF THE INSPECTOR GENERAL

OIG Project No. 16-1-10AT

July 2017



## DISTRICT OF COLUMBIA PUBLIC SCHOOLS AND OFFICE OF THE CHIEF FINANCIAL OFFICER AGENCIES:

RECORD KEEPING PRACTICES SUPPORTING ATTORNEY  
CERTIFICATION PAYMENTS FOR SPECIAL EDUCATION CASES HAVE  
IMPROVED, BUT SOME PROBLEMS PERSIST



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\* Diversity \* Measurement \* Continuous Improvement*

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- 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
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### Why the OIG Did This Audit

A class action lawsuit<sup>1</sup> alleged the District of Columbia Public Schools (DCPS) violated the Individuals with Disabilities Education Act (IDEA), a federal law established to ensure that children with disabilities receive free appropriate public education. As a result, Congress enacted a law<sup>2</sup> requiring attorneys to certify in writing the services they provided students in special education cases and to disclose potential conflicts of interest. The law also made the Office of the Chief Financial Officer (OCFO) responsible for obtaining the attorney certifications and submitting reports to Congress.

Congress included a provision<sup>3</sup> in the law that requires the Office of the Inspector General (OIG) to review the accuracy of the certifications special education attorneys make to OCFO. Accordingly, this review was our audit objective.

### What the OIG Recommends

We made four recommendations to OCFO and the DCPS Chancellor to improve the invoice verification process and the accuracy and reporting of payments.

## DISTRICT OF COLUMBIA PUBLIC SCHOOLS:

### Record Keeping Practices Supporting Attorney Certification Payments for Special Education Cases Have Improved, but Some Problems Persist

#### What the OIG Found

OCFO and the DCPS Office of the General Counsel (DCPS-OGC) have taken steps to improve their recordkeeping process, but some problems persist. Steps the agencies took include hiring additional support staff, revising standard operating procedures, and electronic storage of documentation by the DCPS-OGC. However, the agencies did not always obtain required written certifications from attorneys or maintain complaint resolution documentation, particularly when the United States District Court for the District of Columbia (District Court) ordered attorney payments. DCPS-OGC procedures did not address processing attorney payments without the required certifications and neither OCFO nor the DCPS-OGC coordinated with the Office of the Attorney General (OAG) to obtain the documentation when the District Court ordered payments. Additionally, OCFO overpaid an attorney based on invoices rather than the settlement amount because the DCPS-OGC did not periodically review the payments OCFO processed.

We also found OCFO did not submit timely or accurate quarterly reports on special education attorney certifications and the amount the District of Columbia paid attorneys. OCFO did not have procedures in place to ensure the accuracy of the reports to the Committees on Appropriations of the House of Representatives and the Senate. For example, we found payments unrelated to special education cases that were improperly included in reports submitted to Congress, which resulted in over reporting of \$705,500 in Fiscal Year 2012.

Without addressing these concerns, neither OCFO nor the DCPS-OGC can have reasonable assurance that attorneys representing students in special education cases performed all required services, were free from potential conflicts of interest, and were accurately paid.

<sup>1</sup> *Blackman v. Dist. of Columbia*, Civil Action Nos. 97-1629 and 97-2402.

<sup>2</sup> D.C. Code § 1-204.24d(28).

<sup>3</sup> DC Code § 1-301.115a(a)(3)(J).

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Inspector General

Inspector General



July 27, 2017

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Antwan Wilson  
Chancellor  
D.C. Public Schools  
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Dear Chief Financial Officer DeWitt and Chancellor Wilson:

Enclosed is our final report, *DCPS: Record Keeping Practices Supporting Attorney Certification Payments for Special Education Cases Have Improved, but Some Problems Persist* (OIG Project No. 16-1-10AT). Our overall audit objective was to determine the accuracy of attorney certifications made to the Office of the Chief Financial Officer in special education cases brought in the District under the Individuals with Disabilities Education Act. We conducted this audit in accordance with generally accepted government auditing standards.

We provided you with four recommendations and the DCPS Chancellor and CFO responded outlining actions that meet the intent of all recommendations. We consider these recommendations open and resolved pending completion of the specified actions. The full text of both the DCPS and OCFO responses are included in Exhibits D and E of this report.

We appreciate the cooperation and courtesies extended to our staff during this audit. If you have any questions concerning this report, please contact me or Ben Huddle, Acting Assistant Inspector General for Audits, at (202) 727-2540.

Sincerely,

  
Daniel W. Lucas  
Inspector General

DWL/tda  
Enclosure

cc: See Distribution List

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## **BACKGROUND**

The Individuals with Disabilities Education Act (IDEA) is a federal law established to ensure that children with disabilities receive free appropriate public education. Parents or guardians dissatisfied with the type of educational services their disabled child receives have a legal right under IDEA to have the school district provide the child more responsive educational services that meet the child's needs.

