



501 3rd Street, NW · 8th Floor
Washington, DC 20001
T 202.467.4900 · F 202.467.4949
childrenslawcenter.org

Testimony Before the District of Columbia Council
Committee on Education
February 27, 2018

Public Hearing:
Performance Oversight Hearing
Office of the State Superintendent of Education

Renee Murphy
Supervising Attorney - Policy
Children's Law Center

Introduction

Good morning, Chairman Grosso and members of the Committee. My name is Renee Murphy. I am the Supervising Attorney in the policy team of 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 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. 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). The past year has been turbulent in the education cluster—revelations about informal suspensions, manipulation of attendance and graduation data, and leadership resignations have been the headlines of the year. OSSE has responded to some of these, as necessary, but mostly seems to have remained focused on its goals of providing better data, recruiting talented team members, providing responsive service to Local Education Agencies (LEAs) and child care centers.²

OSSE has made progress on the special education reforms from 2014, and we expect that will bear fruit in the Mayor's Proposed Fiscal Year 2019 Budget:

- Assistance and training for LEAs to implement the best practice special education reforms from the *Enhanced Special Education Services Act*, specifically reducing the evaluation timeline to 60 days, finally bringing DC in line with the nation, and moving transition planning to age 14.³
- Release of several million dollars from the Special Education Enhancement Fund (SEEF) to LEAs for them to do implementation work for the special education reforms, even in advance of Budget allocations for the reforms.
- Commitment to analyze data from the SEEF grants and current Strong Start data to create an updated, more reasonable fiscal impact statement for the special education reforms, which we hear OSSE continues to work on with the Office of the Chief Financial Officer and the Mayor's Budget Office.
- Dedicated leadership at the Strong Start/Early Intervention Program who support and have done initial work on expanding eligibility for infants and toddlers with 25% delay.

This is great and needed work. The focus of our testimony, however, is on the work to be done to improve education quality and equity, one of OSSE's overarching strategic goals. It is not equitable that children with disabilities continue to suffer dismal achievement and life outcomes. It is not equitable nor high-quality that too many parents still have difficulty getting schools to evaluate their children, or that youth with severe mental health concerns or learning problems go without

identification of their disabilities. It is not equitable that children with disabilities are suspended and expelled at much higher rates than non-disabled peers. It does not make an equitable or high-quality program for children with disabilities to wait until a student has been excluded from school for over two weeks to have a discussion about whether that child's disability is the root cause of the suspensions.

We urge more progress for students with disabilities and full funding for the special education reform legislation from 2014. We discuss needed policy changes to make special education transportation more effective. Lastly, we urge changes to increase trauma-informed schools and reduce the use of suspension and expulsion, and explain our disappointment in OSSE's response to recent legislative recommendations for children with disabilities, given that current policy, as applied, is discriminating against children with disabilities.

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. DCPS and Public Charter Schools, and therefore OSSE as the State Education Agency with oversight and enforcement responsibility over both, are failing children with disabilities in special education, who make up 15% of students enrolled throughout the year.⁴ Special education, at its most fundamental level, is about the human rights of people with disabilities—to learn, be

included, and participate in the life of our community. The purpose of the *Individuals with Disabilities Education Act* (IDEA) is to prepare students with disabilities for future education, employment, and independent community living.⁵ Because that is the goal, students are given a right to an education appropriate to that student's unique needs, designed to allow the student to access the same curriculum as other students and make progress (a "free, appropriate public education" or FAPE).

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.⁶ There has been some progress in lifting children out of Level 1 on the PARCC, but 58% of children with disabilities are at 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.⁷ Reported graduation rates have improved,⁸ but the dismal proficiency rates of eighth grade and high school students with disabilities raise questions about whether students

are being passed along. Sadly, only 33% of graduated students with disabilities were enrolled in any post-secondary school or training or employed within one year.⁹

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 the children 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*. What remains unfunded are substantive changes that will profoundly impact children and schools by getting services to children with disabilities earlier and faster. 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.

