



616 H Street, NW · Suite 300
Washington, DC 20001
T 202.467.4900 · F 202.467.4949
www.childrenslawcenter.org

**Testimony before the District of Columbia Council
Committee on Education
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**Agency Budget Oversight Hearing:
District of Columbia Public Schools**

**Judith Sandalow
Executive Director
Children's Law Center**

Good morning Chairman Catania and members of the Committee. My name is Judith Sandalow. I am the Executive Director of Children's Law Center¹ (CLC) and a resident of the District. I am testifying today on behalf of CLC, the largest non-profit legal services organization in the District and the only devoted to children. Last year, we provided services to more than 5,000 low-income children and families, with a focus on abused and neglected children and on those with special health and educational needs. The majority of the children we represent attend District of Columbia Public Schools (DCPS).

This year's proposed budget for the District of Columbia includes a significant and necessary infusion of funding into the public school system. While the myriad problems our schools face cannot be solved through increased funding alone, increased funding will certainly enhance the schools' ability to meet students' needs. In my testimony today regarding DCPS's budget, I will focus specifically on the proposed budgets for special education and for at-risk students.

Special Education

I am cautiously optimistic that the funding proposed for FY15 will allow DCPS to accelerate the pace of improvement in its special education programs. As I have stated in prior testimony, special education in DC is in a state of crisis. In a school system with low achievement rates across the board, the academic performance of students in special education is especially dismal. Only 18% of DCPS students in special education are proficient in reading and only 21% are proficient in math.² In our work with our clients, we see every day that DCPS schools are still struggling to provide quality special education on the ground. We see far too

many students who have never been evaluated despite being below grade level for years, students whose Individualized Education Plans (IEPs) repeat the same goals year after year without asking why the goals haven't been achieved, and students who are not actually receiving the specialized services required by their IEPs. While many of these failures are attributable to a bureaucracy that does not always clearly communicate expectations or hold staff accountable, others appear to result from a lack of sufficient staffing and training.

Investments

I am hopeful that DCPS's proposed FY15 investments in special education teachers, social workers, administrative staff, and literacy training will result in students receiving higher-quality services.³ While the proposed FY15 budget reduces DCPS's overall special education budget somewhat as a result of reduced enrollment projections, the per-pupil allocation for each individual student in special education is proposed to increase under the new Uniform per Student Funding Formula (UPSFF).⁴ I understand from Dr. Nathaniel Beers, Chief of DCPS's Office of Specialized Instruction (OSI), that DCPS plans to make a series of targeted investments in the following areas:

- Training resource teachers and inclusion co-teachers in evidence-based literacy programs. This initiative builds on the successful training this past year of teachers in self-contained classrooms. DCPS reports that many of the children in those self-contained classrooms are on pace to grow two grade levels in reading this school year.
- Increasing staffing levels in inclusion classrooms. Previously, DCPS's formula for allocating special education teachers did not take into account that schools need

more special education teachers when they have more of their students receiving services in inclusion classrooms rather than outside of general education. This year's budget remedies that oversight with an increase of approximately 30 teachers system-wide.

- Hiring additional administrative staff at a handful of schools as a pilot to reduce the administrative burden on special education teachers. The administrative staff would take over tasks such as scheduling IEP meetings.
- Hiring additional paraprofessionals at a handful of schools as a pilot to provide more individual attention to students with disabilities in the general education setting.
- Allocating additional funding for occupational therapists and social workers in an attempt to avoid the shortages experienced in recent years.

These are all smart investments. They address needs that we have also identified as serious through our work with our clients. As DCPS moves forward to implement these initiatives, it will be critical for DCPS to collect data to assess their effectiveness. I am heartened that the data so far on the literacy initiatives shows meaningful improvements, and I hope that the other initiatives will also succeed. One particularly noteworthy aspect of DCPS's proposals is that, for the first time to my knowledge, DCPS is aiming to move students up more than one grade level in a year. This is absolutely necessary to allow the many children who are far below grade level to meet graduation standards by the time they leave school, but in the past DCPS has rarely acknowledged that special education should allow students to make such progress.

Concerns

Related services

There are several areas within special education, however, where I am concerned that DCPS may not have allocated sufficient resources. First, while the \$1.6 million increase to the budget for related services is a step forward, additional information is needed to assess whether it is sufficient to avert the related services shortages that have plagued DCPS in the past several years.⁵ Related service providers are essential because they help students gain the skills they need to benefit from academic instruction.⁶ They range from occupational therapists who teach a child how to hold a pencil to physical therapists who teach children how to walk up the stairs into their classroom to social workers who teach children skills to manage their anxiety so that they can focus in class. Without the support of a related service provider, many special education students cannot make meaningful progress no matter how good their teachers are.

