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Testimony Before the District of Columbia Council
Committee on Education
February 21, 2018

Public Hearing:
Performance Oversight Hearing
District of Columbia Public Schools

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Introduction

Good morning Chairman Grosso and members of the Committee. My name is Sharra E. Greer. I am the Policy Director at Children's Law Center¹ and a resident of the District. I also have two children enrolled in DC Public Schools. I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With more than 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. Many of the children in foster care and children with disabilities that we represent attend DC Public School.

Thank you for the opportunity to testify about the performance of DC Public Schools (DCPS). The past year has been turbulent - revelations about informal suspensions, manipulation of attendance and graduation data and leadership resignations have been the headlines of the year. The focus has moved away from students and schools. This Council, the Mayor and her team and we as a City need to regain focus. Our students should not suffer because of the mistakes of the adult school leaders.

We know some of the work that must be done. We need to provide schools, teachers and students with the tools and resources to succeed. We need to meet students where they are. This means more individualized approaches. It means

acknowledging and addressing that many of our students come to school experiencing trauma and providing schools the tools to become trauma informed. It means providing more resources for students with disabilities. It means changing approaches to discipline and focusing on keeping children engaged in school. It means ensuring that schools have appropriate health and mental health resources. DCPS has some amazing teachers and leaders. They need to be given the support and tools to succeed.

DCPS has been able to move forward a few initiatives that reflect individualized approaches. The kind of work we know can have a significant impact. For example:

- DCPS started using Pathways Coordinators in each neighborhood High School²
- DCPS opened intensive special education classrooms at Washington Met and Ballou STAY³
- DCPS's strategic plan goal that all children in kindergarten through second grade must be reading on grade level includes children with disabilities with plans to include the intensive assessment of each child's reading needs to achieve this goal.

These reflect the individualized and relationship-based approaches we will need for our students to be successful.

In our testimony today, we urge policymakers in the District to provide DCPS the time and opportunity to develop new regulations and policies around attendance,

grading, and graduation that are responsive to big questions about changes that will help students who are behind, frustrated or in care of the District. In addition, we continue to urge for more progress for students with disabilities and full funding for the special education reform legislation from 2014. We are also concerned that, once again, DCPS is impeding meaningful participation of parents in the special education process. Lastly, we urge changes to reduce the use of suspension and expulsion.

Absenteeism, Grading, and Graduation Policies Need Individualized Approaches

DCPS is currently under tremendous pressure about attendance, graduation, and grading policies and practices. We urge all District leadership to provide time and opportunity for DCPS and the community to do critical meaningful work to update regulations, policies, and practices. Reflexive and retroactive responses will only exacerbate the problems.

It will be important that, in the end, policies recognize the realities of life for so many of our students and provide needed flexibility to meet students where they are and keep them connected to school. Work on flexible and individualized approaches has been underway or is just starting for several small groups of students. For example, through the Graduation Pathways Report and the work of RAISE DC with partners in the “Disconnected Youth”⁴ Change Network, conversations have already been underway about how to best utilize, expand, coordinate, and ensure learning occurs in credit recovery. DCPS has recently been seeking parent involvement in re-examining

the extremely old and punitive regulations on the books. The Re-Engagement Center is doing great work with opportunity youth to get them back in and staying in school. The Council held an important hearing about Truancy in the District, which highlighted continuing concerns regarding the effectiveness of Court referrals, confusion surrounding the “80/20” rule, and concerns about record keeping.⁵ Especially important to Children’s Law Center, a “Students in the Care of the District Working Group,” led by Councilmember Grosso’s office, just began its work on policy and practice solutions on the education of children in foster care, in DYRS care, in DOC care, or involved with Court Social Services.

We fear that the pressures on DCPS will undermine the work for youth who need to be better connected and supported in their education. We hope to be a community partner in the important work of ensuring that DCPS’s new policies and practices are responsive to ongoing work and to important questions, such as:

1. Does failing a student for lack of attendance, which is an indication of a tenuous connection to school, make that student more likely to drop out of school? In our experience, youth a weak connection to school are more inclined to give up, because they are facing a multitude of challenges behind the attendance issues,⁶ challenges that do not have quick solutions. Research about what happens after children are retained in a grade also gives valuable

insights, showing that retention causes emotional distress, and increases the risk of dropping out by 20-50%.⁷

2. How can schools hold high expectations for students to attend classes, and at the same time not cause students to disengage mid-year after children are told that they have already failed a year-long course? DCPS and OSSE have recognized that relationships, rather than punishment, are important to this, in their implementation of the Pathways Coordinators and the evidence-based Check and Connect program for children with disabilities.⁸ Both of those programs serve only a small portion of the youth who could benefit.⁹
3. When and how should conversations be held with students and their families to determine why they are not attending school or attending class and work on solutions to the root causes? Schools are the best place to address individual student's barriers to attendance. The student, parents, teachers and other staff who work with the child on a regular basis should be at the heart of any truancy reduction effort. The *Attendance Accountability Amendment Act of 2013* recognizes this by requiring school to conduct Student Support Team (SST) meetings when a student reaches five unexcused school absences, but it does not address when to hold a similar conversation for individual class absenteeism.