Plaintiffs brought litigation in 1997 that resulted in a class action lawsuit<sup>4</sup> alleging DCPS violated the IDEA by failing to implement timely and responsive special education services for students. The District Court resolved the lawsuit in July 2011 and December 2014 based on agreements between plaintiffs and defendants. As a result of this litigation, Congress enacted a law in October 2006 requiring attorneys to: (1) certify in writing the services they provided students in special education cases; and (2) disclose potential conflicts of interest.

### **DCPS Complaint Resolution Process**

To file a complaint that DCPS did not meet IDEA requirements, parents or guardians can submit a request for an administrative hearing to the Office of Dispute Resolution within the Office of the State Superintendent of Education (OSSE). OSSE assigns independent hearing officers (HO) to decide cases alleging IDEA violations. The DCPS Office of the General Counsel (DCPS-OGC) represents the District at the administrative hearing and parents are represented by private attorneys.

Prior to an administrative hearing, there is a mandatory 30-day period during which the parents and DCPS (the parties) attempt to resolve the complaint themselves without the necessity of a hearing. If the parties resolve the complaint during this period, they enter into a written settlement agreement (SA).

If the parties cannot agree on a settlement during the 30-day period, the complaint proceeds to an administrative hearing wherein the HO issues a Hearing Officer Determination (HOD).

The SA and HOD<sup>5</sup> (complaint resolution documentation) are important for establishing that a determination was in favor of the parents and, therefore, their attorney is entitled to an attorney fee award.

### **Attorney Payment Process**

Attorney fee awards<sup>6</sup> are determined in the following ways:

1. The parties reach an SA, and the parents' attorney negotiates his/her fees directly with the DCPS-OGC.

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<sup>4</sup> *Blackman v. Dist. of Columbia*, Civil Action Nos. 97-1629 and 97-2402.

<sup>5</sup> Attorney fee awards are permitted only where the HOD is in favor of a parent.

<sup>6</sup> Appendix C illustrates the payment process in detail.

2. A HOD is issued in favor of the parents, whose attorney has two options for obtaining an attorney fee award:
  - a) negotiate attorney fees directly with the DCPS-OGC, which in turn processes the payment; or
  - b) have their fee determined by the District Court.<sup>7</sup> In this instance, the District's Office of the Attorney General (OAG) represents the District in court proceedings and submits the court-ordered attorney fee determination to the DCPS-OGC to process the payment.

Before attorneys can receive payments, the DCPS-OGC prepares and approves an Attorney Invoice Submission (AIS) packet that includes the complaint resolution documentation and payment determination. Pursuant to D.C. Code § 1-204.24d(28), OCFO is responsible for verifying the completeness of the AIS packet. Specifically, OCFO must ensure attorneys: (A) certify in writing that they rendered services and prevailed in a special education case; and (B) disclose any financial, corporate, legal, board of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers the attorneys referred any clients. OCFO also must (C) prepare and submit quarterly reports to the Committees on Appropriations of the House of Representatives and Senate on the certification of and the amount paid to such attorneys.

Our audit focused on the duties and responsibilities of OCFO and the DCPS-OGC and an assessment of the adequacy of documentation the D.C. Code requires for payments to attorneys in special education cases. We issued our last report, *Audit of Special Education Attorney Certifications Report*, OIG Project No. 11-1-15AT, on October 11, 2013, covering fiscal years (FY) 2006 through 2010.

We conducted this audit in accordance with generally accepted government auditing standards between July 2016 and June 2017. For our work, we interviewed staff and appropriate officials from the DCPS-OGC and OCFO; reviewed and assessed compliance with applicable laws; and performed walk-throughs of the attorney certification and reporting processes. To test the accuracy of payments made to attorneys, we statistically sampled a universe of 1,795 payments with a total value of \$21.3 million and randomly selected 184<sup>8</sup> payments with a total value of \$2.2 million. Our scope covered FYs 2011 through 2015.

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<sup>7</sup> According to DCPS-OGC, attorneys for parents in these cases receive an additional "fee on fee" award when they file a civil action, which may be an incentive to bypass fee negotiations with the DCPS-OGC and seek a court-ordered award instead.

<sup>8</sup> One of the 184 payments for \$5,500 was unrelated to special education cases under the IDEA. Thus, we modified our sample to 183, but we report about this improperly reported payment in the second finding related to the timeliness and accuracy of reports submitted to Congress.



## **FINDINGS**

### **DCPS-OGC AND OCFO IMPROVED RECORDKEEPING PRACTICES TO SUPPORT SPECIAL EDUCATION ATTORNEY PAYMENTS, BUT SOME PROBLEMS PERSIST**

The DCPS-OGC and OCFO improved their recordkeeping of complaint resolution documentation (the SA or HOD) and written certifications from attorneys to support special education attorney payments. However, when DCPS did not directly negotiate settlement agreements, the DCPS-OGC did not obtain all required documentation—especially when the District Court ordered payments. Additionally, an OCFO processing error resulted in one attorney overpayment from our sample.

