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District of Columbia Public Schools**

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INTRODUCTION

Good morning Chairman Grosso and members of the Committee. My name is Judith Sandalow. I am the Executive Director at Children's Law Center¹ (CLC) 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. Many children we represent attend District of Columbia Public Schools (DCPS).

I appreciate this opportunity to testify regarding the performance of DCPS. In these admittedly extensive remarks, I focus first on students with disabilities, because their academic and post-high school outcomes continue to be abysmal, worse than any other group of children in DCPS. I discuss the need to fully implement the 2014 legal reforms of special education, including DCPS's work on planning for post-high school starting at age 14 and evaluating students for special education services in two months. I highlight DCPS's gaps in special education services for high schoolers with disabilities, including for overage/under-credited students and those who want vocational training. I discuss how children who need services in all different special education settings need DCPS to focus on improving their services, rather than narrowly focus on children getting more services in general education. This includes

our concern that DCPS is denying needed intensive services to children and their schools with its centralized review processes, yet not providing schools with interventions and coaching on an ongoing basis to meet the needs of children.

Secondly, I focus on improvements needed in DCPS's efforts to reduce truancy and absenteeism, and on the disproportionate impact of suspensions and expulsions on children based on race and disability, including how delays scheduling discipline hearings are denying education to students. Lastly, I discuss the need for a comprehensive plan to make all DCPS schools trauma-sensitive and for adequate school-based mental health services, given the realities of life for so many DC students and schools' need for more training and tools.

In the past year, DCPS has made some progress on positive changes for students with disabilities:

- DCPS has trained schools to begin post-secondary planning for special education students in middle school.²
- DCPS has maintained its partnership with Ivymount School, for specialized high-functioning Autism classrooms at School without Walls at Francis-Stevens, and states its ongoing commitment to a partnership school at Stevens Elementary.³

- DCPS's Early Stages diagnostic center for pre-kindergarteners with disabilities has made significant progress towards evaluating children within 60 days as per the *Enhanced Special Education Services Act*.⁴

Despite these areas of progress, DCPS has much work to do in order to create a high-quality public education system that meets the needs of all children. For me the urgency is evident each and every time I meet one of our clients or hear the devastating impact that DCPS' failure to provide an adequate education has had on a child and his family. Tyrone⁵ is one such child. His predicament illustrates significant challenges that many parents and children experience when trying to secure an education through DCPS. It is also a story that shows how interconnected the need for changes in special education, school discipline, and trauma sensitive schools are for many DC children we encounter.

Tyrone is a middle school student with disabilities, including learning and attention issues. After years of receiving limited special education services, Tyrone started to have increasingly obvious problems with behavior, relationships with adults and peers, and attendance in class. Part of the underlying problem for Tyrone is that his reading and math skills remain at early-to-mid-elementary levels even though he has average to above average intelligence, so he is lost and frustrated in class. But Tyrone also has a history of trauma, including being threatened with weapons in the community.

Unfortunately, Tyrone's school did not have the tools and supports to help him. Tyrone started to get suspended. After meeting with Children's Law Center in addition to the parent, school personnel agreed that Tyrone needed a more intensive specialized classroom, but said they could not proceed without DCPS Central Office observing and approving.⁶ Instead, the school suspended Tyrone repeatedly and for long periods. Each time Tyrone was suspended, he was kept out of school pending hearings at the Office of Administrative Hearings (OAH), each of which took about two school weeks to occur. Despite his legal entitlement to special education services while suspended or pending hearing,⁷ DCPS would not let him enroll at C.H.O.I.C.E. Academy, DCPS's alternative school for long-term suspended and expelled students, and provided no other education. Tyrone got caught in a cycle: DCPS administration delayed the services he needed because of a policy that required them to observe him in the school, and he was repeatedly suspended from that school because he was not getting more intensive services. One underlying problem is lack of capacity. Tyrone had already been failed by DCPS's lack of capacity within his neighborhood schools to teach him basic reading and math skills and skills to cope with his emotions. His school was not prepared to do anything other than suspend him when his emotions and behavior worsened, and they were not provided training and support to keep him in school in the midst of crisis. The other problem is that DCPS's processes around long-term suspensions and processes to secure more intensive special education services are

counterproductive. For Tyrone, and other students, DCPS needs to work urgently to make reforms so that all children can succeed.

