



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

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Judith Sandalow
Executive Director
Children's Law Center

Introduction

Good morning Chairman Grosso and members of the Committee. My name is Judith Sandalow. I am the Executive Director 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 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 8 children in DC's poorest neighborhoods – more than 5,000 children and families each year. The majority of the children we represent attend District of Columbia Public Schools (DCPS).

I appreciate this opportunity to testify regarding DCPS's performance over the past year and will focus on special education, truancy prevention, and discipline. While a great deal of work remains to be done, DCPS has maintained gains in several areas and begun to implement some promising new initiatives. DCPS has maintained its progress in identifying preschool-age students with disabilities, which means that the children identified can get the services they need at the time when they can be most effective. Continuing the trend of steady improvements for young children, DCPS has continued to expand the well-regarded Tools of the Mind program, which helps 3-to-5 year-olds learn the self-regulation skills that will allow them to be successful students.² DCPS has also continued to invest in research-based instructional programs for struggling readers.³ We are hopeful that DCPS's partnership with the Ivymount School

on classrooms for students with high-functioning autism will lead to better services and better-trained teachers for such students.⁴

DCPS has been working to reduce the use of out of school discipline, particularly with the younger students including pre-k children. DCPS worked with the Office of the State Superintendent of Education (OSSE) and the Public Charter School Board (PCSB) to produce the report, “Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools.”⁵ This report provides all DC schools with recommendations to aid in the elimination of out-of-school suspension and expulsion except for those students who pose a safety threat to themselves or others.

As DCPS continues to work on attendance and discipline issues, I hope all schools will look at the underlying issues behind these problems. Prime among them are the traumatic experiences children in the District of Columbia bring with them into the classroom. Transforming schools to make all children feel safe has benefits for the entire student and staff population. In schools 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.

Finally, we believe that the central office reorganization, bringing early childhood education and visiting instruction under the umbrella of Dr. Nathaniel Beers’

Office of Specialized Instruction, continues to lead to improvements in those programs and practices.

There is, however, still much progress to be made. Only approximately 1 in 5 DCPS students receiving special education services tested proficient in reading or math last school year.⁶ DCPS must achieve better outcomes. The recently passed special education reform laws (the *Special Education Students Rights Act of 2014*, the *Enhanced Special Education Services Act of 2014*, and the *Special Education Quality Improvement Act of 2014*), a sweeping legislative reform package designed to address the challenges our schools are facing when providing special education services, will help achieve better outcomes for DC students. The reforms that these laws make to DC's special education system span the process from beginning to end - students will receive assistance earlier, parents will be able to participate more fully in their children's education, and students will graduate from high school with the skills they need to be successful adults.

DCPS has begun to make changes to implement the new laws. Importantly, DCPS is already working to reduce the evaluation timeline from 120 days to 60 days for students with suspected disabilities. This will mean students will get the help they need months, if not a school year, earlier than before.⁷ Work is being done to prepare for changes to information provided to parents and the school observation policy.⁸ We hope DCPS continues this progress and the Council works with DCPS and the other education agencies to ensure these laws are effectively implemented.

Special Education Capacity Building

In our testimony over the past several years, we have consistently raised concerns about DCPS's lack of sufficient special education program capacity. These concerns continue. In our experience, too many DC public schools are not equipped to meet the needs of all children. The needs of children in special education vary widely. Some children may only need an hour or two of group speech therapy or counseling each week and can spend the rest of their school days in a mainstream classroom. However, many children need more intensive supports. Some children have such serious emotional needs that they must have a trained clinician in their classroom at all times to help them manage their behavior. Some children need an hour of one-on-one tutoring each day to learn to read. Some children cannot function in the noise and bustle of a mainstream school building, even within a self-contained classroom.

This wide spectrum of needs, all of which fall under the general umbrella of "special education," is the reason that the federal *Individuals with Disabilities Education Act* (IDEA) specifically requires that all school systems offer a continuum of special education placements, ranging from full inclusion to separate schools.⁹ It is also the reason that the IDEA requires that schools offer a wide range of "related services" that are necessary to support a student so that he or she can learn in the classroom.¹⁰ The DC public schools are still far from having the capacity to provide all students with the specialized instruction and related services that they need and are entitled to by law.