This year and last year, many schools have lacked sufficient occupational therapists, speech/language pathologists, social workers, psychologists, and adapted physical education teachers.⁷ During the 2012-2013 school year, students missed 33% of their behavior support services because of provider unavailability.⁸ During that time frame, students also missed 13% of their speech language services and 9% of their occupational therapy because of the lack of provider availability.⁹ While official data has not been released for the 2013-2014 year to date, our clients have continued to experience similar shortages. In fact, the shortage of occupational therapists appears to have been much more severe this school year. DCPS has made a good faith effort to provide students with funding to obtain private services to make up for the services they have missed, but that is not an adequate long-term solution. Private providers are not able to work seamlessly with teachers the way that in-school providers can, and it is a

hardship on many families to have to take children to additional after school appointments. I therefore urge the Committee to inquire into DCPS's specific plans to ensure adequate staffing for all categories of related service providers this coming year.

Early Stages

I am also concerned that the funding this year for Early Stages, the central provider for special education evaluation and school assignment for children 3-5, is essentially flat. The budget book shows a \$2.5 million reduction to its budget, but I understand from Dr. Beers that the apparent reduction is almost entirely the result of the new budget format this year. It is good that there is not a major cut, but Early Stages is a program that we should continue to expand. The science is clear that intervention is most effective early in a child's life. Experts estimate that Early Stages should serve approximately 10-12% of preschool children because of the characteristics of the population, but this year's data shows Early Stages is only serving 8.8%.¹⁰ While this is an improvement over prior years, more growth is still needed.

Transition services

DCPS's budget for "transition services" – vocational and life skills training for teenagers and young adults in special education – is proposed to increase only slightly in FY15. I urge DCPS to invest more in this area. Transition services are essential to allow students with disabilities to leave school able to support themselves. Under federal special education law, DCPS is obligated to provide special education students between ages 16 and 22 with transition services to help them prepare for further education, careers, and independent living.¹¹ DCPS has made strides this past year in developing a self-advocacy curriculum and some classes geared at developing transition skills¹², but many DCPS schools are still failing to comply with

basic transition planning requirements. In federal fiscal year 2011, the most recent for which DCPS data are available, only 28% of DCPS students had a transition plan that complied with the Individuals with Disabilities Education Act requirements.¹³

The failure to comply with transition planning requirements is compounded by the fact that there are far too few slots in DCPS's current transition programs. DCPS has 1,262 students 16 and older in special education.¹⁴ There are also approximately 700 high school students placed by DCPS in nonpublic schools and residential programs.¹⁵ In addition, DCPS is responsible for the many high school special education students at the charter schools that have elected to use DCPS as their Local Education Agency for special education purposes.

While we appreciate that DCPS is slightly increasing its funding for transition programs in FY15, the increase is not sufficient to meet the need. The areas of new investment are an additional \$23,000 for 25 additional slots in the CEO programs, funding for two new transition coordinator positions, and \$78,000 to fund a web-based product used in transition classes.¹⁶ These increases are positive but they are far from sufficient. The numbers served by most of the transition programs are, to our knowledge, in the dozens. CEO, for example, had a capacity of 30 students this year and will increase by 25 next year to serve 55 total students.¹⁷

The impact of this lack of vocational and life skills training is that far too many DCPS students leave school without the skills they need to become independent adults. At a time when the city is wisely focusing on developing career-readiness for young adults through RAISE DC, it is essential that DCPS expand its vocational programs to meet the needs of high school special education students.¹⁸ Offering more programs that engage students in learning job skills will likely lead to fewer students dropping out, as we find that many of the teenagers

we work with are very motivated by learning vocational skills even if they may have given up years ago on learning to read or do math. Integrating vocational programs into the curriculum will also likely improve students' academic skills, as we also find that many of our clients make more progress in academics when those academics are tied to practical skills.

As we did last year, we urge DCPS to assess the vocational and life skills training needs of its students. At the same time, DCPS should assess the effectiveness of Project Search, Marriott Bridges, CEO and the other vocational programs in operation. Based on the information from these assessments, DCPS should develop and implement a plan to expand the vocational and life skills training opportunities for special education students. This plan should be developed in coordination with the Office of the State Superintendent of Education (OSSE) and the Rehabilitation Services Administration (RSA), the agency tasked with helping adults with disabilities obtain and maintain employment. In developing the plan, DCPS should consider strategies to help students with disabilities access the vocational programs that are provided to general education students. In our experience, these programs are often inaccessible to students with Individualized Education Plans because they do not provide sufficient accommodations, but likely the programs could be made more accessible. The work should also be coordinated with the efforts of the District Career and Technical Education Task Force, which has developed a strategic plan for improving vocational education in DC.¹⁹ Their plan only has a cursory mention of the needs of students of disabilities.

