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INTRODUCTION

Good morning Chairman Grosso and members of the Committee on Education. My name is Judith Sandalow. I am the Executive Director at 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 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 DC public schools – whether traditional public schools or charter schools.

I am pleased to testify today regarding performance of the Office of the Deputy Mayor for Education. As the Committee knows, the Deputy Mayor's role is to oversee the District-wide education strategy and manage interagency coordination. This is a complicated task. In addition to overseeing and coordinating with the Office of the State Superintendent of Education (OSSE), Department of Parks and Recreation (DPR), the DC Public Schools (DCPS), the DC Public Charter School Board (PCSB), 65 Public Charter School Local Education Agencies (LEAs),² and the State Board of Education (SBOE), the Deputy Mayor has a wide array of projects and tasks, including being responsible for MySchoolDC.org (the District's centralized education and lottery resource), supporting the implementation and management of the Kids Ride Free program (which allows students to ride for free on Metrobus, the DC Circulator, and

Metrorail within the District), and managing the availability and transparency of data reporting.³

As you know Chairman Grosso, the Deputy Mayor was also actively involved in the process of addressing challenges around funding out-of-school time programming in the wake of the DC Trust's collapse. Along with then-Deputy Mayor for Health and Human Services Brenda Donald, Deputy Mayor Niles co-chaired a series of meetings that brought together stakeholders and policymakers to help ensure on-going funding of out of school time (OST) programming and discuss a new approach to OST funding for future fiscal years. These discussions raised a number of important issues, including the need for a new funding mechanism that is responsive to the challenges that OST providers face, that is informed by thoughtful strategic planning, and includes community oversight of the planning and funding processes. Ultimately, Chairman Grosso, you introduced the *Office on Youth Outcomes and Grants Establishment Act of 2016* and guided it to passage, providing for a structure that, we believe, will meet the needs identified during the stakeholder meeting process. We greatly appreciate your leadership, and we thank Deputy Mayor Niles for her work to inform policy discussions around this legislation. We hope the new Office will address the needs identified in the discussions convened by the Deputy Mayors.

I will focus the rest of my testimony today on four areas where the Deputy Mayor plays a vital role in coordination and strategy: early intervention for childhood

disability as a key part of education; student engagement in school; school-based mental health services; and cross-sector collaboration.

EARLY INTERVENTION

In order for the District's Strong Start/Early Intervention Program (DC EIP) to successfully reach all the infants and toddlers with developmental disabilities who need support, the Deputy Mayor for Education must be involved. This is particularly true because of the interagency coordination needed with Department of Health Care Finance, which is in another governmental cluster. That leadership is especially needed now, because a planned expansion of the program, to help more of DC's children catch up to peers before they start school, was delayed. This delay is disappointing and not best for children, families, or schools, because expanding Strong Start/DC EIP is wise policy that passed the Council unanimously. At the moment, Strong Start/DC EIP does not reach many of the children who need help and lags behind neighboring states.⁴

Strong Start/DC EIP is housed within OSSE, and meets the needs of DC's infants and toddlers with developmental delays by conducting evaluations and providing individualized plans for services in a child's natural, inclusive environment. The Strong Start/DC EIP provides family-focused early intervention services on a short deadline, which it coordinates from a variety of funding sources, including Medicaid.

Forty-six percent 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.⁵ 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.⁶ Children who do not receive the specialized support they need as infants and toddlers have a much harder time making up lost ground later.⁷ Expanding Strong Start/DC EIP is a truly effective way to help children start strong.

The expansion of the Strong Start/DC EIP was included in the *Enhanced Special Education Services Act of 2014*.⁸ 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.⁹ More than a thousand children will likely become eligible under the expanded eligibility of 25% delay in one developmental area.¹⁰ Children with this milder 25% delay are more likely to catch up to peers, if they receive early intervention services.¹¹ The original date for expansion was supposed to be July 1, 2017, giving the agencies over two years to work on changes needed to expand the program.