#### **DCPS-OGC and OCFO Improved the Process for Obtaining and Storing Required Documentation to Support Special Education Attorney Payments**

The D.C. Code assigns OCFO responsibility for implementing the provisions of the law, but we found during the course of our 2013 audit that OCFO delegated the following duties to the DCPS-OGC: (1) obtaining attorneys' certification and supporting documentation of services rendered; and (2) ensuring attorneys disclose any affiliations or relationships with any special education diagnostic services, schools, or other special education service providers.

Since our last audit, the DCPS-OGC and OCFO significantly improved the collection and storage of required documentation to support special education attorney payments. Our 2013 audit found that 80 percent of required documents in our sample were missing, but our current review found that documentation was missing in only 21 percent of our sample (39 of 183 payments), as shown in Table 1. Specifically, we found that:

- 3 payments lacked the SA or HOD;
- 15 payments did not include either the SA or HOD and the attorney certification; and
- 21 payments did not include attorney certifications.

OCFO and the DCPS-OGC have taken a number of steps to improve recordkeeping practices, such as hiring additional support staff, revising standard operating procedures, and implementing electronic storage of documentation (DCPS-OGC).

**Table 1 – Missing Documentation for Special Education Attorney Payments by Fiscal Year**

Fiscal Year	Number of Payments	Amount	Sampled Payments	Amount	Payments with Incomplete Documentation	Amount
2011	541	\$ 2,947,455.34	54	\$ 279,751.58	17	\$ 65,859.83
2012	357	\$4,697,639.76	33	\$221,473.25	1	\$15,173.94
2013	382	\$6,354,243.14	42	\$917,123.64	9	\$421,930.87
2014	245	\$3,955,129.99	22	\$449,871.89	4	\$364,671.89
2015	270	\$3,350,643.38	32	\$286,782.24	8	\$199,672.24
<b>Total</b>	<b>1795</b>	<b>\$ 21,305,111.61</b>	<b>183</b>	<b>\$ 2,155,002.60</b>	<b>39</b>	<b>\$ 1,067,308.77</b>

Source: OIG Analysis

**When DCPS Did Not Directly Negotiate Settlement Agreements, DCPS-OGC Did Not Obtain All Required Documentation**

As in our prior audit, we found complaint resolution documentation and attorney certifications were still missing. Delving further, we found the likelihood of missing documentation increased when the HO and the District Court (instead of the DCPS-OGC) made attorney payment determinations.

Based on our sample results, the DCPS-OGC maintained the required documentation in support of attorney payments much better when DCPS negotiated the SA directly with parents during the 30-day period prior to the administrative hearing. When the DCPS-OGC negotiated attorney fee awards directly with parents, documentation was incomplete for only 13 of 112 (11.6 percent) of sampled payments (see Table 2).

**Table 2 – Missing Documentation for Special Education Payments by Complaint Resolution**

Source	Sample Payments	Amount	No. Payments Lacking Documentation	Amount	Percent of Sample by Source Type
	(a)	(b)	(c)	(d)	(c/a)
DCPS/Parent Initiated SA	112	\$329,254.63	13	\$40,102.15	11.6%
HOD	55	\$981,704.90	11	\$190,552.31	20.0%
<b>Court Ordered</b>	<b>16</b>	<b>\$ 844,043.07</b>	<b>15</b>	<b>\$836,654.31</b>	<b>93.8%</b>
Totals	183	\$2,155,002.60	39	\$1,067,308.77	21.3%

Source: OIG Analysis

The likelihood that the DCPS-OGC did not obtain all required documentation increased when the HO made a determination and the DCPS-OGC negotiated with parents for the attorney fees. Specifically, when the HO issued a HOD and parents negotiated attorney fees with the DCPS-

OGC, documentation was incomplete for 11 of 55 payments (20 percent), which is an increase from 11.6 percent when the parties worked out the settlement and the attorney fee award.

The likelihood that the DCPS-OGC did not obtain all required documentation increased further when the District Court ordered payments. When parents pursued attorney awards in District Court after a favorable HOD, we found that 15 of 16 (93.8 percent) court ordered payments did not include either the attorney certifications or the HOD.

At the beginning of our audit, DCPS-OGC officials informed us that the attorney certification and HOD were not included with the court order because the District Court determined the attorney awards and court orders have strict deadlines for when OCFO must make payments, even if there are missing documents. Furthermore, DCPS-OGC officials said because they are not involved in determining the attorney fee award, they are not in a position to demand such documentation from the District Court. The officials added, however, that the District Court is in possession of the HOD and attorneys do make certifications to the District Court about representing clients.

Nonetheless, we found that DCPS-OGC procedures did not address processing court-ordered attorney award payments without required certifications, and neither OCFO nor the DCPS-OGC coordinated with the OAG to obtain the documentation required by the D.C. Code. Until all documentation is collected, neither OCFO nor the DCPS-OGC have reasonable assurance that attorneys representing students in special education cases performed all required services, were free from potential conflicts of interest, and were accurately paid.