All too often, the discussion about special education in DC focuses on the high cost of tuition for students in nonpublic special education schools. This focus on costs ignores the cause of the problem. DC has so many students in nonpublic placements out of state because we do not have schools and programs that can serve them locally. If DC is to succeed in significantly increasing the number of students with disabilities that can attend their local schools, it must develop specialized and well-resourced special education programs at those schools.

The *Special Education Quality Improvement Act* includes a number of provisions to ensure that DC will spend money in ways that will strengthen our public special education system. First, it requires all money saved on nonpublic tuition each year to be put into an Enhancement Fund.¹¹ Second, it directs DC to use the Enhancement Fund to support specific programs that are targeted at quickly and effectively improving special education in the public schools. These programs include partnerships between public schools and nonpublic schools to share expertise and partnerships between public charter schools to pool resources. We look forward to assisting DCPS in implementing these provisions of the special education laws to improve access and outcomes for DC students.

Related Service Providers

We applaud Dr. Beers and DCPS addressing the shortage of occupational therapists and other related service providers.¹² In previous years, this has been a

significant concern. The lack of occupational therapists had meant that hundreds of students could not receive the support they needed for their fine motor skills, hand-eye coordination, and self-care. Without this support, they struggled to complete basic tasks such as writing, using scissors, and tying shoes, and experienced limitations in their ability to participate in the classroom. We thank Dr. Beers and DCPS for working to ensure that a sufficient number of occupational therapists and other related service providers were in place in time for the Extended School Year (ESY) in late June and for the current school year.

Self-Contained Middle and High School Behavior Classrooms

We continue to have serious concerns about DCPS's approach to serving middle and high school students with behavioral difficulties who need self-contained classrooms. In these classrooms, students' content-area instruction is often provided by computer programs.¹³ While teachers with special education-certification (as distinct from content-area certified teachers) are available in these classrooms, in our experience they are not well-versed in the academic material the students are learning. Within one classroom, children may range in age from 14 to 22 and their disabilities may include learning disabilities, emotional disabilities, and mental retardation. The use of computer instruction might allow each child's programming to be individualized, but the special education teachers in the classrooms are not equipped to support students with such a wide range of needs, and the students are sometimes grouped with peers who are much

older or younger. The program as it stands now is not a model that we believe should be replicated. Instead, it should be evaluated and adjusted in order to provide more meaningful instructional supports. Data should also be collected on an ongoing basis to determine whether students in the programs are making academic and behavioral progress.

Summer School

Last year, DCPS reported that they would not provide special education services during summer school.¹⁴ Instead, DCPS would encourage teachers to offer student's with IEPs accommodations from their IEPs (e.g., extended time on tests) but would not provide them with the specialized instruction or related services they need. This means that students with disabilities were denied a meaningful opportunity to make up classes they may have failed during the school year, and falling behind contributes to students with disabilities dropping out of school. Even leaving these additional considerations aside, DCPS should always offer specialized instruction and related services in summer school in order to help the most vulnerable students make progress toward graduation. We recommend this practice change and beginning this summer DCPS offer specialized instruction in summer school.

Transition Services

I have serious concerns regarding the current ability of all DC schools to prepare students with disabilities for adulthood, but I also see significant opportunities for DC

to improve in this area in the coming year. Under federal special education law, schools are obligated to provide special education students between 16 and 22 with “transition services.”¹⁵ The new special education laws passed by the Council will require transition planning to begin at age 14 starting in 2016.¹⁶ These transition services can include a wide range of activities to prepare students for independent living, employment, and further education.

DC has for many years abjectly failed in meeting federal requirements for secondary transition. In federal fiscal year 2012, the most recent for which DCPS data are available, only 40% of DCPS students had a transition plan that complied with the IDEA requirements.¹⁷ DCPS has made strides this past year in developing a self-advocacy curriculum and some classes geared at developing transition skills,¹⁸ but many DCPS schools are still failing to comply with basic transition planning requirements.

