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Introduction

Good morning, Chairman Mendelson, Chairman Grosso and members of the Committees. My name is Sharra E. Greer. I am the Policy Director at the Children's Law Center¹ and a resident of the District. 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 almost 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. Nearly all the children we represent attend public schools in DC – whether traditional public schools or charter schools.

I appreciate this opportunity to testify regarding the performance of the Office of the State Superintendent of Education (OSSE). My extensive testimony covers a wide array of issue areas: special education, early intervention, home and hospital instruction, school based mental health, school discipline, budget transparency and truancy. Unfortunately, while there has been important progress, we still have a significant way to go to meet the needs of our all of our students.

Children with Disabilities Continue to Struggle

Our children with disabilities, who make up about 17% of students enrolled throughout the year, continue to have unacceptable outcomes.² OSSE has taken several steps this year to address this issue. One important step was the release of OSSE's

Landscape Analysis of Students with Disabilities in the District of Columbia. This analysis took a deep dive into understanding what barriers the District faces in providing a quality education for this population.³

The Landscape Analysis highlights information we already know about DC's children with special education needs: their academic performance and graduation outcomes are far below their peers without disabilities. Reviewing 2019 data, we know that 44% of DC students without disabilities scored proficient in the English Language Arts (ELA) statewide assessment, while only 8% of students with disabilities scored proficient.⁴ Graduation rates continue to be low for students with disabilities and we remained concerned about transition services for students with disabilities after graduation.⁵ In FY19, 15% of students with disabilities dropped out of school.⁶ This is completely unacceptable.

We appreciate that OSSE recognizes that this gap can and must be closed. OSSE cites the National Center on Educational Outcomes research which shows that 85-90% of students with disabilities can perform at grade level when provided with appropriate supports.⁷ Further, the landscape report highlights jurisdictions like Miami-Dade and Boston that have made meaningful progress with their students with disabilities scoring above the NAEP national average for students with disabilities.⁸ However, merely recognizing and analyzing the problem is only the first step. We look forward to working with OSSE as it develops action steps to close the outcome disparity.

2019 Advanced Notice of Proposed Rulemaking for a New Chapter 30

Another important step OSSE took to address the needs of special education students is moving forward its revision of the regulations governing special education. OSSE released the Advanced Notice of Proposed Rulemaking for a new Chapter 30 this fall. These new regulations are a key step in ensuring that many of the best practices that OSSE is already implementing are placed into regulation and universally implemented, but also to help the District take a step towards addressing serious issues that affect students with disabilities. Children’s Law Center was especially interested to see additional attention placed on the following categories: seclusion and restraint, seclusion and restraint reporting, parental engagement within the IEP process, IEP Certificates of Completion, and related services. We commend OSSE for their undertaking this extensive rewrite and for being so transparent and accessible with advocates throughout this process. We look forward to continuing the dialogue with OSSE about how we can continue to strengthen these regulations to ensure the best educational outcomes for children with disabilities.

Seclusion and Restraint

We applaud OSSE’s inclusion of additional guidance about how schools can and cannot use seclusion and restraint for special education students. Currently, schools are operating with very little to no guidance as to when these practices can be used and how they should be used. Although regulations exist right now for non-public schools,

we generally have very little information about how these practices are being implemented District wide. Further, we are concerned that Local Education Agencies (LEAs) may be using the practice of seclusion and or restraint to manage classroom behavior and prevent classroom disruptions.⁹ These proposed regulations are a first step towards greater transparency for educators, administrators, and parents.

Subjecting students to seclusion and or restraints can create trauma for the student and lead to their injury and even death.¹⁰ Along with our colleagues at the Juvenile and Special Education Law Clinic at UDC and Disability Rights DC, we urge that seclusion and restraint only be utilized as a method of last resort and only when there is imminent danger of serious physical harm to self or others.¹¹ We also recommend that these regulations eliminate seclusion and restraint as a planned intervention for any particular student. Finally, we urge OSSE to consider that not all students who are subject to restraint and seclusion techniques have special education needs. In fact, during the 2011-2012 school year it was reported that 28% of students subject to physical restraint were not receiving Special Education services.¹² We recommend that procedures on restraint and seclusion for students not in special education also be included in the upcoming Chapter 25 rulemaking to address their use on the non-special education population.

Parent Participation in IEP Team Meetings

For parents to be equal and meaningful participants in IEP meetings as envisioned in the IDEA, the focus for LEAs needs to be on scheduling at a mutually convenient time and place. Notifying the parent of a meeting date is not working together to find a convenient time. An invitation with several possible dates is more cooperative. For many parents, work schedules are determined two weeks in advance, and they must ask for time off a week before schedules are posted and so they need meetings scheduled several weeks out. We have also experienced challenges with schools who predetermine that they only hold meetings on one day each week or will not meet early in the morning, which makes scheduling at mutually convenient times very challenging when parents have existing commitments (e.g., work, standing medical appointments for their child with a disability). We recommend responding to these challenges. OSSE proposes to modify the Chapter 30 regulations to require LEA's to schedule meetings at a mutually agreed on time and place, and that schools may have to be flexible about meeting on different days of the week, or different times of the day. The proposed regulations would also require schools to communicate with the parent to schedule the meeting, including by written invitation, no later than fifteen (15) business days before the proposed meeting dates.