To improve performance in this area, we recommend that the CFO and the DCPS Chancellor:

- Establish coordination between OCFO and the DCPS-OGC in a Memorandum of Understanding to:
  - Formalize the agencies' roles in obtaining attorney certifications and processing attorney invoices, including when the District Court orders payments.
  - Establish a process that gives assurance special education attorneys have submitted all required supporting documentation and the agencies have verified the accuracy of attorney payments.
- Consult with the OAG to determine whether court-ordered payments are exempt from the D.C. Code's requirement. Whether exempt or not, amend the DCPS-OGC procedure to specifically address how court-ordered payments are processed.

### **OCFO Overpaid Attorney Invoices**

Three of the 39 payments in our sample were included in an \$85,000 SA for 4 attorney invoices that were overpaid by \$40,102. On January 9, 2015, OCFO paid the four attorney invoices, totaling \$125,102, at their face value instead of the settlement amount shown on the AIS, resulting in the overpayment. After we informed the DCPS-OGC of the overpayment, it notified the law firm on November 8, 2016, and recouped the overpayment on December 5, 2016. We

held discussions with OCFO and the DCPS-OGC to determine how the overpayment occurred and whether processes were in place to review payments. OCFO attributed the overpayment to human error that could have resulted from the accounts payable employee being unfamiliar with how settlement amounts are paid. According to a DCPS-OGC official, a financial analyst reviews expenses on a monthly or quarterly basis to track expenses against the budget. However, the DCPS-OGC was unable to provide evidence that this review occurred in this instance.

We believe the DCPS-OGC did not catch the overpayment because its current reviews of attorney payments may not be detailed. Scrutiny of payments does occur after the close of the fiscal quarter when OCFO retrieves attorney payments from the District's System of Accounting and Reporting (SOAR) and compiles a report for submission to Congress. However, the DCPS-OGC does not review the report's content to verify that OCFO accurately paid amounts the DCPS-OGC approved before submitting the report to Congress. The DCPS-OGC receives, negotiates, approves, and submits attorney invoices for payment, so it is important that it also reviews payments to make sure OCFO issues accurate attorney payments. Without the review, there is a risk of overpayment for settlement agreements.

To improve performance in this area, we recommend that the CFO and the DCPS Chancellor perform a complete reconciliation of all payments made to attorneys since FY 2011 to identify and recoup overpayments.

## **OCFO DID NOT SUBMIT TIMELY OR ACCURATE QUARTERLY REPORTS TO CONGRESS**

OCFO did not comply with the D.C. Code's requirement to prepare and submit timely and accurate quarterly reports to the Committees on Appropriations of the House of Representatives and the Senate on the certification of and the amount the District paid to attorneys in special education cases. After OIG informed OCFO about the reporting requirement during our previous audit, OCFO issued a cumulative report to Congress on May 16, 2013, covering payments to attorneys in special education cases by quarter from FY 2006 through the second quarter of FY 2013.

Thereafter, OCFO did not submit timely quarterly reports covering the period from the third quarter of FY 2013 through 2015 (see Table 3). The timeliness of reports has improved, however, from an annual average of 24.4 months in FY 2011 to an annual average of 2.7 months in FY 2015.

**Table 3 –Timeliness of Quarterly Reports Submitted to Congress**

Fiscal Year	Date Report Submitted for 1 <sup>st</sup> Qtr. Ending (12/31)	Time After Quarter Ended <sup>9</sup>	Date Report Submitted for 2 <sup>nd</sup> Qtr. Ending (3/31)	Time After Quarter Ended	Date Report Submitted for 3 <sup>rd</sup> Qtr. Ending (6/30)	Time After Quarter Ended	Date Report Submitted for 4 <sup>th</sup> Qtr. Ending (9/30)	Time After Quarter Ended
2011	5/16/2013	28.9 mos.	5/16/2013	25.9 mos.	5/16/2013	22.9 mos.	5/16/2013	19.8 mos.
2012	5/16/2013	16.7 mos.	5/16/2013	13.7 mos.	5/16/2013	10.7 mos.	5/16/2013	7.6 mos.
2013	5/16/2013	4.5 mos.	5/16/2013	1.5 mos.	2/5/2014	7.3 mos.	2/5/2014	4.3 mos.
2014	2/5/2014	1.2 mo.	2/24/2015	11.0 mos.	2/24/2015	8.0 mos.	2/24/2015	4.9 mos.
2015	2/24/2015	1.8 mo.	4/30/2015	1.0 mo.	12/15/15	5.6 mos.	12/15/15	2.5 mos.

Source: OIG Analysis

In addition to submitting untimely reports, OCFO’s reports to Congress were not always accurate. For example, of the 184 payments in our sample, 1 payment for \$5,500 was not a special education attorney payment and was, therefore, improperly reported to Congress. The documentation showed that it was a retainer payment for legal services unrelated to special education. We queried the universe of 1,795 payments to determine whether OCFO included other questionable payments in the reports, and found a payment of \$11,000 for intellectual property counseling. Additionally, we found other unrelated payments in FY 2012 that included \$705,500 in total payments to Office Depot.