The failure to comply with transition planning requirements is compounded by the fact that there are far too few slots in DCPS’s current transition programs. To our knowledge, the secondary transition programs that DCPS currently offers to help students learn job skills – these are Project Search, which provides supported employment in the federal government for students with cognitive disabilities, Marriott Bridges, which helps students explore careers in hospitality, and CEO, which connects students to mentors and summer internships – are not able to serve anywhere near the

number of students who need such services.¹⁹ For example, Project Search currently serves only 15 students and CEO serves 23 students.²⁰ In addition, our attorneys have learned that the programs' eligibility criteria exclude many students who desperately need vocational training.²¹

The impact of this lack of vocational and life skills training is that far too many DCPS students leave school without the skills they need to become independent adults. At a time when the city is wisely focusing on developing career-readiness for young adults through RAISE DC, it is essential that DCPS expand its vocational programs to meet the needs of the over 3,000 high school special education students.²² Offering more programs that engage students in learning job skills will likely lead to fewer students dropping out, as we find that many of the teenagers we work with are very motivated by learning vocational skills even if they may have given up years ago on learning to read or do math. Integrating vocational programs into the curriculum will also likely improve students' academic skills, as we also find that many of our clients make more progress in academics when those academics are tied to practical skills.

As we did last year, we urge DCPS to assess the vocational and life skills training needs of its students. At the same time, DCPS should assess the effectiveness of Project Search, Marriott Bridges, CEO and any other vocational programs in operation. Based on the information from these assessments, DCPS should develop and implement a plan to expand the vocational and life skills training opportunities for special education

students. This plan should be developed in coordination with OSSE and the Rehabilitation Services Administration (RSA), the agency tasked with helping adults with disabilities obtain and maintain employment. In developing the plan, DCPS should consider strategies to help students with disabilities access the vocational programs that are provided to general education students. In our experience, these programs are often inaccessible to students with Individualized Education Plans because they do not provide sufficient accommodations, but likely the programs could be made more accessible. The work should also be coordinated with the efforts of the District Career and Technical Education Task Force, which has developed a strategic plan for improving vocational education in DC.²³

Family Engagement

Program Listings

We appreciate that, in response to oversight requests from the Committee, DCPS again provided a full listing of its special education programs with details about their staffing and curricula.²⁴ We have heard from many parents that they have struggled to find out what programs the DC Public Schools offer, so we expect this information will be very much appreciated by the community and we hope that it will be distributed widely. We appreciate that DCPS published the “Office of Special Education: 2013-2014 Programs & Resources Guide for Families,” a guide to the programs and resources available to students with special education needs.²⁵ We hope they will update this

report on a yearly basis and distribute it widely to all DC families. The information DCPS provided regarding which schools are wheelchair-accessible should also be made available online.²⁶

Policies

While we applaud the creation of the Parent Handbook (a guide providing information about district-wide policies, practices, and protocols), published in both FY2014 and FY2015, we urge DCPS to make all its policies available online to the public.²⁷ Many DC agencies make their policies available on their websites; DCPS generally does not do so. The page of the DCPS website devoted to policies only includes a handful of its policies.²⁸ We generally have to submit FOIA requests to DCPS in order to receive copies of basic policies, even after schools have cited those policies as justifications for denying our clients' requests.²⁹ DCPS should ensure that all policies and directives are available to the public online and upon request.

DCPS should also provide the public with opportunities to contribute to the development of policies. Most agencies allow the public to participate in policy development through the notice and comment process.³⁰ This process informs the community that the agency is contemplating a policy change and gives the community a formal opportunity to offer feedback. We have found this process to be very effective at bringing a wider knowledge base to bear on the development of policy and at

increasing the community's sense of trust and connection to the agency. We urge DCPS to issue its policies for notice and comment.

Observation Policy

Once a child has been assigned to a school and started attending, parents often want to observe the classroom in action to see how their child is adjusting. In our experience, firsthand observations are vital for a number of reasons. They allow parents to assess how their child is responding to the instruction, how their child is interacting with peers, and what the classroom environment is like. In some cases, parents need to ask someone else to observe on their behalf, typically because the parent has a disability or a limited command of English. Parents also often need to ask someone else to observe on their behalf when the child's disability is so complex that it is beyond the ability of a layperson to assess whether the instruction they are receiving is appropriate. That is why we applaud the passage of the *Special Education Student Rights Act*, which allows parents to observe their children in school and have others observe on their behalf when necessary, and look forward to assisting DCPS in implementing this important law.³¹

Truancy Prevention and Discipline Issues

Keeping students in school is crucial to their academic success. DCPS should increase truancy prevention efforts and decrease the use of out of school suspensions.