4. What resources do schools need in order to meaningfully implement those meetings? While a minor improvement from the previous year, DCPS completed only 75% of their required attendance-related SST meetings in school year 2016-2017.¹⁰ To learn the specific reasons a child is missing school and to respond with the necessary interventions, someone from the school must meet with the student and his or her parents. For years, we have been urging the Council to ensure full funding and staffing in the schools to be able to hold all the SST meetings.
5. What services and solutions should those conversations be able to offer to students? The District has gathered some data about causes of truancy in DC. DCPS reported that in school year 2016-2017, the following were generally reported barriers in Student Support Team (SST) notes: academic concerns, health, family issues, clothing, day care, “parentified” students, executive life management issues, and transportation.¹¹ It is an open question whether there are resources available to meet all those needs.
6. If the cause that is revealed is low literacy or another learning challenge, is the District prepared to do whatever it takes to get that youth up to grade level? In our experience, we have not seen a commitment to providing intensive, individualized teaching at the secondary level.

7. When is the best time to offer credit recovery to a student who is struggling in a class? If not credit recovery, what extra help is readily available to get a student a second chance at learning the material while they are currently in a course? At the most recent Graduation Pathways Summit,¹² the topic of simultaneous credit recovery enrollment was discussed as a promising practice.
8. Do we have enough staffing and openings in alternative programs, credit recovery, and programming for overage and under-credited youth, if all students who miss a certain number of classes automatically fail? Do those provide all levels of special education that are necessary for the number of youth who need it? How much would it cost to provide all the necessary seats? DCPS has only four intensive special education classrooms in alternative programs, and they are very low student enrollment by design. Over the years, we have known multiple students who would have benefitted from the flexible programs in DCPS alternative high schools but who were not accepted because their disabilities required too many special education services. Just last week at the Working Group, the Re-Engagement Center raised exactly this concern, that the District needs more programming for youth with special education needs, at all levels of intensity of special education.¹³ Discussions from the Graduation Pathways work also pointed to

a need for more credit recovery and more Career and Technical Education options.¹⁴ Some of our clients, especially those with significant needs, have not been able to access the career courses and academies because DCPS does not provide special education services in them.

9. How can we ensure that all necessary resources that children and youth who are failing classes will be provided in summer school or credit recovery? We have been highlighting for years that DCPS does not provide all necessary special education services in summer school and evening credit recovery. DCPS has made uneven progress on this. In our experience, need does not drive whether children with disabilities get specialized instruction in evening credit recovery. Rather, children's access to specialized instruction in credit recovery is driven by which school the child happens to attend and which staff the school has decided to hire. DCPS still does not provide special education teachers or related service providers in summer school.¹⁵ This is a serious barrier for children with disabilities who were not able to pass their original course *with* their special education services.
10. How can we ensure that opportunity youth¹⁶ can engage in school at any time of the school year that they are ready, and make immediate progress towards passing grades, credits, and graduation? Inflexible attendance regulations

would fail some of these students before they even started on their re-engagement. The District should not provide this disincentive.

11. How can we ensure that children who have to be out of school for medical needs receive the educational services that they need in a timely fashion?¹⁷

Home and hospital instruction is a legally required option for students who cannot attend school because of qualifying medical reasons.¹⁸ Two main groups of students need home or hospital instruction: pregnant and post-partum teens and youth with significant mental or physical health problems that prevent them from attending school. Too often, DCPS denies students with demonstrated need an instructor come to their home. Parents are not given full information about how to request or receive that in-home instruction, wait long periods without hearing an answer from the LEA, or are wrongfully denied the home instruction.¹⁹ Even for children who are approved for home instruction, often it takes weeks to arrange for the teacher to start coming, and the teacher is only scheduled to come for two or three hours per week, which is not enough time to cover all of the courses the child is missing. The students end up falling behind in school, which causes many to become disengaged and not want to return to school, or become hopeless about graduating.