Expand Early Intervention Services (Part C of the IDEA)

In DC, many babies and toddlers have unaddressed developmental delays and, as a result, start school behind their peers. One key provision of the special education reform laws that the District has not yet funded is the expansion of DC's Strong Start/Early Intervention Program (DC EIP). Strong Start/DC EIP meets the needs of DC's infants and toddlers with developmental delays by conducting evaluations and providing individualized plans for services in the child's natural, inclusive environment. 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.¹⁰

The good news is 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.¹¹ For other, more severely delayed or disabled children, getting help early improves their expected skills.¹² 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.¹³ Children who do not receive the specialized support they need as infants and toddlers have a much harder time making up lost ground later.¹⁴ Expanding Strong Start/DC EIP is a truly effective way to help children start strong.

Under the *Enhanced Special Education Services Act of 2014*, children who are 25% delayed in one area of development would have become eligible for DC EIP in July 2017, if expansion had been funded. This reform would finally bring DC's eligibility in line with most states.¹⁵ Currently, infants and toddlers are eligible for early intervention services in DC if they have a delay of 50% in one area or 25% in two or more areas.¹⁶ Children with this milder 25% delay are more likely to catch up to peers, if they receive early intervention services.¹⁷ Hundreds of children will likely become eligible under the expanded eligibility criteria, which require more staff.¹⁸

This Committee required OSSE to report quarterly on its progress toward expanding Strong Start by July 1, 2018.¹⁹ Those reports show that OSSE has been working towards expansion and is committed.²⁰ As part of the implementation, we assume that the FY2019 budget proposal from the Mayor will include sufficient funds to launch the expansion on July 1, 2018.²¹

Strong Start/DC EIP is also working to improve the number of referrals to the program and increase engagement with the process. After a dip in fiscal year 2016, we are pleased to see an increased number of referrals to the program.²² From our Medical-

Legal Partnership partners, we have heard that Strong Start/DC EIP has improved its community engagement in Ward 8, which likely is helping. The percentage of children who complete the evaluation process has also increased.²³ Without completing the evaluation, children do not receive services. However, the percentage of children referred who complete evaluations is still frustratingly low, around 60% overall. And troublingly, children referred from Wards 5, 7 and 8 continue to have the lowest evaluation completion rate—around 25% lower than Wards 2 and 3, a disparity that grew.²⁴ This is a troubling disparity because Wards 7 and 8 have the highest child poverty rates in the District²⁵ and research shows a strong correlation between child poverty and increased developmental delays.²⁶

OSSE has a sensible plan to increase the numbers of children who complete the evaluation process. In FY18, OSSE is assigning one continuous service coordinator to build a strong relationship with each family and regional teams of service coordinators who will be able to build community-specific knowledge and partnerships.²⁷ OSSE also seeks a site in Ward 7 or 8 for Strong Start/DC EIP. We hope the Council will help provide support so that this small but effective program can get the attention needed from the Department of General Services to secure that community anchor site. Time will tell if these strategies will reduce the continuing disparity for children in Wards 5, 7, and 8 to actually get Strong Start services, but the program's plan appears strong.

Evaluate Children to get Special Education Services Faster

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 special education evaluation, the longest timeline in the nation.²⁸ 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.²⁹ OSSE released over \$3,500,000 as formula grants to LEAs to help them prepare for faster evaluations, and as a way for OSSE to gather granular data about what schools need in order to perform evaluations more quickly. Because of federal law, that investment of local dollars must continue after this year,³⁰ so we believe that part of the cost of this reform is now committed. OSSE has made a commitment to move forward with this reform,³¹ so we expect to see funding in the FY2019 budget proposal from the Mayor to implement this vital reform.

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 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.³²

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 two budgets.³³ 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.³⁴

OSSE has made a commitment to moving forward with this reform. Via the Special Education Enhancement Fund Formula grants issued on October 1, 2017 to help LEAs with both faster evaluations and earlier transition planning, OSSE released more than enough funding to LEAs to meet the original Fiscal Impact Statement for this provision. In addition, OSSE developed and required LEAs with middle schools to attend trainings about transition at age 14 this winter.³⁵ 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.³⁶

In addition to beginning transition planning earlier, OSSE must continue to focus on improving the quality and quantity of services offered to students for successful post-secondary transition. The success of all students with disabilities depends on this effort, but especially the 50% who are not graduating on time and the 25% of students dropping out.³⁷

Unfortunately, although OSSE is the State Education Agency and the one most able to pull together information from both DCPS and Public Charter Schools, OSSE still has not assessed the needs of DC's students regarding their post-secondary transition, in areas such as academic needs, life skills needs, need for alternatives as overage/under-credited students, or vocational needs.³⁸ OSSE also does not know what DC schools have to offer for students as part of their individualized education and transition plans,³⁹ leaving a landscape in which schools, teachers, and students are left in the dark about ways they could collaborate or cooperate to meet student needs.