Attorneys' fees

Finally, as I stated in the oversight hearing, I am concerned that DCPS has made what appears to be a concerted effort to limit parents' access to special education representation. Over

the past several years, DCPS has become less and less willing to pay reasonable attorneys' fees to parents who prevail in due process hearings or obtain favorable settlement agreements. Last summer, DCPS announced that it would no longer use its fee payment guidelines. In practice, this means that attorneys must sue DCPS in federal court in order to obtain reasonable attorneys' fees. This is expensive and burdensome for all parties involved. It is especially problematic for indigent parents who now find that very few attorneys are willing to take special education cases on a contingency basis.

DCPS's actions to avoid paying reasonable attorneys' fees work to deprive low-income families of access to legal representation. This is especially problematic now, when the *Jones* class action is near closing. As the court monitor in that case writes, when the case closes "all that will remain as a source of pressure upon the special education system in the District of Columbia will be the oversight by OSEP [Office of Special Education Programs at the U.S. Department of Education] and the ability of the private bar to bring due process complaints on behalf of individual students. The former has not proved to be an effective remedial tool as demonstrated by the years of persistent 'high risk' status maintained by the District of Columbia schools. And the latter has been a diminishing presence."²⁰ It is critical for DC to have an active special education attorney bar both to ensure individual students have access to legal representation and to ensure that the system as a whole functions well. I urge the Committee to press DCPS to provide details regarding its attorneys' fees payment practices to ensure that they do not deprive low-income families of access to justice.

School Engagement

Recent neuroscience research confirms the common-sense understanding that children who grow up in poverty walk through the schoolhouse door at a disadvantage that even the best instruction cannot alone remedy.²¹ The many stresses that children experience living in poverty influence their developing brains in ways that make it harder for them to listen, harder for them to follow directions, and harder for them to retain information. This is especially relevant in the District, where 72% of schoolchildren come from families who live at or below 185% of the poverty line.²² Many of these children come to school with nervous systems that are dysregulated as a result of what doctors call “toxic stress.”²³ The reasons that DC children may suffer from toxic stress are too numerous to list, but some of the common reasons include exposure to violence in neighborhoods and homes and not having stable housing and sufficient food.

While schools cannot change neighborhood or family conditions, they can provide the structure and supports that ameliorate the effects of poverty and toxic stress in order to help children be receptive to academic instruction. For example, schools can provide free transportation for students whose truancy is a result of lack of funds, schools can protect students from bullying in the hallways, and schools can provide specialized counseling to help students process the traumas they have experienced in their homes and neighborhoods. Districts across the country have adopted innovative programs to support students affected by poverty, trauma, and toxic stress. For example, Massachusetts and Washington states have pioneered Trauma-Sensitive Schools, a school-wide approach to making school policies, facilities, and instruction supportive of children who have experienced family violence and other significant harm.²⁴ Interventions to support students can be made on many different

levels. They might include changing the physical layout of classrooms to give children quiet corners where they can feel safe, reforming discipline policies to emphasize teaching children pro-social behaviors, or training clinical staff in working with children who have survived severe trauma.

If schools do not take steps to address the impact of toxic stress on students, then even the best reforms to school governance or instruction will be undertaken in vain. DCPS has taken initial steps in the right direction by adopting several programs that address students impacted by toxic stress: the Tools of the Mind program teaches young children basic self-regulation skills, and Cognitive Behavioral Intervention for Trauma in Schools (CBITS) and Structured Psychotherapy for Adolescents Responding to Chronic Stress (SPARCS) offer short-term mental health interventions for children who have experienced trauma. These programs have shown promising success, but they only begin to address the scope of DCPS students' needs.

I urge DCPS to substantially increase its investment in non-instructional supports for students who have experienced poverty and trauma. With this year's large infusion of funding through the new weight for "at-risk" students, DCPS has an unprecedented opportunity to devote substantial resources to such an effort. The many DCPS students who are intended to benefit from the at-risk funding – the students struggling with homelessness, abuse, neglect, and poverty – will not be able to make real progress until their schools put in place the non-instructional supports they need to help them learn despite the challenges they experience outside of school.