SPECIAL EDUCATION NEEDS URGENT REFORM

At least 15% of DCPS students have disabilities and DCPS is failing them.⁸

The statistics are chilling. Children with disabilities have worse academic achievement than any other group, by far. Only 4.5% of DCPS students in special education are proficient (Level 4+ on PARCC) in English/Language Arts (ELA) and 5.6% in Math. Sixty-seven percent are scoring at the lowest level (Level 1) in ELA and 53% in math, compared to 31% and 25% of all students, respectively.⁹

Merely 3% of DCPS high schoolers in special education are college or career-ready on the English statewide exam and less than 1% on the math exams, a de minimus improvement since last year.¹⁰ Last school year, only 47% of DCPS students with disabilities graduated on time with a diploma or “certificate of completion,” while 27% dropped out.¹¹ Only 34% of students with disabilities were enrolled in any post-secondary school or training or employed within one year of leaving high school.¹²

Behind the statistics are children like Tyrone and stories that paint a picture of a system in need of urgent attention and reform. 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. Some of them have never been diagnosed with a disability, despite how obvious the child's severe needs are and, at times, despite the parent asking for special education. Other children are in special education, just not receiving the services they need to make progress. Parents are upset and scared about the future, especially when – as their child falls further and further behind – school personnel tell them that their child is making enough progress and that there is no need to change the plan.

Denying children with disabilities a meaningful education is to deny them a basic human right, because 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.¹³ Because that is the goal, students are given a right to an education appropriate to that student's unique needs and designed to allow the student to access the same curriculum as other students and make progress (a "free, appropriate public education" or FAPE).

IMPLEMENTATION OF SPECIAL EDUCATION LAW REFORMS: *Begin Post-Secondary Transition Planning at Age 14, Make Initial Evaluations Faster, and Support Parent Involvement*

To begin improving special education outcomes, children need DC to ensure the full funding and implementation of the *Enhanced Special Education Services Act of 2014*.

The reforms in this bill were unanimously passed by the Council in 2014, after extensive community discussion of what changes were needed to help parents, children, and schools. They have broad support, and DCPS has already started to prepare for implementation. What is needed is the funding for full implementation.

Post-High School Transition: Plan Earlier and Do Better

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.¹⁴ Transition service plans can include a wide range of activities to prepare students for independent living, employment, and further education. Recognizing the importance of these transition activities, the *Enhanced Special Education Services Act of 2014* lowers the age at which transition planning must begin to age 14. This change was to be effective July 2016, but a small amount of funding was not included in OSSE’s last budget.¹⁵ 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.¹⁶ Fortunately,

despite a lack of appropriated funds, DCPS has begun implementing the reform in its schools this school year.¹⁷

In addition to beginning transition planning earlier at age 14, DCPS 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 53% who are not graduating on time from DCPS and the 27% of students dropping out.¹⁸ A key piece of improving the quality and quantity of transition services should be a comprehensive needs assessment, including mapping what DCPS youth with disabilities currently need and what is likely needed for middle schoolers who will reach transition planning age soon. Areas of review should include academic needs, life skills needs, need for alternatives for overage/under-credited students, and vocational needs.¹⁹ Without a comprehensive assessment of what students need, DCPS will not be able to plan and create the appropriate programming. We believe that this Committee should require DCPS to provide public details about its needs assessment and planning for students, especially given the extremely low PARCC scores of DCPS high school students in special education.