We urge OSSE to assess and map the needs of DC's special education students starting at age 14, as well as available vocational, alternative, and transition programs used in schools. OSSE can do this with more nuanced data about the disabilities and services in student IEPs, but also with information from the ReEngagement Center, which recently has discussed seeing unmet need for special education programming for underserved opportunity youth.⁴⁰ Based on the information from these assessments, OSSE should develop and implement a plan to expand the vocational, academic, and life skills training opportunities for special education students. This plan should be developed in coordination with the Department of Disability Services (DDS)—the agency tasked with providing some pre-employment training services while students are in school⁴¹ and with helping adults with disabilities obtain and maintain employment.

DC Needs to Build Special Education Capacity in Schools

The achievement gap highlights that capacity within our public schools to provide effective, appropriate education for students with disabilities does not exist. 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 found over and over 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.

DC needs to dedicate funding to strengthen special education programming options. Although OSSE describes a large number of training workshops offered to schools,⁴² we know, through our work with families, that workshops do not always translate into practice without ongoing coaching and support. That ongoing support and work to improve outcomes for students with disabilities needs more investment, similar to the significant investment of effort in Restorative Justice.⁴³ OSSE should also provide resources for schools to more easily purchase evidence-based programs to lift the fundamental reading and math skills of children with disabilities and train staff members to deliver them.

One positive development is that, this fiscal year, OSSE issued a small amount of funding as competitive grants from the Special Education Enhancement Fund (SEEF) established in the *Special Education Quality Improvement Act of 2014*.⁴⁴ Unfortunately, the bulk of the amount available in the SEEF for FY18 was used to support schools in implementing the other 2014 special education reforms (faster evaluations and earlier transition plans, discussed above) rather than to fund innovations or expand evidence-based programs. The SEEF was to be used to support LEA collaborations and public-private partnerships needed to tap expertise, pool resources, and bring new programming into schools.⁴⁵ Thus, OSSE and the District did not capitalize on the chance to truly build more capacity to meet student needs with the SEEF.

In addition, we are concerned about where future funding for the important capacity building mission of the SEEF will come from. The SEEF, in the law, captures “savings” from the nonpublic school tuition budget.⁴⁶ That budget has been stable for several years, and likely will remain so because OSSE’s projections of students needing specialized school placements are close to reality. That means that there will be little “savings” every year. We urge the Committee to inquire of OSSE how it will continue to fund needed SEEF-eligible partnerships and collaborations in future years.

OSSE Should Ensure Parent Involvement with IEP Development

OSSE should lead efforts to ensure all public schools in DC follow the requirements from the *Special Education Students Rights Act of 2014* that ensure meaningful parental involvement. This law requires all schools to provide records to all parents in advance of IEP meetings, provide the finalized IEP in a timely fashion, and translate IEPs for parents with limited English proficiency in a timely fashion. Unfortunately, even when my colleagues remind schools of these responsibilities, only a few parents in our cases have timely received the information they need to be engaged in their child’s education.

To ensure compliance, OSSE should incorporate the requirements with reminders or warnings into SEDS, which it does with many other legal requirements. We understand that this would require contractor time to reprogram⁴⁷ but urge this change so that schools take compliance with this law seriously.

OSSE Should Ensure that Schools Evaluate when Parents Request Evaluations and When Children Show Signs of Need

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%.⁴⁸ Targets are dangerous in special education. The recent example of Texas using a target for special education provides a stark warning.⁴⁹ 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.⁵⁰ As we highlighted a few months ago and in our OSSE oversight testimony last year,⁵¹ even children and youth with serious disabilities that are causing psychiatric hospitalization or 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 and PCS schools to evaluate a child for special education on the verbal request of a parent, so this should not be a struggle.⁵² As highlighted by the DC 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.⁵³ In theory, response to intervention is a good idea, but in practice, schools have often not implemented RtI properly,⁵⁴ 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, is a violation of local and federal law.