Mental Health

DCPS has plans to offer some additional mental health interventions in the coming year. All middle schools will have at least one guidance counselor as well as funding to support an additional staff member to augment social and emotional supports.²⁵ DCPS is also planning new cannabis interventions and a pilot with the Department of Behavioral Health (DBH) to improve coordination of school-based and community mental health services.²⁶ I understand from Dr. Beers that DCPS will continue to make the CBITS and SPARCS trauma interventions available to all students: each middle school and high school will have staff trained in the techniques on site, while elementary schools will be able to call them in as needed. Students with truancy concerns or repeated suspensions will also be screened for CBITS and SPARCS, with their parents' permission. All of these plans are promising. I encourage DCPS to keep stakeholders informed of the details and to build in evaluations to assess the initiatives' effectiveness.

I also urge the District to move more quickly in expanding the School-Based Mental Health Program, which is funded by DBH. This year, 40 of DCPS's approximately 100 schools have school-based mental health providers provided by DBH, an increase of six schools over last year. Because some of the schools share staff, that corresponds to 34.5 social workers.²⁷ The FY15 DBH budget provides funding for an additional 23 full-time clinicians between DCPS and the public charter schools but does not indicate how many of these clinicians will be assigned to DCPS specifically. The Mayor's priority list also includes funding for another 23 full-time clinicians shared between the sectors. I hope that the Council will move the funding from the priority list and into the budget. While the proposed increase for next year is a step in the right direction, it still leaves DCPS and the school system as a whole far from meeting the *South*

Capitol Street Act requirement that all schools have school-based mental health programs by the 2016-2017 school year.

Bullying

Bullying has emerged as a serious barrier to learning for many DCPS students. My office has received numerous calls from parents whose children are afraid to go to school because of the bullying they experience. Given the severity of the need, I urge DCPS to dedicate funding specifically to preventing and addressing bullying. Currently, it appears that the only funding for bullying interventions is through the Proving What's Possible for Students Satisfaction Award. Schools have wide latitude in determining how to spend this funding and may spend it on activities such as field trips and student recognition events. While these other activities are worthwhile, there needs to be dedicated funding for bullying prevention. Bullying is matter of safety and health. Funding to prevent it should not be discretionary.

Homeless students

Homeless students need extra supports to make sure they do not fall behind in school as a result of their homelessness. They also have specific rights under the federal McKinney Vento Act, which requires all schools to have homeless student liaisons and to ensure that homeless students can remain at their school of origin or enroll smoothly at a new school. This year DC had a significant increase in family homelessness, which would suggest that DCPS would need to budget additional funding for homeless students in FY15. Instead, the budget for "Transitory Services," the line item for supports for homeless students, appears to decrease significantly. This year, Transitory Services is budgeted at \$83,000, whereas last year it was budgeted at \$777,000. There is no explanation in the budget book for this apparent decrease of nearly

\$700,000. We have requested an explanation from DCPS but have not yet received a response. It is possible that the funding has shifted to a different line item without an attendant decrease in services. I urge the Committee to prioritize inquiring into this in the budget oversight process.

Health Services

The budget for support services for expectant and parenting students appears to decrease by nearly \$400,000. As with the Transitory Services decrease, we have requested an explanation from DCPS for this apparent decrease but have not yet received a response. It is possible that the funding has shifted to a different line item without an attendant decrease in services. I urge the Committee to inquire into this in the budget oversight process. In our experience, pregnant and parenting students are at high risk of falling behind and dropping out of school.

Conclusion

Thank you for the opportunity to testify, Mr. Chairman, and I welcome any questions.

¹ Children’s Law Center works to give every child in the District of Columbia a solid foundation of family, health and education. We are the largest provider of free legal services in the District and the only to focus on children. Our 80-person staff partners with local pro bono attorneys to serve more than 2,000 at-risk children each year. We use this expertise to advocate for changes in the District’s laws, policies and programs. Learn more at www.childrenslawcenter.org.

² In 2013, 20.3% of DCPS students in special education scored proficient or above in math and 18.1% scored proficient or above in reading. This did represent a small improvement over the year before. See “Presentation of 2013 DC CAS Results (Statewide),” available at <http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Presentation%202013%20DC%20CAS%20Results%20%28Statewide%29.pdf>.

³ In FY15, DCPS will have an additional 34.5 special education teachers, 2 paraprofessionals, 2.5 psychologists, and 12.5 social workers. However, DCPS will have 496 fewer aides. Email from Donna Anthony, Chief of Staff, DCPS Office of Specialized Instruction, April 15, 2014. CLC has inquired into the reason for the large reduction in aides and has not yet received an explanation.