12. How can we ensure that students who are highly mobile between schools, such as youth in DYRS or CFSA care, can earn partial credits, get timely placed in the correct classes, and continue to move towards graduation? When students are not in the right classes and struggle to get appointments with counselors to correct their schedules, they often stop attending those classes. Even our lawyers struggle to get timely appointments with school counselors.
13. What ways can the District build in exceptions as necessary, for example for students or parents with need for reasonable accommodations due to disabilities?
14. What processes will be in place to check the accuracy of class-level attendance records and swiftly make corrections? In our experience, undocumented suspensions and other incorrect records occur with equal frequency in both DCPS and public charter schools. The stakes for students are extremely high under current regulations, with only a short window for appeals.

We believe that DCPS needs new policies that are responsive to all of these questions.

Children with Disabilities Need Reforms Now

Unfortunately, the situation for children with disabilities is not much different than last year. We know that improving the outcomes for children with disabilities is not easy, but we are not seeing the progress needed. DC's children with special needs

continue to have abysmal academic performance and graduation outcomes and slow progress in proficiency. The Partnership for Assessment of Readiness for College and Careers (PARCC) proficiency scores of students with disabilities are barely less bleak than a year ago, a scant one percent improvement. At the current rate, it will be over 40 years before even half of DC's children with disabilities are proficient. Children in our schools will be grandparents by that time. Six percent are proficient in English/Language Arts (ELA) and seven percent in Math, compared to 31% ELA and 27% Math for students not in special education.²⁰ There has been some progress in lifting children out of Level 1 on the PARCC, but 58% of children with disabilities are still at that lowest score level in ELA, compared to only 25% of all students. Forty-seven percent (47%) of children with disabilities are still at that lowest level in Math, compared to only 21% of all students.²¹ Reported graduation rates have improved, but the dismal proficiency rates of eighth grade and high school students with disabilities raise questions about whether students are being passed along. Sadly, post-graduation outcomes got slightly worse, and only 33% of graduated DCPS students with disabilities were enrolled in any post-secondary school or training or employed within one year.²²

Behind the statistics are children and parents. At Children's Law Center, we receive calls every day from parents who are worried that their children are not learning to read, not learning math, being sent home instead of getting help with their

emotional needs, and not going to be prepared for adulthood. For many of the children, the truth is that they are not making meaningful progress and are many years behind. Too many of the children we see in middle and high school are still only able to read and do math at early elementary levels, and their teachers and school leadership do not seem to know how to help. Some of them have never been diagnosed with a disability, despite how obvious the child's severe needs are and, at times, despite the parent asking for special education. Other children are in special education, just not receiving the services they need to make progress. Parents are upset and scared about the future, as their child falls further and further behind.

DC Needs to Fund the 2014 Special Education Reforms

Children with disabilities need DC to commit the resources that they need to succeed in the upcoming Fiscal Year 2019 Budget and fully fund the *Enhanced Special Education Services Act of 2014* and the *Special Education Quality Improvement Act of 2014*. Their needs have already been put to the side the past two fiscal years. Every year that both branches of DC government delay, more children fall further behind.

Evaluate Children to get Special Education Services Faster

Specifically, once funded, the *Enhanced Special Education Services Act of 2014* requires LEAs to evaluate and diagnose students within two months rather than more than a semester. Currently, schools have 120 days to complete the evaluation, the

longest timeline in the nation.²³ The impact that faster diagnosis and thus faster services will have on students cannot be understated.

Fortunately, OSSE and schools have been getting ready. We know that DCPS evaluators are operating on a 45-day deadline for their evaluation reports to be done.²⁴ OSSE also released over \$3,500,000 as formula grants to LEAs to help them prepare for faster evaluations. Because of federal law, that investment of local dollars must continue after this year,²⁵ so we believe that part of the cost of this reform is now committed.

Plan Earlier for Life After High School

The *Enhanced Special Education Services Act of 2014* also requires LEAs to start planning about the student's future, called transition plans, in eighth grade. Under federal special education law, schools are obligated to develop "transition plans" for special education students between ages 16 and 22 years old to help them prepare for life after high school.²⁶ Recognizing the importance of these transition activities, the *Enhanced Special Education Services Act of 2014* lowers the age at which transition planning must begin to age 14. This change was to be effective July 2016, but a small amount of funding was not included in OSSE's last budget.²⁷ For eighth graders, this will allow planning for high school opportunities suited to the child's interests and ensure that the child and parents learn about the options for diploma coursework.²⁸

Again, fortunately, despite the lack of clearly appropriated funds, DCPS began implementing this reform last year and has a Middle School Transition Coordinator this year.²⁹ In addition, via the Special Education Enhancement Fund Formula grants issued this October 1, 2017 to help LEAs with both faster evaluations and earlier transition planning, OSSE released more than enough funding to LEAs for this reform.