We hope that OSSE will more aggressively monitor and provide guidance to schools on the issues of identifying all children with disabilities.

OSSE Should Ensure Transparent and Accessible Information about Special Education

Public reporting can be an important mechanism for accountability, for sharing of best (and worst) practices, and for change to happen. Currently, parents struggle to find information about special education programming and how schools are doing educating students with disabilities. If information were centralized publicly and easily accessible, on LearnDC or MySchoolDC, about what schools are doing and about whether that was working, students, parents, and other schools would benefit. 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.⁵⁵ In the same place, DC should also have information about the LEA's performance on measures about how the school serves students, such as the 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, “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.”

There is currently no centralized source of information on DC’s special education programs. I recommend that OSSE, as the State Education Agency with oversight of special education and as the entity owning the *Every Student Succeeds Act* Report Cards, work to catalog all of the information, including which schools have specialized classrooms or programs, and make that information available to assist parent choice, working with all the education agencies.

Special Education Transportation Reforms Needed

We look forward to continuing to work with OSSE’s Division of Student Transportation to bring innovative and effective ideas to DC’s special education transportation. We were pleased this year about the positive steps OSSE is taking to ensure better retention of its bus staff and better training of front-line staff.⁵⁶

These changes address recurring issues our clients experience related to high turnover of bus staff and inadequate training of bus staff working with children with

disabilities. Although the parents we represent continue to report issues in these areas, we applaud OSSE's decision to provide added trainings during the summer, in lieu of furloughing staff, as well as their plan to train operations staff in the customer service training program, *Communicate with Heart*.⁵⁷ We hope these steps will begin to bear fruit in the coming year, and that OSSE will closely monitor the effectiveness of these changes.

Without fail, at the beginning of every school year, our clients—parents and caregivers of children with disabilities—report breakdowns in OSSE's transportation system. This year was no exception. These breakdowns include routing issues, buses which were never scheduled due to failure to transfer children's data when they transfer to a new LEA over the summer, and more. The result of these failures is that children with disabilities miss the first days, and sometimes even the first week, of school annually.

With respect to transportation issues for children who have switched from one LEA to another, it is currently the LEA's responsibility, not OSSE's, to transmit the child's file to their new school, and that schools' failure to do so is the root cause of this problem. That said, OSSE is uniquely situated to identify these systems breakdowns, work on policy and practice solutions so that children do not miss school, work internally with OSSE's datasets to speedily resolve problems, and partner with District LEAs in developing innovative solutions for this chronic problem.

In addition, we must repeat the same concerns about several OSSE transportation policies, which we raised last year and the year before. We hope to hear more about how the recommendations of the Transportation Advisory Council, of which we are part, have impacted these issues.⁵⁸

- 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.⁵⁹ That address must be their address of District residency.⁶⁰ 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.⁶¹ 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.⁶² We urge OSSE to develop a plan to provide this transportation by the start of the next school year.

- Limit ride times to 60 minutes for students who live and attend school in DC, with a waiver for extenuating circumstances. While the *Petties* order was in effect, ride times for students who lived and attended school in DC were limited to 60 minutes each way. After *Petties* closed, OSSE extended the ride time limit to 75 minutes each way for students traveling to programs in the District of Columbia.⁶³ We have heard from some parents that their children are on the bus for over an hour each way, even though they only live a few miles from school. In each month during the 2016-17 school year, approximately 15% to 20% of students receiving transportation services had a ride time of over 60 minutes.⁶⁴ We understand, in a few cases, children's homes and schools may be so far apart that there is no way for them to have a shorter ride time; however, we are concerned that children who live near their schools may also have long ride times. These long rides are harmful to students—they keep them from homework, sports, and time with their families. Accordingly, we recommend OSSE return to the previous 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 FY19 budget to maintain and improve its current level of services and make these important expansions.

The District Must Reduce Suspensions and Expulsions and Create Trauma-Sensitive 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 experience trauma at a high rate.⁶⁵ 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.⁶⁶ 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, 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.⁶⁷ 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.