⁴ After accounting for the fact that “special education capacity funding” is now included in the overall special education weights, the FY 15 budget increases special education funding as follows: \$88 for each Level 1 student, \$130 for each level 2 student, \$274 for each level 3 student, and \$556 for each Level 4 student.

⁵ DCPS's FY 15 budget includes \$3.9M for "OSI Related Services," which is \$1.6M more than the \$2.3M allocated last year for "OSE Related Services."

⁶ 3 C.F.R. § 300.34 defines "related services" as "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech- language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also includes school health services and school nurse services, social work services in schools, and parent counseling and training."

⁷ See DCPS 2013 Oversight Responses Q69 and Report of the Monitor for the 2012-2012 School Year, Feb. 3, 2014, filed in *Blackman v. D.C.*, Case 1:97-cv-10629-PLF, p. 30-31.

⁸ Report of the Monitor for the 2012-2012 School Year, Feb. 3, 2014, filed in *Blackman v. D.C.*, Case 1:97-cv-10629-PLF, p. 30-31.

⁹ Report of the Monitor for the 2012-2012 School Year, Feb. 3, 2014, filed in *Blackman v. D.C.*, Case 1:97-cv-10629-PLF, p. 30-31.

¹⁰ This year's rate is 8.8%. See Q2 Attachment, "FY 2013 Performance Accountability Report," p. 6. The national average rate at which preschool children receive special education is 5.94%, but experts estimate that the District should serve a larger proportion of children because of the characteristics of the population. Comparisons with other cities suggest that DC should provide special education services to approximately 10-12% of preschool children. Memorandum Opinion & Findings of Fact and Conclusions of Law, p. 9. *D.L. v. D.C.*, Civil Action No. 05-1437 (RCL). Nov. 16, 2011.

¹⁰ See Q2 Attachment, "FY 2013 Performance Accountability Report," p. 8.

¹¹ See 34 C.F.R. § 300.320(b)(2).

¹² DCPS 2013 Performance Oversight Responses, Q37.

¹³ District of Columbia IDEA Part B Local Education Agency Report for Federal Fiscal Year 2011 (July 1, 2011 – June 30, 2012), available at

http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Report%20to%20the%20Public%20Part%20B%20FFY%202011_0.pdf. Note that OSSE has recently reported District-wide secondary transition compliance rates of 47%, but has not disaggregated that data by LEA. It is possible that DCPS's current compliance rate is higher than 28%.

¹⁴ DCPS 2013 Oversight Questions Q86.

¹⁵ OSSE 2013 Performance Oversight Responses, Q69 Attachment.

¹⁶ Email from Donna Anthony, Chief of Staff, DCPS Office of Specialized Instruction, April 15, 2014.

¹⁷ Email from Donna Anthony, Chief of Staff, DCPS Office of Specialized Instruction, April 15, 2014.

¹⁸ <http://dme.dc.gov/DC/DME/Programs/Raise%20DC%20-%20Partnership%20Summary%20FINAL.pdf>

¹⁹ "Strengthening the Pipeline to College and Careers," District Career and Technical Education Task Force, Dec. 2013, available at <http://www.dc-aya.org/sites/default/files/content/PUBLIC%20CTE%20Strategic%20Plan.pdf>.

²⁰ Report of the Monitor for the 2012-2012 School Year, Feb. 3, 2014, filed in *Blackman v. D.C.*, Case 1:97-cv-10629-PLF, p. 66.

²¹ See, e.g., National Scientific Council on the Developing Child (2005). Excessive Stress Disrupts the Architecture of the Developing Brain: Working Paper No. 3. Retrieved from www.developingchild.harvard.edu.

²² Kids Count Data Center, Free and Reduced-Price Lunch Eligibility, <http://datacenter.kidscount.org/data/tables/4778-free-and-reduced-price-lunch-eligibility?loc=10&loct=3#detailed/3/any/false/1024,937,809,712,517/3534,894,897/11147>.

²³ See, e.g., *Pediatrics*, "Early Childhood Adversity, Toxic Stress, and the Role of the Pediatrician: Translating Developmental Science into Lifelong Health," Dec. 26, 2011, available at <http://pediatrics.aappublications.org/content/129/1/e224.full.pdf+html>.

²⁴ See, e.g., <http://www.traumasensitiveschools.org>.

²⁵ DCPS FY 2015 Budget Oversight Responses, p. 14.

²⁶ Conversation with Dr. Nathaniel Beers, April 4, 2014.

²⁷ DCPS 2013 Performance Oversight Responses, Q86 Attachment Related Service Providers.