Unfortunately, the expansion was not funded in this year's budget, so this Committee required quarterly reporting from the agency about how they will expand the program by July 1, 2018.¹² Thus far, only one quarterly report has been released, with the second report now 45 days late.¹³ OSSE's initial Report did not contain the detailed data, benchmark goals, action steps, or a timeline for implementation, as

required, stating that details would be included in future reports.¹⁴ OSSE also did not address the Council's requirement to plan with the Department of Health Care Finance about a "carve out" from Medicaid MCOs, which likely would help improve timeliness, continuity, and quality of services for children on Medicaid.¹⁵ We urge this Committee to inquire how the Deputy Mayor is ensuring that OSSE is on track, and how the Deputy Mayor is working with the Deputy Mayor for Health and Human Services on the plan for a possible Medicaid "carve out." As part of the implementation, we also expect that the FY2018 budget proposal from the Mayor will include sufficient funds to launch the expansion on July 1, 2018.¹⁶

SCHOOL ENGAGEMENT

Truancy/Chronic Absenteeism

If students are not in class, none of our education reforms matter. Truancy continues to be a serious problem in the District. Despite some improvements from the previous school year, in the 2015-2016 school year, DCPS reported a 20.9% truancy rate and the charter schools reported a truancy rate of 19.8%.¹⁷

The Deputy Mayor has taken important steps this year to coordinate cross-sector actions to increase school engagement and reduce truancy through her leadership of the Truancy Taskforce. This year, the Taskforce released a strategic plan aimed at reducing truancy and all forms of absenteeism.¹⁸ As part of this plan, a common methodology for calculating truancy across sectors was adopted, and data is being reported using this

uniform methodology.¹⁹ The plan also led to the launch of the *Student Attendance: Every Day Counts!* website, which provides attendance resources and information about the District's attendance/truancy policies.²⁰

Another big step taken by the District last year was the passage of the *School Attendance Clarification Amendment Act of 2015*.²¹ In addition to creating a standard definition of "chronic absenteeism" and eliminating schools' ability to use of out-of-school suspensions and expulsions to discipline students for attendance issues, the Act changed the referral requirements to only count full school day unexcused absences when determining if a referral to the courts or Child and Family Services Agency (CFSA) is need.²² Schools also now have discretion to make a referral if the 10th or 15th unexcused full day absence is accrued during the final 10 school days of the school year.²³ These changes are already having a positive impact – the number of students eligible to be referred to the courts or CFSA has significantly decreased.²⁴

We continue to believe referrals to the courts and CFSA for unexcused absences may be ineffective and might even be counterproductive. In order to address this issue, we need data which tracks the subsequent reenrollment and truancy patterns of students referred for an SST meeting, to CFSA, or to the courts. We are very excited to see that DCPS has begun to collect this data,²⁵ and we urge the Deputy Mayor to facilitate the expansion of this data collection to include the charter schools, as well.

Suspension and Expulsion

As we testified just a few weeks ago and many times before that, reducing the use of exclusionary discipline practices is an important part of making sure every student is in school every day so they can learn and succeed.²⁶ The *Pre-K Student Discipline Amendment Act of 2015* was a good first step, by stopping the suspensions and expulsions of pre-k students.²⁷ However, children in kindergarten through senior high school are still being suspended at an alarming rate.

In the 2015-2016 school year, nearly 1 out of every 10 students attending public schools in the District received at least one form of exclusionary discipline.²⁸ Out-of-school suspensions alone keep thousands of DC's children out of school each year. The data from OSSE's report also shows that these disciplinary practices continue to significantly impact certain student populations disproportionately, especially students of color, students with disabilities, and students in foster care:

- 10.4% of Black students and 2.5% of Hispanic students received at least one out-of-school suspension compared to less than a percent of White students;²⁹
- Students with disabilities were 1.4 times more likely to be suspended out of school, controlling for race and other factors;³⁰ and
- Of the students under CFSA's care that received an out-of-school suspension last school year, over half received more than one.³¹

We strongly encourage policies and practices that move all DC public schools to stop using suspension and expulsion as a form of discipline. We urge the Deputy Mayor to play a role in ensuring schools have the training, support and funding to implement alternative programs that promote a positive school climate and appropriate disciplinary approaches.