OSSE has done, and continues to do, important work to bring trauma-informed practices into the District's schools. OSSE has offered a series of trainings to LEAs to address positive behavior support and effective response to behavioral crisis. Some of the trainings include: Positive Behavioral Interventions and Supports; Trauma-Informed Care; Youth Mental Health First Aid; Nonviolent Crisis Prevention; and Restorative Justice.⁶⁸ PCSB noted that some of these trainings need teams from each school to attend, rather than single trainees, so we hope PCSB, DCPS, and OSSE will work to ensure that trainings are offered in such a way to facilitate and encourage attendance by multiple school employees.⁶⁹ In addition to these trainings, OSSE should expand beyond providing training and create a model trauma-sensitive schools policy that DCPS and the public charter schools can adopt and tailor to fit their student population.

Reducing Suspension and Expulsion, especially for Children with Disabilities

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.⁷⁰ So are children with disabilities,⁷¹ children in foster care, children living in poverty and children who are homeless.⁷² 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. In the last year, OSSE has collected data and released a report on the suspensions and expulsions and on attendance and absenteeism in the District.⁷³ OSSE has also supported the intensive work of Restorative DC and the Community Schools initiative.⁷⁴ 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 SY2016-2017.⁷⁵ Unfortunately, that data is not reliable, because of “Do Not Admit” lists and other inaccuracies.⁷⁶ 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.⁷⁷

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*. One important part is that the

District needs to address the serious disparity that children with disabilities, who desperately need to be in school getting their special education, are being suspended at higher rates than peers. OSSE's analyses showed that disparate treatment of children with disabilities grew worse, to 1.6 times more likely to be suspended when controlling for other factors.⁷⁸

We are disappointed that OSSE voiced opposition to the provisions in the bill that would help reduce discriminatory school exclusion of children with disabilities. Current law requires a Manifestation Determination Review (MDR) when a child with disabilities is slated to be suspended for 11 or more days for a single incident or for 11 or more days in a series of incidents that constitute a pattern.⁷⁹ That is two weeks of missed instruction. The MDR team involves the experts about the child's disability. Manifestation Determination Reviews are about figuring out if a child's disability is the cause of the child's behavior, because it is unacceptable disability discrimination to suspend a child for behavior caused by disability.

The provisions in the proposed legislation would bring the MDR team together earlier in the school year, when a child is suspended for six or more days cumulatively. If the child's disability is the root cause, children will be entitled to get an assessment of their individual needs and a plan to help prevent more behavioral problems. This approach should reduce the number of suspensions and days of suspension for children with disabilities. Publically available data about suspensions of children with

disabilities—which we admit has limitations—does not indicate that large numbers of additional school meetings would be required.⁸⁰ OSSE contends to the contrary. We urge this Committee to require OSSE to show the data, be transparent about its analyses, and tell specifically how many additional meetings, or other sources of costs, will be necessary in its estimation. This Committee should ensure that OSSE discounts the numbers to account for the fact that students will not be suspended for willful defiance and similar behaviors under the new legislation. Students need OSSE 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.

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 OSSE FY17 Performance Accountability Report,

https://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/OSSE_FY17PAR.pdf

³ See OSSE (October 1, 2017). *Enhanced Special education Services Act of 2014 Implementation Report to the Council of the District of Columbia*, accessed at <http://lims.dccouncil.us/Download/38971/RC22-0094-Introduction.pdf>

⁴ This statistic comes from a look at all students who were enrolled at any point in school year 2015-16. See, OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 15. Retrieved from

http://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2015-16%20School%20Year%20OSSE%20Discipline%20Report.pdf. We acknowledge that point-in-time

numbers, such as those included in OSSE Oversight, show about 13% students with disabilities, but the Discipline Report reveals that about 2000 students with disabilities are cycling in and out of schools and account for 15% of all school year enrollment, which may be a sign that the needs of those mobile students are not being met.

⁵ 34 CFR § 300.1

⁶ 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, last 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

⁷ *Id.*

⁸ Unfortunately, the data in OSSE’s graduation of students with disabilities spreadsheet at OSSE FY17 Performance Oversight Responses, Q44 have some discrepancies about SY16-17, so we rely on the 2015-16 data in that spreadsheet.

⁹ OSSE FY17 Performance Oversight Responses, Q46, compared to Indicator 14 from the 2015-16 school year, the most recent audited data that OSSE submitted to the Federal government, shows no improvement in post-graduation outcomes. 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%20Rep](https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FFY%202015%20APR%20Report%20to%20the%20Public.pdf)

[ort%20to%20the%20Public.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FFY%202015%20APR%20Report%20to%20the%20Public.pdf)

¹⁰ 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.