Truancy

Truancy is a significant problem in the District of Columbia. DCPS reported that 18.1% of students are chronically truant.³² Ensuring that all children are attending school every day is extremely important as a foundation for their future success. Students miss school for many reasons including personal factors (unmet physical or mental health needs; poor academic performance, sometimes due to special education needs, and a resulting lack of self-esteem; alcohol and drug use), home and community factors (family health or financial concerns that pressure the student to care for family members or work; lack of parental guidance or supervision; domestic violence; poverty; pressures arising from teen pregnancy or parenting; parental alcoholism or drug abuse; lack of transportation; safety issues such as violence near home or between home and school), and school factors (lack of effective and consistently applied attendance policies; push-out policies such as suspension as a punishment for truancy; teacher characteristics such as lack of respect for students and neglect of diverse student needs; unwelcoming atmosphere; unsafe environment).³³

Last year, the Council passed the *Attendance Accountability Amendment Act*, which lowered the threshold for court referral from 25 absences to 15 absences for students aged 14 and up.³⁴ Students aged 5 to 13 must be referred to the Child and Family Services Agency upon ten days of unexcused absences. The law also requires schools to hold Student Support Team (SST) meetings after a student's fifth unexcused absence to

identify barriers to attendance and create solutions to help keep students in school. Unfortunately, DCPS is only 38% compliant in holding attendance SSTs.³⁵ We believe this is caused by a lack of resources. We urge both the Council and DCPS to increase capacity for SST meetings so that it can be a meaningful tool in combating truancy in our schools.

We also want to be sure that the laws and policies address the root causes of truancy, not just punish those who are truant. We encourage DCPS to do more to intervene early before children become chronically absent and drop out of school. The student, parents, teachers and other staff who work with the child on a regular basis should be the heart of any truancy reduction effort, and current regulations require all schools to have a robust intervention system. We urge DCPS to fully comply with the regulations that require even earlier school based interventions when a student is truant.³⁶

Reducing Suspension and Expulsion

Out of school suspensions and expulsions have an extremely negative impact on the student being disciplined, as well as the school community as a whole. There were 10,000 students of all ages suspended during the 2012-2013 school year.³⁷ In SY 2012-2013, students under the care of DC's child welfare system were more than two times more likely to be disciplined than other students, students who are low-income were also more likely to be disciplined than their wealthier peers, and students who have

disabilities and receive special education services also experienced higher rates of discipline.³⁸ One of the most upsetting statistics revealed by an OSSE report is that African-American students in the District are almost 6 times as likely to be suspended or expelled as white students.³⁹ School push-out is not just a school discipline issue; it is very much an issue of racial justice.

We strongly encourage DCPS and all DC public schools to stop using suspension and expulsion as a form of discipline. Along with banning suspensions and expulsions, DCPS should ensure 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

One important way to help address the causes of both truancy and classroom behavioral issues are to provide mental and behavioral health services to students. DCPS has expanded its school-based mental health program in the past year, though additional expansion is needed to fully meet the many and varied mental health needs of DCPS students and comply with the law. DCPS reports a significant increase in the availability of evidence-based mental health interventions for students who have experienced trauma. The two evidence-based programs DCPS uses (which are Cognitive Behavioral Intervention for Trauma in Schools and Structured Psychotherapy for Adolescents Responding to Chronic Stress) are available in all middle and high

schools.⁴⁰ Transforming schools to make all children feel safe has benefits for the entire student and staff population. In schools equipped to handle trauma, with staff trained in its effects and who are able to make strong linkages to mental health providers, teachers will be able to focus on teaching rather than continuously managing behavior issues.

DCPS and public charter schools now have 70 schools with school-based mental health providers provided by the Department of Behavioral Health.⁴¹ In school year 2014 – 2015, DCPS increased the number of school counselors so that every middle school grade student has access to a counselor.⁴²

We encourage DCPS to continue investing in mental health capacity this year. Many more school-based mental health providers are necessary to fully comply with the *South Capitol Street* requirement that all schools have school-based mental health programs by the 2016-2017 school year.

Conclusion

Thank you again 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 8 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 *Specialized Academic Instructions*, available at:

<http://dcps.dc.gov/DCPS/Learn+About+Schools/Lottery+and+Admissions:+Apply+to+Our+Schools/Specialized+Academic+Programs>.

³ DCPS 2014 Performance Oversight Responses, Q33.

⁴ DCPS 2014 Performance Oversight Responses, Q61.

⁵ *Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools*, available at:

http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE_REPORT_DISCIPLINARY_G_PAGES.pdf.

⁶ In 2014, 20.4% of DCPS students in special education scored proficient or above in math and 17.6% scored proficient or above in reading. See *Presentation of 2014 DC CAS Results* (2014), available at:

http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2014%20DC%20CAS%20Result%20July%2031%202014...FINAL_.pdf.