One particularly underserved group is students who are overage and under-credited. DCPS reported at the Special Education Roundtable Hearing held by this Committee that work on services for students with disabilities who are under-credited

and overage is part of their “next level of work.”²⁰ Improving these services is essential, including making classes and supports available for special education students in the alternative high schools and opportunities to make up credits. Over the years, multiple students who would have benefitted from the flexible programs in DCPS alternative high schools were not accepted because their disabilities needed too many special education services. DCPS has made additional investment in its alternative high schools, but so far the changes have not ensured that students with disabilities can have their needs met in the alternative high schools.²¹

DCPS is offering more evening credit recovery opportunities and summer school. Unfortunately, DCPS continues its practice of not providing special education services from students’ IEPs or special education teachers in its summer and evening credit recovery programs.²² This means students with disabilities are denied a meaningful opportunity to make up classes they failed during the school year. Since falling behind contributes to students with disabilities dropping out of school, DCPS should always offer specialized instruction and related services in summer school and credit recovery in order to help the most vulnerable students make progress toward graduation. We ask this Committee to have DCPS provide detailed written information on how DCPS is improving its services for youth who are overage/under-credited, DCPS’s needs assessments for those programs, and how they will address the needs of students with disabilities.

Another major gap in DCPS's transition services for students with disabilities is its lack of sufficient vocational training for student with disabilities. DCPS's Project Search and Marriott Bridges programs, which provide employment training to students with disabilities, have been successful in our experience, but have shrunk to 10 students.²³ DCPS's other vocational and internship programs for children in special education are now serving 122 students. This is an increase, but still only serves a fraction of the hundreds of students who could benefit from such programs.²⁴ Students with disabilities are enrolled in the Career and Technical courses as well,²⁵ although some of our clients, especially those with significant needs, have not been able to access the career courses and academies because DCPS does not provide special education services in them. DCPS should rigorously assess the success all these offerings for students with disabilities, so that it can improve special education services in those programs. DCPS should also provide the course success and the graduation and post-secondary success rates for students in the vocational/internship programs and for students in the career and technical courses.

Evaluate Children to get Special Education Services Faster

DCPS is already preparing for the change in the evaluation timeline that will help students get services more quickly. Under the *Enhanced Special Education Services Act of 2014*, a student with a suspected disability must be evaluated in 60 days.²⁶ This reform is also subject to funding. Currently, schools have 120 days to complete the

evaluation, the longest timeline in the nation.²⁷ The impact that faster diagnosis, and thus faster services, will have on students cannot be overstated.

Last year, we urged DCPS to provide assistance to schools so that they could evaluate children within 60 days and asked them to monitor how long schools are taking to complete evaluations. The good news is that DCPS is making strides for young children through Early Stages, which is DCPS's evaluation center for children up to age 5 years and 9 months and which completes about half of the initial evaluations required in DCPS.²⁸ Early Stages has made significant improvements in the past year, quadrupling the percentage finished within 60 days of referral and continuing to improve in fiscal year 2017 to date.²⁹ Early Stages has also reported in public that starting July 1, 2017, it will be following the shorter 60 day timeline.

We know that DCPS evaluators in schools are operating on a 45-day deadline for their evaluations of older students.³⁰ Unfortunately, DCPS has not reported any public data about how often they succeed in completing evaluations during the 45 or even the 60 day window. Given all this positive work, we expect that DCPS will move to a 60 day timeline next year. We also expect, and urge the Council to ensure, that additional funding to close the remaining gaps and execute the law in October 2017 will be included in the FY18 proposed budget.