OCFO did not submit timely and accurate quarterly reports to Congress because it did not establish procedures for preparing, obtaining the DCPS-OGC’s review, and submitting reports. Without procedures and a sufficient review process, OCFO and the DCPS-OGC do not have assurance that quarterly reports submitted to Congress on special education attorney payments are timely and accurate.

To improve performance in this area, we recommend that the CFO and the DCPS Chancellor prepare and follow written procedures for coordination between the DCPS-OGC and OCFO to compile, review, and submit timely and accurate quarterly reports on special education attorney payments to Congress.

**CONCLUSION**

Ensuring that children with disabilities receive necessary special education services is a critical role for DCPS. OCFO and the DCPS-OGC have taken actions to improve recordkeeping for the payment determination process for attorneys in special education cases, such as hiring additional support staff, revising standard operating procedures, and implementing electronic storage of

<sup>9</sup> Our calculation of elapsed time after the quarter ended for all quarters was based on an average of 30 days per month.

documentation. However, problems with obtaining all documents required by law, as well as untimely and inaccurate reporting persist. Establishing additional controls will help improve the agencies' compliance with legal requirements.

## **RECOMMENDATIONS**

We recommend that the CFO and the DCPS Chancellor:

1. Establish coordination between OCFO and the DCPS-OGC in a Memorandum of Understanding to:
  - a. formalize the agencies' roles in obtaining attorney certifications and processing attorney invoices, including when the District Court orders payments; and
  - b. establish a process that gives assurance special education attorneys have submitted all required supporting documentation and the agencies have verified the accuracy of attorney payments.
2. Consult with the OAG to determine whether court-ordered payments are exempt from the D.C. Code's requirement. Whether exempt or not, amend the DCPS-OGC procedure to specifically address how court-ordered payments are processed.
3. Perform a complete reconciliation of all payments made to attorneys since FY 2011 to identify and recoup overpayments.
4. Prepare and follow written procedures for coordination between the DCPS-OGC and OCFO to compile, review, and submit timely and accurate quarterly reports on special education attorney payments to Congress.

## **AGENCY RESPONSES AND OFFICE OF THE INSPECTOR GENERAL COMMENTS**

We provided DCPS and OCFO with our draft report on June 1, 2017, and received their responses on June 22, 2017, and June 29, 2017, respectively. DCPS outlined actions that meet the intent of the recommendations but cited implementation dates of September 30, 2017, and by January 2018. Therefore, we consider these recommendations resolved but open pending implementation.

OCFO concurred with all but Recommendation 3. In its response to this recommendation, OCFO disagreed with the 5-year time period that OIG recommended to review attorney payments for overpayments. OCFO explained that it would not be cost effective because we only found one over payment in our testing for the 5-year period. Instead, OCFO identified additional controls it will implement by July 31, 2017, and agreed to review all payments made in FY 2017, to the date of reconciliation. OIG accepts OCFO's rationale for limiting the period for the review and considers that this action meets the intent of the recommendation. OCFO also cited implementation dates of between July 2017 and September 30, 2017, to complete the actions outlined in its response. Therefore, we consider these recommendations resolved but open pending implementation.

## APPENDIX A. OBJECTIVES, SCOPE, AND METHODOLOGY

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We conducted our audit work from July 2016 through June 2017 in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit focused on the duties and responsibilities of the OCFO described in the D.C. Code and an assessment of payments to attorneys in special education cases requiring their certifications during FYs 2011 through 2015. Our overall audit objective was to determine the accuracy of attorney certifications in special education cases brought under the IDEA in the District.

Pursuant to the D.C. Code, we assessed whether: (1) attorneys certified in writing that they rendered any and all services for which the attorneys received an award for prevailing in a special education case; (2) attorneys receiving payment disclosed any financial, corporate, legal, board of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which they referred any clients; and (3) OCFO prepared and submitted quarterly reports to the Committees on Appropriations of both the House of Representatives and Senate on the certification of and the amount paid to attorneys by the District of Columbia government.

To accomplish our objectives, we: (1) conducted interviews with staff members and appropriate officials from the OGC and the OCFO; (2) reviewed and assessed compliance with applicable laws; and (3) performed walk-throughs of the attorney certification and reporting processes.

To test for payment accuracy, we: (1) statistically sampled a universe of 1,795 payments with a total value of \$21.3 million and randomly selected 184<sup>10</sup> payments with a total value of \$2.2 million from FYs 2011 through 2015; (2) reviewed quarterly reports; and (3) assessed the effectiveness of internal/management controls.

We relied on computer-processed data from the District's SOAR to obtain detailed payment information on amounts paid to attorneys and reported to Congress.