⁷ DCPS 2014 Performance Oversight Responses, Q73.

⁸ *Id.*

⁹ 34 C.F.R. § 300.115 requires that each state have a continuum of alternative placements available to meet the needs of children with disabilities. The continuum must include the alternative placements listed in § 300.38: regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions.

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

¹¹ See *Special Education Quality Improvement Act of 2014*, DC Act 20-0488.

¹² DCPS 2014 Performance Oversight Responses, Q13.

¹³ DCPS 2014 Oversight Responses, Q69 Attachment.

¹⁴ See DCPS 2013 Oversight Responses, Q60 (stating that students with IEPs and 504 plans receive the same instruction as general education students in summer school, though their teachers are “encouraged” to offer them the accommodations from their IEPs).

¹⁵ See 34 C.F.R. § 300.320(b)(2).

¹⁶ See *Enhanced Special Education Services Act of 2014– DC Act 20-487*.

¹⁷ District of Columbia Part B State Annual Performance Report (APR) for Federal Fiscal Year (FFY) 2012 (SY 2012 - 2013), available at:

<http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FFY%202012%20Annual%20Performance%20Report.pdf>.

¹⁸ DCPS 2014 Performance Oversight Responses, Q73.

¹⁹ DCPS 2014 Performance Oversight Responses, Q73.

²⁰ DCPS 2014 Performance Oversight Responses, Q73.

²¹ Reasons for exclusion include having the non-qualifying disability classification, having a juvenile record, or having a history of attendance problems.

²² *Raise DC* available at: <http://dme.dc.gov/page/raise-dc> .

²³ *Strengthening the Pipeline to College and Careers*, District Career and Technical Education Task Force, (2012), available at

<http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/PUBLIC%20CTE%20Strategic%20Plan.pdf> .

²⁴ DCPS 2014 Performance Oversight Responses, Q69.

²⁵ *Office of Special Education: 2013-2014 Programs & Resources Guide for Families* (2013), available at: <http://dcps.dc.gov/DCPS/Files/downloads/SPECIAL%20EDUCATION/OSE%20Programs%20%20Resources%20Guide%20for%20Families.pdf>.

²⁶ DCPS 2014 Performance Oversight Responses, Q65.

²⁷ DCPS 2014 Performance Oversight Responses, Q80.

²⁸ See <http://dcps.dc.gov/DCPS/About+DCPS/Strategic+Documents/DCPS+Policies>.

²⁹ For example, we had to FOIA the handbooks describing the responsibilities and qualifications of the different categories of professionals providing special education related services. We also had to FOIA the instructions for use of EasyIEP. In past years, we had to submit FOIA requests to receive any information about DCPS's special education programs.

³⁰ The DC Administrative Procedures Act requires that "The Mayor and each independent agency shall, prior to the adoption of any rule or the amendment or repeal thereof, publish in the District of Columbia Register...notice of the intended action so as to afford interested persons opportunity to submit data and views either orally or in writing." D.C. Code § 2-505. "Rule" is defined to mean "the whole or any part of any Mayor's or agency's statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Mayor or of any agency." The Public Education Reform Act required that "the Mayor shall promulgate rules and regulations governing DCPS, including rules governing the process by which the Mayor and DCPS will seek and utilize public comment in the development of policy." D.C. Code § 38-172(c)(1).

³¹ See *Special Education Student Rights Act of 2014* – DC Act 20-0723.

³² See Truancy Taskforce Summative Data for SY2013-2014 Presentation.

³³ *The National Center for School Engagement, Factors Contributing to Truancy*, available at: www.truancyprevention.org; *Truancy Reduction: Keeping Students in School* (2001), available at: <https://www.ncjrs.gov/pdffiles1/ojdp/188947.pdf>.

³⁴ See *Attendance Accountability Emergency Amendment Act of 2013*, DC Act 20-0072.

³⁵ DCPS FY 14 Oversight Responses, Q48.

³⁶ 5 D.C.M.R A-2100 et seq.

³⁷ *Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools*, available at: http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE_REPORT_DISCIPLINARY_G_PAGES.pdf.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ DCPS 2014 Performance Oversight Responses, Q70.

⁴¹ DBH 2014 Performance Oversight Responses, Q66 Attachment

⁴² DCPS 2014 Performance Oversight Responses, Q11.