Last year we highlighted that one essential step to successfully meeting the 60 day timeline is to train school staff to act promptly on parent requests for special

education evaluations. This remains an area of concern. In particular, DCPS needs to train school staff to honor and document oral requests as required by the *Enhanced Special Education Services Act of 2014*.³¹ Parents continue to seek our help getting DCPS to evaluate their struggling children, even after they have made an oral request to their child's school. The Office of the Ombudsman for Public Education has also highlighted that schools are not properly documenting or moving forward based on oral requests for evaluation.³²

Increase Parent Involvement in Special Education

DCPS should deepen efforts to ensure all public schools in DC follow the requirements from the *Special Education Students Rights Act of 2014* aimed at ensuring 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. Schools often suggest that a meeting be postponed when they have not followed the law, rather than prioritize getting records to parents. DCPS should track how schools are doing and examine reasons for meetings being postponed to make sure schools take the law seriously.

IMPROVE CAPACITY TO PROVIDE EFFECTIVE SPECIAL EDUCATION IN ALL SETTINGS

The large number of students with disabilities not making meaningful progress is evidence that capacity within DCPS to provide effective, appropriate education for students with disabilities in the variety of settings that unique children need remains a key issue. Students with disabilities have a great variety of strengths and needs, so the IDEA requires that DCPS 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.³³ 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. Other children who would also be considered “in inclusion” need fully co-taught classrooms providing specialized instruction in all areas. 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 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 general education school building, even within a self-contained classroom. The reduced number of children in nonpublic schools, which was the focus for so many years, has not solved the problem that many local schools cannot provide the specialized supports necessary to educate children with needs beyond those resulting from the mildest disabilities.

We understand that DCPS is focusing on improving its services in inclusive settings and having children be in general education more of the time.³⁴ DCPS is basing this strategy on internal data that they believe shows that children who receive moderate amounts of pull-out small group services are making less progress than students who are almost always in general education classes. However, we are concerned that this analysis ignores important facts. The analysis that DCPS has shared does not take into account critical distinguishing factors, such as the type or intensity of the needs of children currently in mostly general education as opposed to those in more small-group pull-out settings and the fact that most children with more pull-out hours are there because they were not progressing in general education.³⁵ These additional factors often mean that the student cannot currently make needed progress in general education. Many students we help are years behind, and we have yet to see a method that helps these students progress multiple years inside a general education classroom. Some children need to catch up in smaller groups before re-joining a larger general education classroom, so we agree it is troubling that students in the small-group pull-out services are not making more progress. Instead of focusing on moving those children to more general education classes, DCPS should make their small-group setting services more effective. While increased inclusion is a worthy goal, DCPS needs to have a broader focus on improving outcomes for children no matter what setting the child needs.

Related to DCPS's focus on keeping children in general education in the neighborhood school are their processes for centralized review when a child needs more intensive services, which in practice are denying children the help they need. One such process is that Central Office approves or disapproves a request for a smaller specialized classroom or school.³⁶ That decision should be made by an IEP team which includes the parent.³⁷ DCPS spoke about this process proudly at the Roundtable Hearing on Special Education,³⁸ however, as illustrated in Tyrone's story, families and children we work with often experience harmful delays and denials of help from DCPS Central Office because of this process. While we understand that DCPS does not want a school to easily give up on trying to educate a child with disabilities in the neighborhood, we suggest that DCPS view a referral from a school for a child to attend a smaller specialized classroom as the school team's indication that they have tried everything that they know how to try. DCPS should have a specific program, intervention, or resource in which they can immediately train and coach the school personnel on an ongoing basis, if they are going to delay or deny a specialized classroom. Otherwise, students like Tyrone and other children we help will continue to suffer school failures and continuous suspensions.

DCPS also has a similar process by which the Central Office approves or disapproves when a child needs a dedicated aide as an IEP service.³⁹ In our experience, children who need dedicated aides are denied them because of this process, and thus to

not get the one-to-one help that they need to learn and progress. A dedicated aide to help with instruction, management of daily needs, behavioral data tracking and management, or other tasks that classroom teachers do not have time to attend to is a common way to achieve successful inclusion. Thus, DCPS's announcement that they have substantially decreased the number of children with dedicated aides undermines their next-level commitment to inclusion in general education.⁴⁰ Dedicated aides are often essential for successful inclusion, so DCPS should be increasing rather than decreasing aides for students.