IEP Certificate of Completion

Many of the students we serve are eligible to receive IEP certificates of completion. Having the opportunity to earn an IEP certificate of completion is not only significant for a student's motivation to continue with education or skills training, but it is also tied to their ability to access services post-graduation. In fact, in our experience some Rehabilitation Services Administration (RSA) service providers are requiring that students provide an IEP certificate of completion to enroll. Although the Developmental Disabilities Administration (DDA) does not require that students obtain an IEP certificate of completion to access services, we know that some providers DDA contracts with do require the certificate of completion. This leads to confusion for students and families when transitioning to these new services. We recently had a case of a student who was allowed to walk at graduation after their IEP team determined they met their IEP goals. Unfortunately, the student was not awarded an IEP certificate of completion after the ceremony. Without this document, we are having a very difficult time getting this student into the RSA services that they are being currently referred to. Further, for students that have more severe impairments, the current IEP certificate of completion requirements and credit categories proposed in this rulemaking will be problematic. For example, a student with an Intellectual Disability may have an IEP team who has determined that the student will not be receiving instruction in some of the required content areas listed. Therefore, we recommend that the language be

modified to read that the IEP certificate of completion policy establish a minimum number of unit credits or minimum hour requirements, as determined by the IEP. We also recommend the addition of these content areas to the IEP certificate of completion: life skills classes, job shadowing, job training, experiential learning in a job or trade, or services to improve adaptive functioning. In the alternative, we suggest that OSSE add another subsection that would lay out a policy for an IEP Diploma, which would be a diploma option for students whose disabilities prevent them from meeting the requirements of the IEP certificate of completion.

OSSE Should Clarify That the Response to Intervention Processes (RtI) Should Not Delay Evaluation

The proposed Chapter 30 regulations explicitly state that the LEA shall not delay or deny a timely evaluation to conduct screenings or implement pre-referral interventions.¹³ However, we ask that OSSE consider additional language be added to make it clear that LEAs cannot delay or deny timely evaluations for any reason, including that RtI is underway. The addition of this language to § 3004.3 is important, because our experience over the past year is a reversion to using the RtI framework to delay evaluations for children who need special education services.

Parents and their attorneys are reporting that schools require parents wait at least eight weeks through the conclusion of RtI before the school will even schedule the AED meeting. This is not a new problem. Children's Law Center has testified before about our concerns regarding the use of RtI as a delay tactic to deny children the special

education services they are entitled to. Further, this year's Office of the Ombudsman for Special Education's annual report again highlighted that RtI is sometimes used incorrectly and inconsistently, and that schools were telling parents incorrectly that RtI had to occur before a child could be evaluated. This year, the Office the Ombudsman for Special Education services has gone a step further and created a model RtI process that can be applied citywide and hopefully will reduce barriers to having children evaluated for Special Education while also allowing students who need the RtI framework to succeed to access the program. Finally, *The Enhanced Special Education Services Act of 2014* required DC Public Schools (DCPS) and Public Charter schools (PCS) to evaluate a child for special education on the verbal request of a parent.¹⁴ When a parent requests their child to be evaluated for special education and the child is instead rerouted to an RtI program, schools are violating the law.

We hope that OSSE will more aggressively monitor evaluation denials and work to create a Districtwide framework that will help standardize the application of RtI.

Special Education Transportation

In partnership with OSSE, advocates, and schools, Children's Law Center has been participating in a quarterly Transportation Advocacy Coalition workgroup at OSSE. The worst transportation issues tend to cluster around the beginning of the year, as we have identified alongside OSSE, many of the beginning of school year issues that cause children to go without transportation for days and sometimes even weeks. The

Parent Resource Center has worked to improve communication with parents and advocates and have created new interesting ways to engage parents digitally and provide more up to date information.

One issue our clients have struggled with this year is a lack of trained nurses available to ride the bus with students. Although we understand that there is a workforce pipeline issue and lack of trained staff in the hiring pool to fill these roles, children are missing days and weeks of instructional time due to a lack of available nurses on the bus.

Many of our clients are also highly mobile children and children in the care of the Children and Family Services Agency (CFSA). Children's Law Center advocates struggle to work with OSSE DOT to set up a child's transportation when they are placed in foster care. At the time the child is placed, the foster parent is not given access through the Parent Resource Center to make any changes or access any information in the system about drop off or pick up times. By cutting out the foster parents from the communication loop, social workers at CFSA are often the sole point of contact available to confirm critical transportation details. Although we understand and appreciate the stringent privacy concerns that OSSE must operate under, we welcome continued dialogue with OSSE DOT to work on a method to provide the foster parents of this small subset of the population they serve with better communication options.

OSSE's reported top three complaints match our client's experiences: early/late bus,¹⁵ unprofessional conduct,¹⁶ and student not picked up.¹⁷ Many of these issues relate to high turnover of bus staff and inadequate training of bus staff working with children with disabilities, as well as inaccurate student data. These problems have persisted for several years. Unfortunately, the failure to successfully address these problems results in students with disability missing school and not having access to their education. We hope the steps outlined by OSSE in their oversight responses will begin to bear fruit in the coming year, and that OSSE will closely monitor the effectiveness of these changes.

In addition, we must repeat the same concerns about several OSSE transportation policies, which we raised the last several years.

- Allow parents to designate different pick-up and drop-off addresses. OSSE's transportation policy limits students to one address for pick-up and drop-off.¹⁸ That address must be their address of District residency.¹⁹ The policy indicates OSSE will make exceptions to this requirement on a case-by-case basis for children in foster care or living in group homes.²⁰ However, children with divorced parents, children who need to be dropped off at after-school therapy appointments, and children who need to attend before- or after-care nonetheless bear the burden of this policy.