Capacity

The achievement gap highlights that capacity within our public schools to provide effective, appropriate education for students with disabilities remains a key issue. Students with disabilities have a great variety of different strengths and needs, so the IDEA requires that each LEA offer an array of services and settings, from fully-inclusive general education with necessary supports, to pull-out smaller groups in the school, all the way to specialized separate schools. Some children who would be considered “in inclusion” need fully co-taught classrooms providing specialized instruction in all areas. Some children need intensive evidence-based reading instruction focused on their specific weaknesses in very small groups in order to learn to read. Some children cannot function in the noise and bustle of a mainstream school building, even within a self-contained classroom.

Our clients have over and over found that their public schools could not provide them with the services they needed to make meaningful progress. This lack of progress is the reason that some children need to be placed in specialized classrooms or

specialized schools. We have seen closures of specialized programs, both public and nonpublic, without investment in similar expertise and rigorous planning for how the needs of children with significant disabilities can be met. We are beyond disappointed that the partnership with the Ivymount School, which Dr. Nathaniel Beers had started planning many years ago to fill a gap in high-quality expert programming inside DC and which could have been a model of partnership for children with disabilities, was scrapped. We are also disappointed that the partnership with Lindamood Bell, a program with some evidence base, was also scrapped without public research and without replacing it with evidence-based programming. We have not seen DCPS make strides in creating capacity to serve all students.

DCPS Practices Impede Parent Participation for Children with Disabilities

Over the last year, several changes in DCPS practice have reduced the ability of parents to participate in their children's education. Parent requests for evaluation are not acted on and classroom observations by experts are becoming more difficult again.

DCPS Is Not Evaluating All Children, Even when Parents Request Evaluations

Over the last several years, DCPS has celebrated a reduction in the percentage of children identified as having disabilities, which seems related to increased difficulties that parents have getting DCPS schools to evaluate their children. Several years ago, DCPS set a target of 15%.³⁰ Targets are dangerous in special education. The recent example of Texas using a target for special education provides a stark warning.³¹

Children must be evaluated individually and if they have a disability be provided with appropriate services.

Our experience, over twenty years, is that many children who need special education and the individualized educational approaches and therapies it brings, are not identified.³² As we highlighted a few months ago, even children and youth with serious disabilities that are causing psychiatric hospitalization or even placement in Psychiatric Residential Treatment are not automatically considered for special education evaluation and do not get identified as needing special education.

Many parents struggle to get their children evaluated. The Enhanced Special Education Services Act of 2014 required DCPS schools to evaluate a child for special education on the verbal request of a parent, so this should not be a struggle.³³ As highlighted by the Ombudsman for Public Education, DCPS (and PCS) schools seem to be diverting children to the Response to Intervention (RTI) Process rather than evaluating children for special education.³⁴ In theory, response to intervention is a good idea, but in practice, schools have often not implemented RTI properly,³⁵ and illegally delayed and denied special education services to children. Failing to evaluate children who may need special education, especially after a parent requested special education help, harms the parent's ability to gather information and help their child.

DCPS has Further Limited Specific Information that Parents can get about Special Education Services in Schools

In the Special Education Student Rights Act of 2014, this Council supported the rights of parents to have an expert in special education observe their child in the special education classroom.³⁶ Parents are outmatched by the educators that DCPS pays to teach and observe in its classrooms if they have concerns. The lack of parent right to neutral expert observation is a barrier to children getting the services that they need. The legislation was intended to level the playing field when parents need to pursue the child's rights to meaningful progress and appropriate services in disputes with DCPS. In the last year, however, DCPS has once again created additional barriers for parents to be able to have expert observation. While the Special Education Student Rights Act guaranteed access for experts to observe, DCPS has interpreted a loop-hole in the law. If a parent might win a legal challenge to DCPS's services and by winning, get reimbursed for expert witness fees that they had to pay to pursue the child's rights to appropriate education then the expert has a "financial interest" and can be denied access. This interpretation stretches credulity and clearly is against the intent of the law. We hope to work with this Committee on a solution to correct this flawed interpretation and help parents have full information they need.

Further hampering parents is the limited information about special education programming and how schools are doing educating students with disabilities.³⁷ Parents must rely on informal networks and individual conversations with school staff, if they want to try to find a good match for their child with a disability. This lack of

information to make good matches often leads to multiple transfers of schools, which has a very negative impact of children's performance in school. In past years, DCPS did not make all needed information easily available, but it at least published a list of where each specialized classroom was located and how many students would be in the class. DCPS chose not to put that list out to the public for this school year, so parents of children with disabilities have even less information than last year.