SCHOOL-BASED MENTAL HEALTH SERVICES

Improving mental health services provided through schools is a critical part of improving school outcomes in the District. Children suffering from mental health issues or illness face obstacles to learning and attendance challenges.³² Children and families are more likely to take advantage of mental health services when they are located in a school, and staff delivering services can work directly with teachers to let them know where to refer students and to offer advice on addressing problem behaviors in their classroom. While the District provides a variety of services to address the mental health challenges of students in schools, they are not found at all schools, and many schools have mental health staff with caseloads that are too large to provide adequate services.

A recent initiative, and one that could have profound effects if achieved, is a move towards working with the education agencies on expanding mental health services in schools. The *South Capital Street Memorial Amendment Act of 2012* required that a comprehensive plan with a strategy for expanding early childhood and school

based behavioral health programs and services to all schools be developed by the 2016-2017 school year. That deadline was not met. However, last spring, the Director of the Department of Behavioral Health established a Behavioral Health Working Group tasked with creating the plan. Although we have participated in this working group and are excited about its potential benefits, we are disappointed that the plan has still not been finalized or released.

The Deputy Mayor should play a key role in supporting the expansion of mental health services in all schools and implementation of the new plan. We hope these efforts are made a priority and move quickly from plan to action.

CROSS-SECTOR COLLABORATION

DC's public schools are almost evenly split between traditional and charter schools.³³ Coordination and collaboration between our public schools is key to the success of all our students. In February 2016, the Deputy Mayor launched a Cross-Sector Collaboration Task Force.³⁴ This Task Force has several announced objectives, including identifying educational challenges that need collaboration, addressing enrollment stability, and improving the experience of families navigating their public school options.³⁵

We remain hopeful that the Deputy Mayor and the Cross-Sector Task Force will address special education as a challenge needing cross-sector collaboration, given the Deputy Mayor's focus on equity.³⁶ Students with disabilities face extremely inequitable

results in both DCPS and Public Charter Schools (PCS). Children with disabilities have worse academic achievement and graduation outcomes than any other group, by far. Many are years behind despite their ability to learn. Only 5% of students in special education are proficient (Level 4+ on PARCC) in English/Language Arts (ELA) and 6% in Math.³⁷ Sixty percent are scoring at the lowest level (Level 1) in ELA and 49% in math, compared to 25-30% of all students.³⁸ Last school year, only 50% of children with disabilities graduated on time with a diploma, and 25% dropped out.³⁹ Special education is clearly a challenge affecting all schools, which needs collaboration and coordination to ensure the District has the capacity to meet the varied needs of students with disabilities.

We know the Deputy Mayor has taken some steps to enhance the support of students with special education needs in the District. The Deputy Mayor implemented a preference for students with disabilities in the lottery process (made possible through the *Special Education Quality Improvement Act* to help small LEAs build specialized programs).⁴⁰ The Deputy Mayor also supported work on satellite or shared special education classrooms across LEAs to help meet the needs of students, an effort that is still in the planning stages.⁴¹ These efforts illustrate that the Cross-Sector Task Force is an opportunity to make the vision of shared capacity to serve students with disabilities a reality.

The Task Force also worked on enrollment stability over the last year. We were pleased to participate in a recent focus group about the Task Force's proposal for a mid-year centralized enrollment process. We work with children who would benefit from the proposal to set aside school choice seats for hardship situations, such as when they change foster placements in the middle of the school year or when inadequate special education supports result in long suspensions or expulsions. Currently, these high needs children are often assigned to struggling DCPS schools, so options to attend other schools could be helpful.