- Provide transportation home after extracurricular activities. OSSE's current policy is not to provide transportation from extracurricular activities, unless the activity is identified as necessary by the students' IEP team. This prevents many students with disabilities from participating in extracurricular activities. Students placed at schools far from home because their local schools don't have the services they need and students who have disabilities that prevent them from using public transportation cannot participate in extracurricular activities unless the school system provides transportation. DC's failure to do so is arguably a violation of Section 504 of the Rehabilitation Act, the federal law that requires schools to provide students with disabilities equal access to school activities.²¹ We urge OSSE to develop a plan to provide this transportation.
- Limit ride times to 60 minutes for students who live and attend school in DC, with a waiver for extenuating circumstances. We understand that ride times are determined on a case by case basis, but we urge OSSE DOT to bring down the ride time for students in DC schools to 60 minutes.²² Two hours of a child's day spent on a school bus means less time to spend on extracurricular activities and homework. We again recommend OSSE return a 60-minute limit. In the few cases where distance and traffic make it truly impossible to

cross town in 60 minutes, OSSE should be allowed to waive the limit with appropriate documentation provided to the IEP team.

We recognize implementing these recommendations would require additional funding. We urge OSSE and the Committee to ensure OSSE's Division of Student Transportation is provided the necessary funds in the FY21 budget to maintain and improve its current level of services and make these important expansions.

Expansion of Early Intervention Services (Part C of the IDEA)

Strong Start/DC EIP conducts evaluations and provides individualized plans for infants and toddlers in the District with developmental delays. It provides family-focused early intervention services and much needed service coordination to ensure services from a variety of funding sources, including Medicaid, are delivered timely. Recognizing the critical importance of children's development at this age, Strong Start/DC EIP's deadlines are short under Part C of the IDEA.²³

We were pleased to see that the 2018 change in eligibility criteria allowing services to be expanded to 25% delay in one area of development has been successful and more young children have been identified for services through Strong Start program. In FY19, of the 1,311 children found eligible for services, 325 of those children were identified with a 25% delay in one area.²⁴ We also highlight that OSSE's change in eligibility also helped to increase the number of unduplicated referrals to the program by 10.6%.²⁵

Research indicates that 46% of children who get early intervention services completely catch up and several years later are still doing as well as peers, according to national research.²⁶ For other, more severely delayed or disabled children, getting help early improves their expected skills.²⁷ Research on early intervention programs shows they produce long-lasting and substantial gains in outcomes, such as reducing the need for special education placement, preventing grade retention, increasing high school graduation rates, improving labor market outcomes, reducing social welfare program use, and reducing crime.²⁸ Children who do not receive the specialized support they need as infants and toddlers have a much harder time making up lost ground later.²⁹ Expanding Strong Start/DC EIP is a truly effective way to help children start strong.

Over the past year, strong start has seen its evaluation completion rates drop slightly from 71% in FY18 to 64% in FY19.³⁰ The percentage of children who complete the evaluation process also decreased in wards 5 and 8, while slightly increasing in ward 7.³¹ Without completing the evaluation, children do not receive services. The most common reasons for why evaluations were not completed on time were due to cases still being open (238) and unsuccessful attempts to contact parents (102).³² Wards 8, 7, and 5 had the highest numbers of unsuccessful contact attempts. Although service coordinators are required to contact the family three times before issuing a closing letter, we urge OSSE to strategize other ways to keep in touch with parents during the sometimes long evaluation process.

The Council Should Pass the “Students’ Right to Home or Hospital Instruction Act of 2019”

More than 150 DCPS and PCS students request home or hospital instruction (HHI) every year so they can continue receiving instruction while recovering from a serious health condition.³³ These students, however, currently face serious obstacles in seeking HHI.

First, there’s a lack of transparency. Parents often do not have sufficient information – and sometimes any information – about the right to request home or hospital instruction and the process for requesting it. We are aware of cases in which schools repeatedly raised truancy concerns about a sick child who had been absent from school for more than 10 days, yet never informed the parents about the option of requesting HHI. While some public charter schools have published written HHI policies, others have not, and some charter schools may have no HHI policy, written or otherwise.

Second, DCPS and other LEAs often deny or delay HHI without justification. In recent years, DCPS has denied HHI to approximately *one out of every three families* who have requested it, asserting that the request was either incomplete or failed to establish eligibility.³⁴ In other cases, students ultimately were found eligible, but only weeks, sometimes months, after submitting the initial HHI request. We have seen too many cases in which DCPS and some charter schools override the doctor’s opinion that a student has a medical need for HHI or put up other roadblocks to the prompt delivery

of HHI. A student's need for HHI is primarily a medical issue. Schools consequently should defer to the medical professional caring for the student.

Third, even when students are found eligible, there are no legally enforceable minimum standards governing the quantity and quality of HHI. Too often students receive too little HHI and end up falling far behind their peers.

Fortunately, the Council is considering legislation that would remedy these problems. B23-0392, the Students' Right to Home or Hospital Instruction Act of 2019, was introduced last year by Councilmembers Grosso, Todd, Trayon White, Nadeau, Cheh, and Robert White, and co-sponsored by Councilmember Allen. It received strong support in public testimony at an October 21, 2019 hearing on the bill.³⁵ On February 11, 2020, the Committee on Education unanimously approved the bill.

Children's Law Center strongly supports this bill and commends the strong leadership Councilmember Grosso and other members of the Committee on Education have shown on this issue. The bill would require all LEAs to adopt and implement HHI policies, create timelines for determining eligibility and delivering services, create appeal rights, and promote transparency. To further strengthen the bill, we recommend that the Council amend the bill to establish more rigorous appeals rights when an LEA violates its HHI obligations.³⁶ We also recommend that the bill set forth a minimum number of required HHI hours eligible students should receive, rather than having OSSE establish these minimums through a rulemaking proceeding.³⁷

OSSE would play an important role in implementing the bill if it passes, including conducting a rulemaking to establish regulations governing HHI requirements for DCPS and public charter schools. If the bill passes, we look forward to working with OSSE and other stakeholders to craft regulations that carry out the Council's intent and help ensure students dealing with medical issues continue to receive the instruction they need to stay connected to school.