Limited/Non English Proficient Parents and Students Need Reform

Too often, DCPS fails to interpret or translate information necessary for parents to understand, track, and participate in their child's education. Unless a child attends a dual language program, few parents receive translated information as required by the Civil Rights Act of 1964 and the DC Language Access Act of 2004. This means parents who are Limited English Proficient (LEP) or Non-English Proficient (NEP) are excluded from reading, for example, report cards, IEPs, progress reports, discipline notices, notices about parent/teacher conferences, notices about field trips, and many more. Schools frequently call upon untrained school staff, or even children to translate meetings for their parents. Although all DCPS staff have ready access to a telephonic interpretation service, our clients report that many front-line DCPS staff are unfamiliar with the language line, have not been trained in use of the language line, or simply do not wish to take the time necessary for interpretation to occur. As a result, even when our LEP/NEP clients try to assert their right to oral interpretation of any

communications at school, they are regularly denied that service. The *Language Access for Education Amendment Act of 2017* would address some of these issues by funding on-site bi/multi-lingual language access liaisons for schools serving large numbers of LEP/NEP students, as well as by instituting a fine structure for agencies that fail to provide requisite interpretation.³⁸ Unfortunately, despite being voted out of the Committee on Education last year, the bill has since languished in the Committee of the Whole. We urge the members of this and other Committees to advocate for this bill to be scheduled for markup as soon as possible.

DCPS Must Reduce Suspensions and Expulsions and Create Trauma-Sensitive Schools

As we testified just a few weeks ago, we have a suspension crisis in the District. African-American and Latinx children are suspended at dramatically higher rates than other children.³⁹ So are children with disabilities,⁴⁰ children in foster care, children living in poverty and children who are homeless.⁴¹ Instead of figuring out what children need to be successful and learning, we are excluding them from class and depriving them of fair access to an education. But, the suspension crisis is not new. Students, parents, advocates and teachers have been calling for reform for years. And, although some good work has been done by some schools, children are still being suspended at extremely high rates.

The data from OSSE shows that 7.4% of students were suspended out of school in SY2016-2017.⁴² For DCPS specifically, there was no improvement in its overall out-of-

school suspension rate.⁴³ Unfortunately, that data is not reliable, because of “Do Not Admit” lists and other inaccuracies.⁴⁴ Even using the flawed data provided to OSSE, suspension numbers have stopped going down and still remain at crisis levels. There was almost no reduction in the number or percentage of students suspended in SY2015-2016 and 2016-2017—and almost one in 15 children were suspended from school at least once.⁴⁵

This is a problem that can be solved, which is why Children’s Law Center supports the *Student Fair Access to School Act of 2017*. However, in addition to passing the bill, resources must be invested in this effort. Students need DCPS to participate in developing a reasonable plan and projection for what full staffing and funding is needed to implement solutions to problem behavior rather than out-of-school exclusion.

Trauma-Informed Schools

Another important way to help improve outcomes for our students is to address trauma in schools. We know, through years of research and our own experiences, children in the District, especially those we serve, bring traumatic experiences with them into the classroom everyday – impacting their behavior and ability to learn.

Children in the District have a high rate of experiencing trauma.⁴⁶ Trauma is a severe emotional response to a frightening or threatening event or to a series of experiences that leaves a person overwhelmed and unable to cope.⁴⁷ While experiencing any one discrete negative event, such as physical abuse or witnessing a

murder, can cause trauma, children can also experience trauma through the cumulative effect of multiple, ongoing events, like living in poverty, experiencing homelessness, or being repeatedly removed from one's parents. Importantly, with respect to our discussion today, there is now wide agreement that trauma significantly impacts a child's ability to progress at school.

Increasingly, experts on trauma agree that schools can play a significant role in the adjustment of traumatized children.⁴⁸ A supportive school community that views children and families through a trauma-lens can help children feel safe and connected – this is the first step in preparing these children to learn. In schools best equipped to handle trauma, with staff trained in its effects and who are able to make strong linkages to mental health providers, teachers will be able to focus on teaching rather than continuously managing behavior issues.

DCPS has done important work to bring trauma-informed practices into DCPS schools, but progress in that work appears to be stalled. No expansions or comprehensive plan are mentioned in this year's oversight. In SY2016-2017, Evidence-Based Treatments were expanded to more DCPS schools.⁴⁹ While expanding these trauma-informed services was encouraging, services alone are not enough for schools to be trauma-informed. That is why we continue to urge DCPS to adopt a trauma-informed policy and comprehensive plan for all DCPS schools.