The report from the Task Force's focus groups indicates that schools do not receive information such as IEPs and official transcripts/report cards quickly enough about transferring students.⁴² In our work representing children in foster care and in special education, we have seen firsthand how such delays set students up to fail. As a result, students with disabilities are not timely given services they need to succeed, and students in high school are often assigned to the wrong classes and not able to accrue credits they need. The Deputy Mayor should quickly move to implement the strongly supported record transfer policy recommendation.

The Task Force goal to improve the experience of families as they navigate school choice should help improve special education. Better information will help parents choose the most appropriate schools and increase the likelihood that they will stay at the school for a longer time. For this reason, we strongly support implementation of

this recommendation from the Task Force’s mobility work over the last year.⁴³

Currently, parents of children with disabilities struggle to find specific information about special education programming and how schools are doing educating students with different intensities and types of disabilities. If information were centralized publicly and easily accessible, most likely on LearnDC or MySchoolDC, about what schools are doing and about whether that was working, students, parents, and other schools would benefit. There is currently no centralized source of information for parents or for schools to compare schools on factors such as key staff supports (e.g., social workers, psychologists, related services professionals), details about specialized classrooms, types of supports in inclusion classrooms, and evidence-based programs and practices for both academics and social-emotional progress.⁴⁴ We urge the Deputy Mayor to work with all the agencies and the Cross-Sector Collaboration Task Force to provide this public information that will help parents navigate school choices.

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 be the voice 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 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 Source: OpenData DC PCSB, Facts and Figures Report, <https://data.dcpccb.org/stories/s/g9zq-zkq5>

³ DME FY16 Performance Oversight Responses, Q32 Attachment.

⁴ 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.

⁵ https://www.sri.com/sites/default/files/publications/neils_finalreport_200702.pdf

⁶ 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.

⁷ 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>.

⁷ 34 C.F.R. § 303.321(c).

⁸ D.C. Law 21-0195

⁹ 5 DCMR A §3108.3

¹⁰ Revised Fiscal Impact Statement – *Enhanced Special Education Services Act of 2014* (October 6, 2014.)

¹¹ 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

¹² See, Fiscal Year 2017 Budget Support Act of 2016, D.C. Law 21-0160 § 4142(c).

¹³ OSSE’s first report, as required by the FY17 BSA, was submitted about two weeks late. LIMS (October 14, 2016). *Correspondence from the Mayor – OSSE FY16 Budget Support Act for FY17 Reporting Requirements: Part C of the Individuals with Disabilities Education Act (IDEA) and the Strong Start-Early Intervention Program (DC EIP)*. Retrieved from <http://lims.dccouncil.us/Legislation/RC21-0125?FromSearchResults=true>

¹⁴ *Id.*

¹⁵ DC Part C Annual Performance Report for FFY13, Indicator 11, State Systemic Improvement Plan Phase 1. <https://osep.grads360.org/services/PDCService.svc/GetPDCDocumentFile?fileId=11457>

¹⁶ 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, in light of some progress with Medicaid billing and other initiatives, but we have not been able to learn what the new estimate is. Source: Meeting with OSSE leadership, including Superintendent Kang and Assistant Superintendent for Early Learning Elizabeth Groginsky, January 4, 2017. We also understand that OSSE is re-examining the costs of the other parts of the Act that have been delayed. We expect that the FY 18 Proposed Budget will also include funding for the other necessary special education

reforms: to reduce the initial special education evaluation timeline to 60 days, to start post-secondary transition planning and services at age 14.

¹⁷ OSSE (2016). *State of Attendance: 2015-16 School Year*, p. 8.

¹⁸ DME FY16 Performance Oversight Responses, Q6 Attachment – Truancy Taskforce 2015-2017 Strategic Plan.

¹⁹ OSSE (2016). *State of Attendance: 2015-16 School Year*, p. 8.

²⁰ See, <http://attendance.dc.gov/>.