Expansion of School-Based Mental Health Services

Year after year, Children's Law Center has testified that many of the children we work with – children in the foster care system or receiving special education services – only need our services because their mental health needs have gone unaddressed. Many of these children have faced multiple adverse childhood experiences and have resulting complex trauma and need access to high quality services to achieve stability.

One of the best ways to improve access to mental health care for children is to provide services where they are. Counseling services in school or at the school building can make a huge difference for the children who need them. In addition, prevention services and lower level services provided in the school can help children from escalating and needing high level and acute services.

The expansion of school based mental health services is currently in its second year of implementation. This expansion takes a public health approach to providing mental health services to children in their schools and communities and involves the

Department of Behavioral Health (DBH) partnering with community-based organizations (CBOs) to bring mental health services to all public schools – both traditional and charter – in the District of Columbia. The goal of this reform is for all public schools, traditional and charter, to have Tier 1, Tier 2, and Tier 3 behavioral health supports, consisting of a variety of programs, and services that individual schools can tailor to meet the needs of their students and community.³⁸

Implementation of the expansion for year two has gone significantly better than last year. In January of 2019, only a handful of the 52 schools in Cohort 1 had clinicians in place providing services to students.³⁹ This year over 75% of the Cohort 1 and 2 schools – approximately 90 schools – have Community Based Organization (CBO) clinicians providing services in the school.⁴⁰

In addition to working to get CBO clinicians in schools, significant work has been done to support the program and ensure its success. One key part of the program is that each school have a School Behavioral Health Coordinator (SBHC) to ensure collaboration and coordination of the whole school behavioral health/wellness team. The SBHC also collaborates with the school behavioral health team to identify school-wide or classroom trends in social, emotional, and behavioral health needs and develop student programming based on those trends. Most schools now have an identified SBHC.

With this infrastructure in place at the school level it has been possible for schools to complete the School Strengthening Tool & Work Plan. The School Strengthening Tool & Work Plan were adapted from the Center for Disease Controls (CDC) School Health Index and embrace the Whole School, Whole Community, Whole Child (WSCC) framework. The WSCC framework is student-centered and emphasizes the role of the community in supporting the school, the connections between health and academic achievement, and the importance of evidence-based school policies and practices. Based off the information from the School Strengthening Tool the SBHC develops and then uses that assessment to create the work plan for the school to address its unique needs. At this point the vast majority of schools have completed the School Strengthening Tool (99 schools) and a work plan based on the tool (80 schools).⁴¹

While the school based mental health expansion is being led by DBH, it will not be successful without the participation and support of the schools. We commend OSSE for its part in the significant progress that has been made over the past year in the expansion of the school based mental health program and the exciting new initiatives supporting the expansion.

OSSE has been an active presence on the Coordinating Council on School Behavioral Health – co-chairing the implementation and data/evaluation subcommittees, operationalizing the self-assessment process for schools through the School Strengthening Tool and work plan, facilitating communication for the SBHCs,

supporting the school ranking process based on mental health needs, and tracking progress towards defined outcome goals.⁴² We hope to see OSSE to maintain its high level of engagement in the school based mental health expansion. We would also like to see OSSE increase support to staff who are responsible for supporting the school based mental health expansion, through initiatives like the District's school-based behavioral health Community of Practice, which brings together SBHCs and community-based clinicians to participate in a peer learning environment aimed at building the capacity to implement high-quality school-based behavioral health systems.⁴³

Schools have many different priorities and constraints. Ensuring that all schools are integrating the new clinicians and supporting the SBHC is important for success. For the school based mental health expansion to work, there must be meaningful engagement between the individual school administration, the school wellness team, the school community, the CBO clinician and the CBO. To support this necessary engagement and communication, DBH recently completed a Memorandum of Understanding (MOU) with DCPS and OSSE to fund two dedicated staff to support schools in the expansion process.⁴⁴ We applaud this investment of resources, and urge permanently funding these positions in DCPS and OSSE's budgets to ensure schools have the support they need to remain engaged in this program and to provide a source of agency-level accountability and oversight over the implementation of this program.

DCPS noted in its performance oversight responses to this Committee that the most consistent feedback DCPS has received from staff regarding the SBHC role is “concern about the capacity to effectively realize the SBHC role as it is intended, while maintaining responsibility for other core components of their jobs.”⁴⁵ We believe it is critical that OSSE pay close attention to this feedback because it is quite likely the same concerns apply to SBHCs in the charter schools. Effective SBHCs are critical to the long-term success of the school based mental health expansion. It may not be feasible to simply layer the responsibilities of the SBHC on top of the existing job duties of a school staff member with no additional supports or compensation. We urge OSSE and the Committee to seek feedback from the charter school SBHCs and identify ways to fully support this position so that SBHCs are properly equipped and resourced to support school based mental health programs in their schools.

School Discipline

For years we advocated alongside parents, teachers, mental health professionals, and many other advocates in support of the *Student Fair Access to School Amendment Act* (SFASAA), in order to build an education system that is more effective at identifying and responding to students’ needs.⁴⁶ Enacted in May 2018, SFASAA strictly limits the use out-of-school suspension as a means of discipline and protects students’ right to an education in the event an out-of-school suspension has been determined to be necessary.⁴⁷ SFASAA requirements for students in kindergarten through eighth grade

came into effect for this school year 2019-2020, and the requirements for high schoolers will take effect next year (SY2020-2021).