### PRIOR REVIEWS

The OIG performed an audit of attorney certifications for FYs 2006 through 2010 and issued its report, *Audit of Special Education Attorney Certifications, OIG No. 11-1-15AT* on October 11, 2013. The audit evaluated compliance with the D.C. Code requiring attorneys to certify they represented clients for awards received in special education cases; and requiring OCFO to submit quarterly reports to congressional committees. The audit concluded that OCFO had significant weaknesses with respect to record management and record retention processes and some attorneys should not have been awarded fees due to the lack of appropriate documentation and

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<sup>10</sup> One of the 184 payments was unrelated to special education cases under the IDEA. Thus, our modified sample was 183.



## **APPENDIX A. OBJECTIVES, SCOPE, AND METHODOLOGY**

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signatures. The audit also found that the OCFO was unaware of the requirement to submit quarterly reports on attorney certifications and payments to congressional committees and, therefore, had not submitted the required quarterly reports for any period prior to the audit.

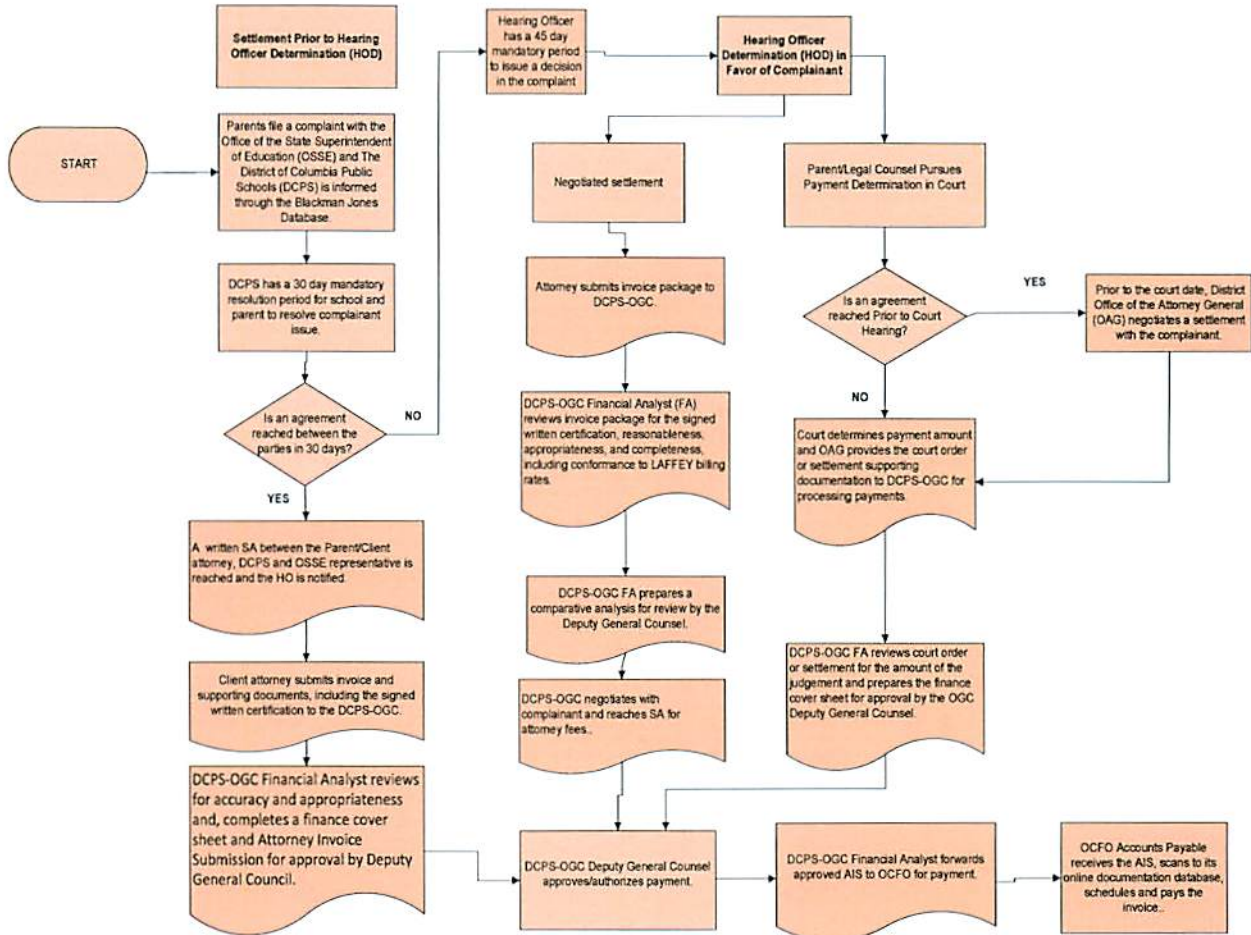
## **APPENDIX B. ACRONYMS AND ABBREVIATIONS**