CONCLUSION

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

¹ Children’s Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to advocate for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. With more than 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

² DCPS FY17 Performance Oversight Responses, Q49.

³ DCPS FY17 Performance Oversight Responses, Q71.

⁴ Out of respect and hope, we use the term “opportunity youth” for this group of youth.

⁵ See Children’s Law Center’s testimony from the October 23, 2017 public oversight roundtable on “Improving School Attendance: Truancy, Chronic Absenteeism, and the Implementation of Reform Initiatives” here:

<http://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20--%20Improving%20School%20Attendance%20Roundtable.pdf>

⁶ The District has gathered some data about causes of truancy in DC. DCPS reported that in school year 2015-2016, the following were generally reported barriers in Student Support Team (SST) notes: academic concerns, health, family issues, clothing, day care, “parentified” students, executive life management issues, and transportation. DCPS FY16 Performance Oversight Responses, p. 68. DCPS data from the first semester of the 2013-14 school year is the most recent specific data we can find. It identified the student’s health as a barrier in 11% of cases, academics in 8% of cases, transportation in 6% of cases, the parent’s health in 2% of cases, and school safety in 1% of cases. See DCPS FY13 Performance Oversight Responses, Q87–88.

⁷ https://childandfamilypolicy.duke.edu/pdfs/pubpres/FlawedStrategy_PartOne.pdf, p.2 . See also, <https://www.nber.org/papers/w13514>

⁸ Check and Connect is included in OSSE’s IDEA Part B Annual Performance Plan for FFY2015, accessed at

<https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FFY%202015%20Annual%20Performance%20Report%20-%20Part%20B.pdf>

⁹ See DCPS FY17 Performance Oversight Responses, Q49. Each Pathways Coordinator works with about 30-50 youth in the school. DCPS states at page 80: “There are many additional students in our high schools who are off-track for graduation and/or failing courses, but are not served specifically by the Pathways program. There is still an expectation that these students have an intervention plan in place and documented in our student information system. This is tracked and monitored through the ACGR process. At the end of the first term in SY17-18, 3247 students in our high schools were identified as off-grade level and/or failing at least 2 classes; as of January 5, 2018, 2022 (62%) of these identified students had an active academic plan in place.”

¹⁰ DCPS FY17 Performance Oversight Responses, Q52.

¹¹ DCPS FY17 Performance Oversight Responses, Q50e.

¹² See presentation from the Graduation Pathways Summit on November 6, 2017, Workshop B: Expanding Access to Credit Recovery, accessed at

http://www.raisedc.org/s/2017GradPathwaysSummit_WorkshopB_171107.pptx RAISE DC’s “The Graduation Pathways Project began in summer 2013 to widely engage education agencies, school leaders, and civic partners to act on a shared vision that every student – no matter how far off track he or she may be – has a path to graduation.” <http://www.raisedc.org/graduationpathways>

¹³ Notes from Working Group meeting on February 12, 2018. Notes on file with Children’s Law Center.

¹⁴ October 23, 2017. Council of the District of Columbia: Public Oversight Hearing on Improving School Attendance.

https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/DME_GradPathways_FinalReport_20140924_vF.pdf

¹⁵ DCPS FY17 Performance Oversight Responses, Q71.

¹⁶ Youth who are not connected to a school, either by drop out or push out, or those who are severely under-credited/"off track" and will not finish traditional high school, are often referred to as "disconnected youth," but there is also a movement of for such youth to be called "opportunity youth" instead. DCPS has embraced this trend by calling its alternative programming Opportunity Academies. Out of respect, we use "opportunity youth."

¹⁷ DC law should set a five-day deadline for the LEA to approve or deny home or hospital instruction requests. The law should also set a deadline for services to begin after receiving certification from a medical professional that the child's medical (including mental health) condition is too severe to attend school, as do many other states. In addition, DC law should set minimum hours of instruction, which is done in many other states, as well. We suggest a minimum of five hours per week for elementary and ten hours per week for high school students. Parents and students should also be given a forum to quickly appeal a denial or failure to provide timely services, so that students can get the instruction they need. With clear deadlines and procedures for home and hospital instruction, students with significant needs will have access to more meaningful instruction to keep up and stay connected in school. See our Testimony from the Public Roundtable on Improving School Attendance, October 23, 2017, for additional citations.

<http://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20--%20Improving%20School%20Attendance%20Roundtable.pdf>

¹⁸ Section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, and Title IX are sources of law that give students rights to home and hospital instruction.

¹⁹ Doctors with whom we work send families to us when they are concerned that students, for whom they correctly submit the required paperwork, are at home with no instruction or only getting work packets. Our clients with valid physician certifications are routinely denied services by DCPS, despite the fact that no other licensed medical professional has issued a competing opinion of the child's need.