We commend the Council for passing this legislation and moving DC away from the excessive use of exclusionary discipline, which only serves to keep students out of school and hinder their growth and learning.

Pursuant to SFASAA reporting requirements, OSSE collected information about school discipline during 2018-2019 school year and reported this data through the DC School Report Card, including school-level data regarding suspensions, expulsions, and school-related arrests.⁴⁸ The Pre-K Student Discipline Amendment Act of 2015 requires OSSE to report annually on the state of suspensions and expulsions on the District. OSSE's most recent annual report was published in March 2019 and covered data from the 2017-2018 school year.⁴⁹ OSSE's performance oversight responses note that the annual report covering the 2018-2019 school year is still forthcoming, despite the statutory requirement that OSSE publish its annual report for the preceding school year by December 15 each year.⁵⁰ This report not being timely published makes it challenging to analyze how the new law is impacting exclusionary discipline.

The discipline data we do have reported by OSSE in its performance oversight responses demonstrate that there is still a significant problem with the overuse of exclusionary discipline in DC. OSSE reports that over 6,000 public school students were kept out of school by out-of-school suspensions during the 2018-2019 school year –

approximately 6.6. percent of the total student population.⁵¹ Over 2,100 DC public school students received multiple out-of-school suspensions – of which over 37 percent were suspended from school more than three times.⁵²

This disappointing data for school year 2018-2019 underscores the need for the SFASAA requirements scheduled to come into effect this year and next year. OSSE did take some steps to help schools implement the new law. OSSE offered a wide range of professional development opportunities for teachers to promote positive school climates, develop positive alternatives for managing student behavior, and engage in trauma-informed care, all of which support schools in moving away from exclusionary discipline practices.⁵³ OSSE also offered an array of restorative programs and supports to schools over the past year, with the goal of “promoting a shift from exclusionary discipline practices to a restorative approach in DC public and charter schools.”⁵⁴ We applaud these efforts by OSSE and hope they signal a firm commitment to ending the excessive use of exclusionary discipline in DC.

We would like to see OSSE do more to ensure SFASAA is successfully implemented in the years ahead, especially with respect to charter schools. We have several recommendations for how OSSE can do this:

- Issue guidance to LEAs for developing school discipline policies that are compliant with SFASAA and provide technical assistance to review and confirm policies are compliant.

- Revise Chapter 25 of the District of Columbia Municipal Regulations (DCMR) on School Discipline so that it fully conforms with and supports the full implementation of SFASAA.
- Take steps to ensure all school discipline data is accurately reported to OSSE. OSSE's most recent annual report on school discipline, *State of Discipline: 2017/18 School Year*, noted concerning data discrepancies between LEA-submitted discipline data and attendance data. We commend OSSE for cross-referencing these two sets of data and identifying these discrepancies but ask that OSSE put measures in place to verify data accuracy and follow-up with LEAs that submit inconsistent data to identify the source of problem and rectify it.⁵⁵
- Ensure that parents and students are fully aware of the limited circumstances under which schools can impose exclusionary discipline under SFASAA and provide a means for parents and students to notify OSSE if SFASAA restrictions are being violated. A fully informed parent and student community can help hold schools accountable and ensure SFASAA is being correctly implemented.

Finally, we note that SFASAA provides that within two years of its effective date, OSSE will submit "an evaluative report on LEA and school implementation practices to promote school safety and reduce the use of exclusion," including a particular focus on

“ensuring the fidelity of data reporting.”⁵⁶ We look forward to the report due this August and urge OSSE to take this opportunity to closely examine implementation efforts at the individual LEA and school level, and identify ways to ensure compliance with the law. We look to the Committee to continue its close involvement and oversight over this issue and expect better outcomes next year.

Budget Transparency is Needed to Assess the Impact of Educational Investments

As we testified in June and October last year, CLC believes that transparency is critical for a public education system that is a mix of traditional and charter schools and which requires students and parents to make important choices about what school to apply to attend. How scarce resources are allocated and how those resources will be used to support specific students is central to this process.

Education represents one of the largest expenditures in the District’s overall budget. While we are still working to fully fund the schools, we are making progress. Just this month, the Mayor announced she plans to significantly increase the per pupil funding for schools.⁵⁷ It is vital that the public and this Council know how that money is being spent and whether it is being invested appropriately and equitably. But without budget transparency, it is very difficult to assess the impact of these investments.

Despite the countless hours CLC and our advocacy partners spend each year examining education agency budgets, we are unable to discern basic information about how resources are being allocated. More specifically, CLC looks to the budget every

year to determine what supports are planned for the District’s most vulnerable youth— youth with disabilities, youth in foster care, parenting youth, and youth who are homeless. Robust funding, staffing, and other supports are necessary for these students, who face the largest academic outcome disparities⁵⁸ and biggest challenges to school attendance and completion. Every year we are stymied in our attempt to learn how the city is allocating its resources for these students. Without this information, it’s practically impossible to determine whether lack of financial resources or programmatic failures lie at the root of poor student outcomes. Greater financial transparency would mean greater accountability for the educational outcomes of these vulnerable youth. At this time, the Council is considering several bills intended to increase transparency and accountability in both traditional and charter public schools: the *At-Risk School Funding Transparency Amendment Act of 2019* (B23-046), the *School Based Budgeting and Transparency Amendment Act of 2019* (B23-239), and the *Public School Transparency Amendment Act of 2019* (B23-0199).⁵⁹ We ask the Committee to please move forward with an omnibus bill that will ensure school budgets are uniform, detailed, searchable, easy to compare across different schools, and consistent with expenditure reporting, and to do this in time for OSSE to implement the new budget reporting standards at the start of the next budget cycle in the fall.