²¹ D.C. Law 21-0140, effective since July 26, 2016.

²² D.C. Code § 38-201(2B) and § 38-208(c)(1).

²³ *Id.*

²⁴ 140 DCPS and PCS students were eligible to be referred to the courts in Q1 of SY2016-2017, compared to 895 in Q1 of SY2015-16. Likewise, 183 DCPS and PCS students were eligible to be referred to CFSA in Q1 of SY2016-17, compared to 228 in Q1 of SY2015-16. See, Truancy Taskforce meeting (January 30, 2017).

<http://attendance.dc.gov/node/1217466>

²⁵ DCPS FY16 Performance Oversight Responses, Q55.

²⁶ See, Children’s Law Center testimony, *State of School Discipline: 2015-2016 School Year*, (February 2, 2017). <http://www.childrenslawcenter.org/testimony/testimony-state-school-discipline-2015-2016-school-year>

²⁷ D.C. Code § 38-271.01(5A).

²⁸ Calculation by Children’s Law Center based on data from OSSE’s 2016 report, *State of Discipline: 2015-2016 School Year*, p. 10.

²⁹ OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 23.

³⁰ OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 34. Overall, 15% of students with disabilities were suspended, compared to 7.8% of all students.

³¹ OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 39.

³² Turner, M. A. & Berube, A., Urban Institute (2009). *Vibrant Neighborhoods, Successful Schools: What the Government Can Do to Foster Both*. Retrieved from <http://www.urban.org/research/publication/vibrant-neighborhoods-successful-schools>

³³ Unaudited data from October 2016 shows PCS enrollment is 41,784, or 46% of public school enrollments. Accessed at <http://www.dcpsb.org/> (main page pie chart) and <http://www.dcpsb.org/blog/public-school-enrollment-increases-eighth-consecutive-year>

³⁴ DME FY16 Performance Oversight Responses, Q2.

³⁵ DME FY16 Performance Oversight Responses, Q2.

³⁶ DME FY16 Performance Oversight Responses, Q2.

³⁷ Detailed 2015-16 and 2014-15 PARCC and MSAA Achievement Results, OSSE, at <https://drive.google.com/open?id=0BxRyVj1lhggyY0JKTnRXOHhUd0U>.

³⁸ Detailed 2015-16 and 2014-15 PARCC and MSAA Achievement Results, OSSE, at <https://drive.google.com/open?id=0BxRyVj1lhggyY0JKTnRXOHhUd0U>. This is minimal improvement from last year, about 1-2%. DC scores on the National Assessment of Educational Progress, administered in 2015, are very similar, with about 4-6% of students with disabilities “proficient” (compared to 25% of non-disabled students) and 73-83% Below Basic in Reading (compared to about 40% of non-disabled students).

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

³⁹ OSSE FY16 Performance Oversight Responses, Q10-ACGR and Q50.

⁴⁰ DME FY16 Performance Oversight Responses, Q19, 21; D.C. Code § 38-1802.06

⁴¹ DME FY16 Performance Oversight Responses, Q5.

⁴² Deputy Mayor for Education. Slides for DC Cross-Sector Collaboration Task Force Meeting 10, January 24, 2017. Accessed at <http://dme.dc.gov/node/1214321>.

⁴³ *Id.* We acknowledge that there is tension between the legal requirement that all public schools provide appropriate education for any child with a disability and using information about existing programming to match students to particular schools. Parents of children with disabilities are sometimes encouraged by school personnel to look for a “better fit,” instead of the school meeting its legal responsibilities. On the balance, however, better matching and less school mobility during and between school years will be better for schools and students, as long as education leaders such as OSSE, PCSB, and the Deputy Mayor remain vigilant for schools with shrinking special education population or starting to have fewer high-needs or harder-to-teach students.

⁴⁴ DCPS has made vast improvements in describing its self-contained special education classrooms and telling the public where they are located, in the last five years. 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.