²⁰ Calculated from OSSE's 2016-17 PARCC and MSAA Performance Results, for All grades and All ELA and Mathematics, data file accessed November 17, 2017 at

https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Detailed%202017%20PARCC%20and%20MSAA%20Performance_0.xlsx. DC scores on the National Assessment of Educational Progress, administered in 2015, are very similar, with about 4-6% of students with disabilities "proficient" (compared to 25% of non-disabled students) and 73-83% Below Basic in Reading (compared to about 40% of non-disabled students.)

https://www.nationsreportcard.gov/reading_math_2015/files/2015_Results_Appendix_Reading.pdf

²¹ *Id.*

²² Indicator 14 from the 2015-16 school year, the most recent audited data that OSSE submitted to the Federal government. OSSE. (Spring 2017) *IDEA Part B Annual Performance Report to the Public Federal Fiscal Year 2015*, accessed November 17, 2017 at

<https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FFY%202015%20APR%20Report%20to%20the%20Public.pdf>

²³ "The District's 120-day timeframe still appears to be the longest period of time in the country. 2015 *Dunst Direct* ¶ 89. In only five states does the timeframe exceed 60 days. *Id.*" Corrected Memorandum of Opinion & Findings for Fact and Conclusions of Law, (June 21, 2016), *D.L. v. D.C.*, Civil Action 05-1437, at Finding of Fact 100.

²⁴ We know this from experiences in DCPS IEP meetings, as well as the fact that DCPS has included a 45-day deadline to complete evaluation reports in DCPS guidelines. See, e.g., DCPS. (August 10, 2016). *Speech and Language Program Guidebook School Year 2016-2017*. Washington, DC, page 66 and 82 (copy on file with the Author from a FOIA request).

²⁵ See OSSE's FAQs, about Federal Maintenance of Effort requirements in relation to the SEEF grants. https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/SEEF%20Formula%20Grant%20FAQs.pdf, p.5

²⁶ 34 C.F.R. § 300.320(b)(2).

²⁷ See the *Enhanced Special Education Services Act of 2014*, DC Act 20-487.

²⁸ Once funds are appropriated and the law is in effect, the Department of Disability Services (DDS) will also be able to start using currently-available Federal funding under the *Workforce Innovation and Opportunity Act* for services in middle schools and to students age fourteen and up during summer work opportunities. The WIOA requires DDS to use 15% of the Federal WIOA funding on students prior to graduation (Pre-Employment Transition Services), and allows it to use funds at the transition age set in IDEA (which is 16) or local law. See http://ruralinstitute.umt.edu/transition/handouts/VRBS_and_WIOA-28apr15.pdf.

²⁹ DCPS FY16 Oversight Responses, Q78, and DCPS SY 2016-17 Transition Services Manual, found at <http://dcpstransition.com/wp-content/uploads/2016/10/2016-FINAL-TRANSITION-MANUAL.pdf>. Also, conversation between the author and Kerri Larkin, DCPS Deputy Chief for Specialized Instruction, November 13, 2017.

³⁰ In its FY2014 Performance Plan, DCPS set a goal to reduce special education enrollment to 15% overall by the end of SY2016-2017. See DCPS FY14 Performance Plan, p. 9. Retrieved from <https://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/DCPS14.pdf>

³¹ Texas Illegally Excluded Thousands From Special Education, Federal Officials Say, BRIAN M. ROSENTHALJAN. 11, 2018, <https://www.nytimes.com/2018/01/11/us/texas-special-education.html>.

³² We acknowledge that there is an important debate about whether children of color are over-identified as having disabilities, in particular emotional disturbances or with ADHD. Many children with dyslexia and other learning disabilities develop problems with behavior because of their frustration, and then get mis-diagnosed. There is also important research that shows that Black children are likely to be identified with Autism, for example, later than White children, despite the evidence that early intervention with Autism is so effective. We also know that trauma responses and responses of the brain to chronic stress often look like ADHD in children, and that those children need specialized services too. An appropriate response to these nuances would not be an overall quota, but examination of particular IDEA eligibility classifications. Nora Gordon. *Race, Poverty, and Interpreting Overrepresentation in Special Education*, Sept. 20, 2017. <https://www.brookings.edu/research/race-poverty-and-interpreting-overrepresentation-in-special-education/>.

³³ See the *Enhanced Special Education Services Act of 2014*, DC Act 20-487.