Chronic Absenteeism and Truancy Prevention Remain a Problem

Chronic absenteeism and truancy continue to be a significant challenge for DC public schools, families, and children. Generally, all children between the ages of five and 18 are required to attend school every day,⁶⁰ and children with ten or more days of unexcused absences within a single school year are considered “chronically truant.”⁶¹ Students that go on to miss more than ten percent of school days within a single year are considered to suffer “chronic absenteeism,” and may even be disenrolled from their schools.⁶² Chronic absenteeism and truancy are linked to poor academic outcomes and increased risk of dropping out of school entirely, limiting those students’ future employment prospects and ability to be self-sufficient.⁶³

Pursuant to its statutory obligations, OSSE publishes an annual report on the state of attendance for all DC public schools – traditional and charter.⁶⁴ OSSE’s most recent report on school attendance was issued in November 2019.⁶⁵ We commend OSSE for the detailed reporting and thoughtful analysis included in this report, which is a critical tool in identifying strategies and solutions for addressing truancy and chronic absenteeism crisis facing the District.

In school year 2018-2019, OSSE reports that chronic absenteeism among students in grades K-12 surpassed 30 percent with 23,376 students missing 10 percent or more of school.⁶⁶ Over the past four years, truancy increased by 8.5 percent to nearly 30 percent in school year 2018-2019 with 22,460 truant students.⁶⁷ School-level rates of chronic

absenteeism have risen in some high schools. In school year 2015-2016, six high schools reported rates of chronic absenteeism above 75 percent – by school year 2018-2019, this number more than doubled, with 13 high schools reporting more chronic absenteeism rates above 75 percent.⁶⁸

OSSE's trend analysis shows that absenteeism is rising fastest among the District's most vulnerable student groups.⁶⁹ Over the past four years, chronic absenteeism has risen more than six percent among at-risk students, compared with a 1.3 percent rise for not at-risk students.⁷⁰ In school year 2018-2019, the rate of chronic absenteeism among students with disabilities was nearly 12 percent higher than the rate for students without disabilities.⁷¹

These statistics are disturbing – the District is facing a true crisis that requires a comprehensive strategy and plan of action to drive change. DC has made some efforts to address the problem of chronic truancy and absenteeism over the past few years. For example, OSSE participates in the Mayor's Every Day Counts! Task Force, which seeks to coordinate efforts to address truancy across government. The District also funds and supports community-based programs addressing truancy, such as the Show Up, Stand Out program, which works with families to develop individualized plans to improve attendance.⁷² While these efforts by OSSE and its agency and community partners are encouraging, we have yet to see these efforts result in significant improvements in DC's rates of chronic truancy and absenteeism. We urge OSSE, the Committee, and the

Council to maintain its sense of urgency in addressing these problems. The consequences of missing school are grave for our children – it truly limits what they will be able to achieve in life. We cannot afford to let these high rates of chronic truancy and absenteeism continue year after year. Finding solutions that keep kids in school consistently needs to be a priority for OSSE, and we ask the Council and Committee to maintain careful oversight with respect to this issue.

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 almost 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 The 2019 DC School Report Card states that 17% percent of students served by OSSE are students with disabilities. Available at: <https://dcschoolreportcard.org/state/99999-0000>.

³ The landscape analysis was presented in a digestible and easy to read format for the public. We applaud OSSE’s work in completing this assessment and look forward to working with them to figure out how to make progress for our students with disabilities. See OSSE. *Students with Disabilities in the District of Columbia Landscape Analysis*. (2019). Available at: https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/SWD%20Landscape%20Analysis%2010.10.19.pdf.

⁴ *Id.* at 9.

⁵ See OSSE FY19 Performance Oversight Responses Q39 Attachment.

⁶ The total number of students with disabilities in FY19 was 4,295. The total number of students who dropped out was 655. Calculation done using data from the FY19 OSSE Oversight Performance Responses, Q39 attachment.

⁷ See *Students with Disabilities in Educational Policy, Practice, and Professional Judgment: What Should We Expect?* (NCEO Report# 413).

⁸ *Id.*

⁹ See Disability Rights DC. *Need for Oversight and Restriction of the Seclusion and Restraint of District Youth Attending DC Public Schools*. (Oct. 2019). Available at: <http://www.uls-dc.org/media/1185/2019-seclusion-restraint-report.pdf>.

¹⁰ See Hannah Fry. *After autistic boy dies during school restraint, 3 educators charged with manslaughter*. (November 13, 2019) Los Angeles Times. Available at: <https://www.latimes.com/california/story/2019-11-13/autistic-boy-dies-school-restraint-educators-charged-manslaughter>.

¹¹ See *Need for Oversight and Restriction of the Seclusion and Restraint of District Youth Attending DC Public Schools*.

¹² *Id.*

¹³ 5-E DCMR §E-3004.3

¹⁴ See *Enhanced Special Education Services Act of 2014*, DC Act 20-487.

¹⁵ Of the 868 complaints about an early or late bus, 65.7% of those complaints were substantiated. See OSSE FY19 Performance Oversight Responses, Q53(g).

¹⁶ Only 6.5% of 696 unprofessional conduct complaints were substantiated. We also point out OSSE has taken steps to improve the customer service experience by providing the communicating with heart training. See OSSE FY19 Performance Oversight Responses, Q53(g).