¹¹ https://www.sri.com/sites/default/files/publications/neils_finalreport_200702.pdf

¹² <http://ectacenter.org/eco/assets/pdfs/childoutcomeshighlights.pdf>

-
- ¹³ Karoly, L. A., Kilburn, R. M., & Cannon, J. S. (2005). *Proven benefits of early childhood interventions*. Santa Monica, CA: RAND Corporation. 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. (2010). *The foundations of lifelong health are built in early childhood*. <http://developingchild.harvard.edu/resources/the-foundations-of-lifelong-health-are-built-in-early-childhood/>; American Speech-Language-Hearing Association. (2008). *Role and responsibilities of speech-language pathologists in early intervention: Technical report*. <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.
- ¹⁴ 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>.
- ¹⁴ 34 C.F.R. § 303.321(c).
- ¹⁵ At least 32 other states extend eligibility to children with a delay of less than 50% in one area of development. Of those states, 17 – including Maryland and Virginia – extend Part C eligibility to children with a 25% delay in one area of development. Additionally, six states extend eligibility to children who are "at risk" of developmental delay, as permitted by the Individuals with Disabilities Education Act (IDEA). These children may be at risk of developmental delay because of biological and environmental factors including low birth weight, nutritional deprivation, or a history of abuse or neglect.
- ¹⁶ 5 DCMR A § 3108.3
- ¹⁷ See *id.* for OSSE agreement on this point, that children are likely to catch up and that they will likely not need intensive levels of services. See, Hebbeler, K., Spiker, D., Bailey, D., Scarborough, A., Mallik, S., Simeonsson, R., & Singer, M. (2007). *Early intervention for infants & toddlers with disabilities and their families: Participants, services, and outcomes. Final report of the National Early Intervention Longitudinal Study (NEILS)*, at page 2-9.
- ¹⁸ Revised Fiscal Impact Statement – *Enhanced Special Education Services Act of 2014*, (October 6, 2014). estimated over 1000 children. Current OSSE estimates are lower, around 300 to 400 children, in OSSE. (October 1, 2017). *Report on Implementation of Strong Start, Quarter 4*, p.3, <http://lims.dccouncil.us/Download/39048/RC22-0097-Introduction.pdf>. It is difficult to reconcile these different estimates, although it does seem realistic that there will be growth over time rather than an immediate influx of all children who meet the new criteria.
- ¹⁹ See, Fiscal Year 2017 Budget Support Act of 2016, D.C. Law 21-0160 § 4142(c).
- ²⁰ OSSE. (October 1, 2017). *Report on Implementation of Strong Start, Quarter 4*. In addition, see OSSE FY17 Oversight Responses, Q106, stating that OSSE expects to change the Strong Start/DC EIP regulations in the coming FY.
- ²¹ The Fiscal Impact Statement (FIS) for the Act projected it would cost \$3 to \$5 million local dollars to start on July 1st and at least \$11 million in the first full year. We understand that OSSE is re-examining this estimate, using some data they started tracking in summer 2017 and the lower projection of children who will join the program. See Note 18.
- ²² In FY18, Strong Start/DC EIP appears to be on track to increase the number of referrals to the program by over 100. See OSSE FY16 Performance Oversight Responses, Q29(b), FY17 to date data, compared to OSSE FY17 Performance Oversight Responses, Q29(a), FY18 to date data.

²³ See OSSE FY17 Performance Oversight Responses, Q29(e). In FY16, only 46% of referrals resulted in completed evaluations. In FY17, that increased 6% to 52.4%, which we calculated from Q29 data (OSSE's reported 61% completion rate for FY17 at Q29 is not comparable to FY16 because the FY17 denominator is about non-duplicate children rather than the number of referrals as in FY16).