³⁴ DC Office of the Ombudsman for Public Education 2017 Annual Report, p. 13-15. Retrieved from https://sboe.dc.gov/sites/default/files/dc/sites/sboe/publication/attachments/Office%20of%20the%20Ombudsman%20for%20Public%20Education%20Annual%20Report%20for%20SY%202016-17_FINAL-web.pdf

³⁵ The process is supposed to have check ins every few weeks to see if the chosen intervention is working,

³⁶ See the *Special Education Student Rights Act of 2014*, DC Act 20-486.

³⁷ The type of information that DC schools should be transparent about includes staffing details, caseloads, details about specialized classrooms, types of supports in inclusion classrooms, and evidence-based programs and practices for both academics and social-emotional progress.³⁷ In the same place, DC should also have transparent information about the LEA's performance on IDEA Federal compliance measures, and other accountability data such as percent of services in IEPs actually delivered and attrition of special education students. Lastly, public information about the performance, progress, and

proficiency of children with disabilities in those different programs and at different levels of inclusion programming (mostly inclusion, some pull-out specialized instruction, self-contained special education, etc) will be key to fueling change. As stated by DC Appleseed in their report over a year ago, “Without that data, the District cannot compare students’ performance in general and specialized public and nonpublic settings, or determine where it needs additional internal or external capacity to serve students with certain kinds of disabilities.”

³⁸ *Language Access for Education Amendment Act of 2017*.

³⁹ African-American students in DC are 7.7 times more likely to be given out of school suspensions than White students, when controlling for at-risk status, economic disadvantage, disability, gender and other risk factors. See OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 25-26. 94.4% of District students who were suspended more than once are African-American, although they are only 67.8% of public school students. *Id.*, p. 30. The disparity for Latinx children is also great: they are 2.8 times more likely to be suspended than White children. *Id.*, p. 29.

⁴⁰ Students with disabilities were 2.45 times more likely to be suspended than students without disabilities in school year 2016-17. Students with disabilities were 1.75 times more likely to be suspended multiple times. Calculation by Children’s Law Center based on data from OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 34.

⁴¹ Students who are considered at-risk were 2.7 times more likely to be suspended, homeless students were 2.5 times more likely to be suspended, and children in foster care because of past abuse or neglect were 2.9 times more likely to be suspended. At risk status includes children who receive TANF or SNAP benefits, children in foster care, children who are homeless, and youth in high school who are overage for their grade. Children’s Law Center calculated these risk ratios from the data on page 40 and 43 of OSSE’s 2017 *State of Discipline Report*.

⁴² See Every Student Every Day Coalition Report (2014). *District Discipline: The Overuse of School Suspensions and Expulsion in the District of Columbia*. See also, OSSE (2017). *State of Discipline: 2016-17 School Year*.

⁴³ The out-of-school suspension rate for DCPS in SY2016-17 was 6.27% compared to 6.8% in SY2015-2016. See OSSE FY17 Performance Oversight Responses, Q10 Attachment, and OSSE FY16 Performance Oversight Responses, Q9 Attachment 1.

⁴⁴ Emma Brown and Alejandra Matos, Some D.C. high schools are reporting only a fraction of suspension, WASH POST (July 17, 2017). Retrieved from https://www.washingtonpost.com/local/education/some-dc-high-schools-reported-only-a-small-fraction-of-suspensions/2017/07/17/045c387e-5762-11e7-ba90-f5875b7d1876_story.html?nid&utm_term=.a4ea63e9fdcf

⁴⁵ In SY2015-16, 7,324 students (7.8 percent of the total population) were suspended 12,695 times. See, OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 10-11. In SY2016-17, 7,181 students (7.4 percent of the total population) were suspended 12,897 times. See OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 11 and p. 21.

⁴⁶ DC Fiscal Policy Institute (2014). *Unlocking Opportunities: Services that Help Poor Children Succeed in the Classroom, Part 1: How Poverty Affects a Child’s Ability to Learn*. Retrieved from <http://www.dcfpi.org/wp-content/uploads/2014/05/Part-I-Poverty-and-Childrens-Learning-Final.pdf>

⁴⁷ The National Child Traumatic Stress Network (2014). *Understanding Child Trauma*. Retrieved from http://www.nctsn.org/sites/default/files/assets/pdfs/policy_and_the_nctsn_final.pdf

⁴⁸ Tishelman, A.C., Haney, P., Greenwald O’Brien, J. and Blaustein, M. (2010). “A framework for school-based psychological evaluations: Utilizing a ‘trauma lens.” *Journal of Child and Adolescent Trauma*, 3(4): 279-302, 280.

⁴⁹ Information provided to Children’s Law Center by Deitra Bryant-Mallory, Director of School Mental Health for DCPS, (September 2, 2016).