¹⁷ There were 65 incidents where students were not picked up in the morning. That's 65 missed days of school for students with disabilities due to missed am pickups. We are not sure if those are unique students, or if it is a small group of students with multiple missed pickups. See OSSE FY19 Performance Oversight Responses, Q53(g).

¹⁸ Special Education Transportation Policy, p. 9. Available at: <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Transportation%20PolicyV07292014.pdf>

¹⁹ *Id.*

²⁰ *Id.*

²¹ 29 U.S.C. § 794.

²² Currently, ride times for programs in DC and within 6 miles of DC is 75 minutes. For our students who live more than 15 miles from their school, ride time is two hours each way. See FY2019 OSSE Performance Oversight Responses, Q53(f).

²³ Federal requirement is that evaluation, eligibility determination, and development of the individualized plan occur within 45 days of referral and services begin within 30 days of plan development. 34 CFR § 303.310. For seminal research on the importance of early childhood on brain and other development, see National Research Council and Institute of Medicine, Shonkoff, J. & Phillips, D. A. (Eds.). (2000). *From neurons to neighborhoods: The science of early childhood development*. Washington, DC: National Academy Press.

²⁴ OSSE FY19 Performance Oversight Responses, Q25.

²⁵ *Id.*

²⁶ https://www.sri.com/sites/default/files/publications/neils_finalreport_200702.pdf

²⁷ <http://ectacenter.org/eco/assets/pdfs/childoutcomeshighlights.pdf>

²⁸ Karoly, L. A., Kilburn, R. M., & Cannon, J. S. (2005). *Proven benefits of early childhood interventions*. Santa Monica, CA: RAND Corporation. Available at: http://www.rand.org/pubs/research_briefs/RB9145.html. See also, Law, J., Todd, L., Clark, J., Mroz, M. & Carr, J. (2013). High quality early intervention services to young children who have or are at risk for developmental delays have been shown to positively impact outcomes across developmental domains, including health, language and communication, cognitive development, and social/emotional development. See, Center on the Developing Child at Harvard

University. *The foundations of lifelong health are built in early childhood*. (2010) Available at: <http://developingchild.harvard.edu/resources/the-foundations-of-lifelong-health-are-built-in-early-childhood/>; American Speech-Language-Hearing Association. *Role and responsibilities of speech-language pathologists in early intervention: Technical report*. (2008) Available at: <http://www.asha.org/policy/TR2008-00290.htm>; and Landa, R. J., Holman, K. C., O'Neill, A. H., & Stuart, E. A. (2010). Intervention targeting development of socially synchronous engagement in toddlers with autism spectrum disorder: A randomized controlled trial. *Journal of Child Psychology and Psychiatry*, 52(1), 13-21.

²⁹ See Zero to Three Policy Center, "Improving Part C Early Intervention: Using What We Know about Infants and Toddlers with Disabilities to Reauthorize Part C of IDEA," Available at: <http://main.zerotothree.org/site/DocServer/PartC.pdf?docID=567>; "Early Childhood Experiences: Laying the Foundation for Health Across a Lifetime," Available at: <https://folio.iupui.edu/bitstream/handle/10244/613/commissionearlychildhood062008.pdf?sequence=2>.

²⁹ 34 C.F.R. § 303.321(c).

³⁰ See OSSE FY19 Performance Oversight Responses, Q25(e)

³¹ See OSSE FY19 Performance Oversight Responses, Q25(e) compared to OSSE FY18 Performance Oversight Responses Q29(e). In FY18 OSSE reported 71% completion rate. For FY19 the rate was 68%.

³² See OSSE FY19 Performance Oversight Responses, Q25(g).

³³ See DCPS Responses to Fiscal Year 2018 Performance Oversight Questions at 140-141.

³⁴ This estimate is based on DCPS data regarding the number of HHI referrals and denials for school year 2018-19 and 2017-2018, as set forth in its responses to Fiscal Year 2018 Performance Oversight Questions from the DC Council's Committee on Education. *Id.*

³⁵ Testifying in support of the bill were Buck Logan of Children's Law Center, Maria Blaeuer of Advocates for Justice & Education, Molly Whelan of DC Association for Special Education, Attorney Margaret Kohn, and a number of parents who have faced obstacles in obtaining HHI for their children.

³⁶ In particular, CLC recommends that the bill (1) allow parents to appeal any violation of the proposed legislation, not just adverse eligibility decisions; (2) allow parents to appeal to the Office of Administrative Hearings rather than an OSSE panel; and (3) when a parent appeals the denial of eligibility, require that the student receive HHI pending the outcome of the appeal and place the burden of proof in the proceeding on the LEA.

³⁷ CLC recommends that the bill require LEAs to provide at least 5 hours per week of direct home or hospital instruction for students in K through 5th grade, and at least 2½ hours per week per core subject for students in grades 6 through 12. These minimums are consistent with the HHI policies in neighboring jurisdictions.

³⁸ Tier 1 refers to mental health promotion and prevention for all students, including increased parent awareness of mental health resources, student-centered learning and wellness events, and teacher-centered professional development on trauma informed care and mental health. Tier 2 is focused group and individual intervention for students at-risk of mental health challenges and includes clarifying referral process and improving support structures for referred students, student group sessions and trauma-related professional development for staff. Tier 3 is intensive support and interventions for individual students and includes: community based organization clinician to facilitate support group, referral process to refer individual students or families for additional support, develop school policies and protocols for mental health crises, and provide in-school clinical service for families and individual students.

³⁹ Minutes of the Coordinating Council on School Behavioral Health on file with Children's Law Center.