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<b>AIS</b>	<b>Attorney Invoice Submission</b>
<b>CFO</b>	<b>Chief Financial Officer</b>
<b>DCPS</b>	<b>District of Columbia Public Schools</b>
<b>DCPS-OGC</b>	<b>District of Columbia Public Schools Office of the General Counsel</b>
<b>District Court</b>	<b>United States District Court for the District of Columbia</b>
<b>FY</b>	<b>Fiscal Year</b>
<b>GAGAS</b>	<b>Generally Accepted Government Auditing Standards</b>
<b>IDEA</b>	<b>Individuals with Disabilities Education Act</b>
<b>HO</b>	<b>Hearing Officer</b>
<b>HOD</b>	<b>Hearing Officer Determination</b>
<b>OAG</b>	<b>Office of the Attorney General</b>
<b>OCFO</b>	<b>Office of the Chief Financial Officer</b>
<b>OGC</b>	<b>Office of the General Counsel</b>
<b>OIG</b>	<b>Office of the Inspector General</b>
<b>OSSE</b>	<b>Office of the State Superintendent of Education</b>
<b>SA</b>	<b>Settlement Agreement</b>
<b>SOAR</b>	<b>System of Accounting and Reporting</b>

## APPENDIX C. DCPS-OGC PAYMENT PROCESS FOR ATTORNEYS IN SPECIAL EDUCATION CASES

### DCPS-OGC Payment Process for Attorneys in Special Education Cases



Source: DCPS-OGC

## APPENDIX D. DCPS RESPONSE



DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS

June 22, 2017

Mr. Daniel W. Lucas  
Inspector General  
717 14<sup>th</sup> Street, N.W.  
Washington, DC 20005

RE: OIG Project Number 16-10-10AT

Dear Mr. Lucas,

Thank you for the opportunity to respond to the recommendations in the Office of the Inspector General's (OIG) draft audit report of Special Education Attorney Certification Payments dated June 1, 2017. Responses to the findings addressed to DCPS<sup>1</sup> are being submitted via this letter. A signed original copy of DCPS' response will follow via USPS.

### Recommendation 1

Establish coordination between OCFO and the DCPS-OGC in a Memorandum of Understanding to:

- a. Formalize the agencies' roles in obtaining attorney certifications and processing attorney invoices, including when the District Court orders payments; and
- b. Establish a process that gives assurance special education attorneys have submitted all required supporting documentation and the agencies have verified the accuracy of attorney payments.

### Response

The DCPS agrees with recommendation 1 a.

By January 30, 2018, DCPS-OGC will work with the OCFO to draft an MOU formalizing the agencies' roles in obtaining attorney certifications and processes.

The DCPS agrees with recommendation 1 b.

By the end of each quarter (December, March, June and September), DCPS' internal audit division will perform a secondary review of the supporting documentation submitted by special education attorneys in support of their request for the payment of attorneys' fees in efforts to provide reasonable assurance of the accuracy of attorney payments. We anticipate that this additional step will catch any potential inaccuracies. This process will begin September 30, 2017. DCPS-OIG will update its Guidelines and Procedures to include this process change.

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<sup>1</sup> It is our understanding that the OCFO has provided or will provide its response directly to the OIG.

## APPENDIX D. DCPS RESPONSE

Re: OIG Project Number 16-10-10AT

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**Recommendation 2**

Consult with the OAG to determine whether court-ordered payments are exempt from the D.C. Code's requirement. Whether exempt or not, amend the DCPS-OGC procedure to specifically address how court-ordered payments are processed.

**Response**

DCPS agrees with the recommendation.

By January 30, 2018, DCPS will consult with OAG to determine whether court-ordered payments are exempt from the D.C. Code's requirement. While this request is being considered by OAG, DCPS-OGC will revise its Guidelines and Procedures by September 30, 2017 to reflect that attorney certifications are not a part of the documentation received by the DCPS-OGC and submitted to the OCFO for payment.

Thank you again for the work conducted on this audit and the opportunity to respond. Please feel free to contact us if you have any further questions, or if additional information is needed.

Sincerely,



Antwan Wilson  
Chancellor

cc:

## APPENDIX E. OCFO RESPONSE

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF FINANCIAL OFFICER



Jeffrey S. DeWitt  
Chief Financial Officer

JUN 29 2017

Mr. Daniel Lucas  
Inspector General  
717 14<sup>th</sup> Street, N.W.  
Washington, DC 20005

RE: OIG Project Number 16-10-10AT

Dear Mr. Lucas:

DCPS/OCFO has reviewed the June 1, 2017 draft report entitled *DCPS: Record Keeping Practices Supporting Attorney Certification Payments for Special Education Cases Have Improved, but Some Problems Persist*. As noted in your report while significant improvements have been made in the collection and retention of documentation since your last audit, a few issues still remain. DCPS/OCFO agrees that several areas have been corrected since the first audit was performed, and to ensure that there is continued improvement, the team has committed to make changes to various processes as necessary to ensure greater adherence to the code.