²⁴ See OSSE FY17 Performance Oversight Responses, Q29(e) chart, showing that around 80% of Ward 2 and 3 referrals were evaluated, versus 54%, 54%, and 58% of those in Wards 7, 8, and 5, respectively. We are pleased that the Committee asked for repeat referral data, and OSSE should do deeper analyses about which children are being referred more than one time and what OSSE could do to help lessen the need for children to be referred again: 26% were from Ward 8, 16% Ward 7, 15% Ward 5 (equaling 57% from Wards 5, 7, 8). OSSE FY17 Performance Oversight Responses, Q29(b). We note that for 13% of the 499 re-referred children, it was the families who had to re-contact the program to re-refer their child, which warrants some examination and reflection.

²⁵ In 2015, the child poverty rates for Wards 7 and 8 were 39.9% and 49.6% respectively, compared to Ward 3 which had the lowest poverty rate at 2.9%. See, Kids Count Data Center. *Child Poverty by Ward*, (2015). Retrieved from <http://datacenter.kidscount.org/data/tables/6748-child-poverty-by-ward?loc=10&loct=3#detailed/21/1852-1859/false/573,869,36,868,867/any/13834>

²⁶ Farah, M.J. & Hackman, D.A. (2012). The Oxford Handbook of Poverty and Child Development. In V. Maholmes & R. B. King (Eds.), *SES, Childhood Experience, and the Neural Bases of Cognition* (pp. 307-318). New York, NY: Oxford University Press.

²⁷ OSSE FY17 Performance Oversight Responses, Q28(a) and Q30.

²⁸ "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.

²⁹ 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 Children's Law Center from a FOIA request).

³⁰ 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

³¹ OSSE's newsletter to LEAs described the expectation that transition planning will be at age 14 effective July 1, 2018. See OSSE, *LEA Look Forward for December 13-18, 2017*. <https://us4.campaign-archive.com/?e=&u=8d76b5a43735fbd6449d7cf3&id=157ba7f1d6#LEA%20Professional%20Development%20Sessions:%20Planning%20for%20Student%20Success,%20Secondary%20Transition%20Requirements%20and%20Best%20Practices>

³² 34 C.F.R. § 300.320(b)(2). Transition plans can include a wide range of activities to prepare students for independent living, employment, and further education.

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

³⁴ 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.

³⁵ OSSE's newsletter to LEAs described the expectation that transition planning will be at age 14 effective July 1, 2018 and publicized mandatory trainings for all LEAs serving students age 13 and older. See OSSE,

LEA Look Forward for December 13-18, 2017. <https://us4.campaign-archive.com/?e=&u=8d76b5a43735fbd6449d7cf3&id=157ba7f1d6#LEA%20Professional%20Development%20Sessions:%20Planning%20for%20Student%20Success,%20Secondary%20Transition%20Requirements%20and%20Best%20Practices>

³⁶ 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.

³⁷ Unfortunately, the data in OSSE's graduation of students with disabilities spreadsheet at OSSE FY17 Performance Oversight Responses, Q44 have some discrepancies about SY16-17, so we rely on the 2015-16 data in that spreadsheet.

³⁸ OSSE FY17 Performance Oversight Responses, Q47. Offering more programs that engage students in learning job skills will lead to fewer students dropping out and to improved academic skills, a conclusion we reach after working with thousands of students over the past 20 years. We find many of the teenagers we work with are very motivated by learning vocational skills, even if they gave up years ago on learning to read or do math. We also find that many of our clients make more progress in academics when those academics are tied to practical skills.

³⁹ *Id.*

⁴⁰ Discussion at February 12, 2018 "Students in the Care of the District of Columbia Working Group" meeting. Notes on file with Children's Law Center.

⁴¹ See Note 34 above, regarding WIOA funding and requirements of DDS.

⁴² See OSSE (October 1, 2017). *Enhanced Special Education Services Act of 2014 Implementation Report to the Council of the District of Columbia*, accessed at <http://lims.dccouncil.us/Download/38971/RC22-0094-Introduction.pdf>

⁴³ See OSSE FY17 Performance Oversight Responses, Q39.

⁴⁴ See, *Special Education Quality Improvement Act of 2014*, DC Act 20-0488.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ CLC meeting with OSSE's Elisabeth Morse, Deputy Assistant Superintendent for Policy, Planning, and Charter, January 6, 2017. Notes on file at CLC.

⁴⁸ 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>

⁴⁹ Texas Illegally Excluded Thousands From Special Education, Federal Officials Say, BRIAN M. ROSENTHAL, JAN. 11, 2018, <https://www.nytimes.com/2018/01/11/us/texas-special-education.html>.