⁴⁰ Data provided by the Coordinating Council as of February 2020. 119 schools were initially identified to be included in Cohorts 1 and 2 of the school based mental health expansion that began during the 2018-2019 school year. Of these, four schools are not currently participating. One of the charter schools closed and another is closing and two other schools requested to delay joining the program. Six schools have received clinicians through DBH. For the remaining 108 schools, 106 have been matched with a CBO and CBO clinicians have been placed in 90 of these 106 schools.

⁴¹ Data provided by the Coordinating Council.

⁴² OSSE FY2019 Performance Oversight Responses, Q73. Available at: <https://dccouncil.us/wp-content/uploads/2020/02/osse.pdf>.

⁴³ OSSE FY2019 Performance Oversight Responses, Q73. Available at: <https://dccouncil.us/wp-content/uploads/2020/02/osse.pdf>.

⁴⁴ DBH FY2019 Performance Oversight Responses, Q31(2). Available at: <https://dccouncil.us/wp-content/uploads/2020/02/dbh.pdf>.

⁴⁵ DCPS FY2019 Performance Oversight Responses, Q13(c). Available at: https://dccouncil.us/wp-content/uploads/2020/02/dcps_Part1.pdf.

⁴⁶ *Student Fair Access to School Amendment Act*, D.C. Law 22-157.

⁴⁷ *Id.* at § 204.

⁴⁸ OSSE FY2019 Performance Oversight Responses, Q9. Available at: <https://dccouncil.us/wp-content/uploads/2020/02/osse.pdf>

⁴⁹ *Pre-K Student Discipline Amendment Act of 2015*, D.C. Official Code § 38-236.

⁵⁰ OSSE FY2019 Performance Oversight Responses, Q11. Available at: <https://dccouncil.us/wp-content/uploads/2020/02/osse.pdf>; *Pre-K Student Discipline Amendment Act of 2015*, D.C. Code § 38-236.09(d).

⁵¹ See OSSE FY2019 Performance Oversight Responses, Q1 and Q9 Attachment 1.

⁵² See OSSE FY2019 Performance Oversight Responses, Q9 Attachment 1.

⁵³ OSSE FY2019 Performance Oversight Responses, Q33. Available at: <https://dccouncil.us/wp-content/uploads/2020/02/osse.pdf>.

⁵⁴ OSSE FY2019 Performance Oversight Responses, Q34. Available at: <https://dccouncil.us/wp-content/uploads/2020/02/osse.pdf>.

⁵⁵ OSSE, *State of Discipline: 2017-2018 School Year*, p.46-47 (Mar. 8, 2019). Available at: https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2017-18%20School%20Year%20Discipline%20Report.pdf.

⁵⁶ *Student Fair Access to School Amendment Act*, D.C. Law 22-157, Sec. 206(d).

⁵⁷ D.C. City Government, *Mayor Bowser Launches Mobile DCPS Pocket Budget Guide for School Communities* (Feb. 3, 2020) Available at: <https://mayor.dc.gov/release/mayor-bowser-launches-mobile-dcps-pocket-budget-guide-school-communities>.

⁵⁸ Only six percent of DCPS students with disabilities are proficient in English/Language Arts (ELA) and seven percent in Math, compared to 35% ELA and 31% Math for all DCPS students. Similarly, only 17% percent of DCPS students identified as at-risk are proficient in English/Language Arts (ELA) and 13% percent in Math, compared to 35% ELA and 31% Math for all DCPS students. See OSSE (Aug. 16, 2018). *DC's 2018 PARCC Results*. Available at:

https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2018%20PARCC%20Results%20Release%20%28Aug.%2016%2C%202018%29.pdf

⁵⁹ B23-046, *At-Risk School Funding Transparency Amendment Act of 2019*, Available at:

<http://lims.dccouncil.us/Download/41637/B23-0046-Introduction.pdf>; B23-239, *School Based Budgeting and*

Transparency Amendment Act of 2019, Available at: <http://lims.dccouncil.us/Download/42219/B23-0239-Introduction.pdf>; B23-0199, Public School Transparency Amendment Act of 2019, Available at: <http://lims.dccouncil.us/Download/42104/B23-0199-Introduction.pdf>.

⁶⁰ D.C. Code § 38-202.

⁶¹ DCPS, *DCPS Attendance and Truancy Policy* (Aug. 13, 2018) Available at: https://dcps.dc.gov/sites/default/files/dc/sites/dcps/page_content/attachments/FINAL%20DCPS%20Attendance%20and%20Truancy%20Policy%2008-21-18.pdf.

⁶² 5-A DCMR § 2199.

⁶³ “Missing school in the early grades can have a snowball effect. It sets kids up to fall behind in the fundamental reading skills they need in order to move on to more complicated work...Research shows that kids who are allowed to miss school when they’re young are more likely to skip school when they’re older...Being chronically absent affects high school graduation rates and the chances for success in college.” Kelly, Kathy. *Chronic Absenteeism: What you need to Know*. UNDERSTOOD.ORG, Available at: <https://www.understood.org/en/school-learning/partnering-with-childs-school/working-with-childs-teacher/chronic-absenteeism-what-you-need-to-know>. (Last visit: Feb. 18, 2020).

⁶⁴ D.C. Code § 38-203(k).

⁶⁵ OSSE, *District of Columbia Attendance Report* (Nov. 30, 2019). Available at: <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2018-19%20School%20Year%20Attendance%20Report.pdf>.

⁶⁶ OSSE, *District of Columbia Attendance Report*, Executive Summary (Nov. 30, 2019). Available at: <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2018-19%20School%20Year%20Attendance%20Report.pdf>.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*; See also *Show up, Stand Out*, Available at: <https://www.showupstandout.org/how-it-works/> (last visited Feb. 18, 2020).