Below are the OCFO's responses to the recommendations:

**Recommendation 1**

Establish coordination between OCFO and the DCPS/OGC in a Memorandum of Understanding to:

- a. Formalize the agencies' roles in obtaining attorney certifications and processing attorney invoices, including when the District Court orders payments
- b. Establish a process that gives assurance special education attorneys have submitted all required supporting documentation and the agencies have verified the accuracy of attorney payments

**Response 1.a**

DCPS/OCFO concurs with this recommendation. Per the OCFO's Office of the General Counsel, the OCFO-related requirements regarding special education attorneys (D.C. Code 1-204.24d(28)) are codified as part of the Home Rule Act so any changes to the particular code section would need to be authorized by the President and the U.S. Congress. Given this

## APPENDIX E. OCFO RESPONSE

*OIG Project Number 16-10-10AT*

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limitation, no later than August 2017, DCPS/OCFO will enter into a Memorandum of Understanding with DCPS/OGC to formalize the roles and responsibilities of the OCFO and DCPS/OCG in the review, certification and payment process, by specifically designating the specific tasks for each party.

In accordance with the current practice, the DCPS/OGC will be responsible for:

- i. Obtaining and reviewing the attorneys' certification and supporting documentation of services rendered and approving them for payment
- ii. Ensuring that the attorneys have disclosed any affiliations, or relationships with any special education diagnostic services, schools, or other special education service providers

The OCFO will be responsible for:

- i. Processing the payments to the attorneys based on amounts approved by DCPS/OGC
- ii. Preparing and submitting the quarterly reports to the Committees on Appropriations of both the House of Representatives and Senate on the certification of and the amount paid to attorneys by DCPS

### **Response 1.b**

DCPS/OCFO concurs with this recommendation. A section of the MOU will address this process. Additionally, by July 14, 2017 DCPS/OCFO will provide all Accounts Payable Technicians with a checklist of required documents as well as a standardized order in which the documents should be packaged to ensure that all supporting documentation is provided. Once the MOU is finalized and signed, the policies and procedures will be updated by September 30, 2017 to reflect the revised processes.

### **Recommendation 2**

Consult with the OAG to determine whether court-ordered payments are exempt from the D.C. Code's requirement. Whether exempt or not, amend the DCPS/OGC procedure to specifically address how court ordered payments are processed.

### **Response**

As noted in the response above, the OCFO requirements relating to special education attorneys (D.C. Code 1-204.24d(28)) are codified as part of the Home Rule Act so any changes to the particular code section would need to be authorized by the President and the U.S. Congress. As such, DCPS/OCFO concurs with the recommendation and, through the CFO's Office on General Counsel, will initiate discussions with the OAG by July 31, 2017 on the determination of how court ordered payments should be handled and what, if any additional documentation would be required to support such payments.

## APPENDIX E. OCFO RESPONSE

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### **Recommendation 3**

Perform a complete reconciliation of all payments made to attorneys since FY 2011 to identify and recoup overpayments.

### **Response**

DCPS/OCFO disagrees with this recommendation. Given the fact that there was only one instance of overpayment identified during the audit period of 5 years, the benefits of such a review will outweigh the costs. By July 31, 2017, DCPS/OCFO will perform a reconciliation of all payments made from the beginning of FY 2017 to date. This reconciliation, coupled with the use of the checklist by the Accounts Payable Technicians and Supervisors, will ensure all required supporting documents have been submitted, and will eliminate the opportunity for the processing of incorrect amounts.

### **Recommendation 4**

Prepare and follow written procedures for coordination between the DCPS/OGC and OCFO to compile, review, and submit timely and accurate quarterly reports on special education attorney payments to Congress.

### **Response**

DCPS/OCFO concurs with the need to formalize the review process and deliver more timely reporting, but not with the need for there to be coordination in this exercise with DCPS/OGC, because as stated in response #1, the OCFO will assume responsibility for the quarterly reporting to the Committees on Appropriations of both the House of Representatives and Senate. As such, steps will be implemented to ensure that:

- Only allowable expenditures are charged to the funding attributes by:
  - o Obtaining from DCPS/OGC, by July 14, 2017, a list of individuals authorized to certify and approve attorney payments and copies of their signatures to compare to submitted payment requests
  - o Providing all Accounts Payable Technicians with a checklist of required documents as well as a standardized order in which the documents should be packaged to ensure that all supporting documentation is submitted
  - o Reviewing the expenditure detail on a monthly basis to ensure that only attorney payments are included
  
- To ensure reports are submitted to Congress timely, a calendar has been developed so that DCPS/OCFO completes the compilation and review of the report by the 20<sup>th</sup> of the month following the end of the calendar quarter and transmits it to the OCFO/OGC requesting approval, review and submission to Congress no later than the 30<sup>th</sup> day of the month. This timeline will be effective for all reports beginning with the quarter ending June 30, 2017.

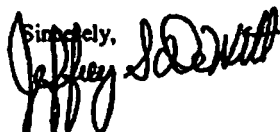


## APPENDIX E. OCFO RESPONSE

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If you have any questions regarding the responses provided, please feel free to contact Timothy Barry, Executive Director, Office of Integrity and Oversight at 442-6433.

Sincerely,  
  
Jeffrey S. DeWitt

cc: Rashad Young, City Administrator  
Antwan Wilson, Chancellor, DC Public Schools