⁵⁰ We acknowledge that there is an important debate about whether children of color are over-identified as having disabilities, in particular emotional disturbances or ADHD. Many children with dyslexia and other learning disabilities develop problems with behavior because of their frustration, and then get misdiagnosed. 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. For example, see 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/>.

⁵¹ 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>. See our testimony from OSSE’s FY16

Oversight hearing here:

<http://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20--%20Office%20of%20the%20State%20Superintendent%20of%20Education%202017%20Oversight.pdf>

⁵² See, *Enhanced Special Education Services Act of 2014*, DC Act 20-487.

⁵³ 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

⁵⁴ The process is supposed to have check ins every few weeks to see if the chosen intervention is working, to update the plan for the student with different interventions, and try again for a few weeks. Then, if the student is still not progressing, the RtI team should move on to special education evaluation. In our experience, many children do not receive the regular re-assessments of whether the interventions are working and never get the special education evaluations that they need.

⁵⁵ However, information at the school level about staffing and about how inclusion classes are supported (e.g., co-teaching all day or for certain subjects, what evidence-based/research-based programs should be used in the pull-out classes) is either not available or disbursed, for DCPS and PCS schools.

⁵⁶ OSSE FY17 Performance Oversight Responses, Q56 (a).

⁵⁷ OSSE FY17 Performance Oversight Responses, Q56, 57.

⁵⁸ OSSE FY17 Performance Oversight Responses, Q58.

⁵⁹ Special Education Transportation Policy, p. 9, at

<https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Transportation%20PolicyV07292014.pdf>

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² 29 U.S.C. § 794.

⁶³ OSSE FY15 Performance Oversight Responses, Q61(f).

⁶⁴ OSSE FY17 Performance Oversight Responses, Q56(f).

⁶⁵ 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>

⁶⁶ 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

⁶⁷ 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.

⁶⁸ OSSE FY17 Performance Oversight Responses, Q38 & 39.

⁶⁹ See PCSB FY17 Performance Oversight Responses, Q26.

⁷⁰ 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.

https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2016-17%20School%20Year%20Discipline%20Report.pdf 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.

⁷¹ 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.

⁷² 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.

⁷³ OSSE (2017). *State of Discipline: 2016-17 School Year* and OSSE (2017). *School Year 2016-17 Attendance Report*, located at <https://osse.dc.gov/publication/dc-attendance-report-sy2016-17>

⁷⁴ OSSE FY17 Performance Oversight Responses, Q39. Community Schools Incentive Initiative information is available on OSSE’s website at <https://osse.dc.gov/service/community-schools-incentive-initiative>

⁷⁵ 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*.

⁷⁶ 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

⁷⁷ 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.

⁷⁸ OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 33. In school year 2015-16, children with disabilities were 1.4 times more likely to be suspended, controlling for other demographics. OSSE (2017). *State of Discipline: 2015-2016 School Year*, p. 34.

https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2015-16%20OSSE%20Discipline%20Report%20Updated%20Jan%206%202017.pdf

⁷⁹ 20 USC 1415(k)(1)(E), (F)(i).

⁸⁰ In the 2017 State of Discipline Report, only 226 students with disabilities were suspended for 6-10 days for a single incident. Some of these students may have also been suspended in another incident for 11 or more days, given the data in the 2016 State of Discipline Report that indicated that 44% of students with disabilities suspended once were suspended another time. Calculated from OSSE *State of Discipline: SY 2015-2016*, p. 36. Suspensions of 11 or more days require a MDR meeting under current law and require further meetings about Functional Behavior Assessments and Behavior Intervention Plans (FBAs and BIPs), so for some children, those would be meetings that are *already required*. 20 USC 1415(k)(1)(E), (F)(i). But that data is not included in OSSE’s report. The public also does not have the data about how many children with disabilities were suspended for 6 or more *cumulative* days in the past vs. suspended for 11 or more days *cumulatively* in the past, nor cross-tabulation about whether those were for willful defiance or the like. Nor do we have public data about whether the children who are being suspended for 6 or more days already have a FBA and BIP, to compare how many of them would require those additional assessments under this change in the law. OSSE does have access to that data, and should be required to show deep analyses of these questions in any fiscal analysis.