As part of the broader focus on student outcomes, no matter what setting the child needs, which should be DCPS's orientation, DCPS needs to ensure that it has options for students with severe disabilities who need small, specialized schools. At this point, DCPS has only one specialized school, River Terrace Education Campus, which focuses on the needs of students with developmental disabilities, like Autism and intellectual disabilities. DCPS has closed all of its specialized schools for children with learning disabilities and emotional needs over the last decade.⁴¹ While the closed programs for children with emotional needs had serious problems, this leaves all our public schools relying on nonpublic school placements for children who need a very small specialized school. Most of these schools are outside of DC. Our students and parents would prefer to have quality specialized school options within DC. DCPS's recent strategic plan includes intentionally making nonpublic schools part of the

continuum, with which we agree. However, DCPS needs to do more work on strengthening relationships with those schools. Over the past year, two nonpublic schools that were actually located in DC, National Children's Center and High Road DC, closed their doors. High Road DC closed suddenly near the end of the summer, leaving OSSE, DCPS, and PCS scrambling to place students with intensive needs. Robust options in the public school sector and truly strong relationships with experienced and effective nonpublic schools, would be more predictable. One hopeful sign has been DCPS's partnership with Ivymount School, a respected nonpublic school for students with Autism and other complex needs, but a lot of work remains to realize the vision of an Ivymount School and other similar schools in DC.

DCPS Needs to ensure that Transferring Students with Significant Disabilities Receive Their Required Services without Delay

DCPS must improve its procedures to provide intensive supports for children transitioning from residential treatment placements (none are available inside DC) and for wards of DC who attended full-time special education programs returning from out of state to live in DC. DCPS continues to make these students go through a centralized placement office just for a seat in a school. Often, that office has little information about the student and assigns the student to the local public school for at least 30 days before considering a more specialized placement. These are students who, at their residential treatment or out-of-district placement, received full-time special education support because their IEP teams had decided it was necessary. DCPS's practice of requiring

children to go to their neighborhood schools without any of the resources and supports they need for at least 30 days is often extremely harmful and destabilizing for these high-needs students. As well as harming the students, this practice runs counter to federal law, which requires schools to implement the students' IEPs or provide comparable services upon transfer.⁴²

STUDENT ATTENDANCE AND DISCIPLINE

If students are not in class, none of our education reforms matter. Keeping students in school is essential to their academic success. DCPS should increase truancy prevention efforts and decrease the use of exclusionary discipline practices.

Chronic Absenteeism/Truancy Prevention

Truancy continues to be a significant problem in the District of Columbia. Despite some improvements in the previous school year, in the 2015-2016 school year, DCPS reported a truancy rate of 20.9% and a chronic absenteeism rate of 27.1%.⁴³

Schools are the best place to address individual student's barriers to attendance. The student, parents, teachers and other staff who work with the child on a regular basis should be at the heart of any truancy reduction effort. The *Attendance Accountability Amendment Act of 2013* recognizes this by requiring school to conduct Student Support Team (SST) meetings when a student reaches 5 unexcused school absences. However, it is deeply concerning that schools are still not fully complying with this law or its underlying regulations. DCPS completed only 70% of their required

attendance-related SST meetings in school year 2015-2016. To learn the specific reasons a child is missing school and to respond with the necessary interventions, someone from the school must meet with the student and his or her parents. Plain and simple, that is what an SST meeting is. We urge the Council to ensure full funding and staffing in the schools to comply with the truancy interventions require by current law.

In addition, when the school has not met with the student and family to resolve attendance issues, we recommend the school be prohibited from referring students to the courts or the Child and Family Services Agency (CFSA). This will ensure that schools can't use referral out to replace their obligation to meet with and assist students. To fully effectuate this goal, we also recommend that the school's failure to conduct an SST meeting be made an affirmative defense to truancy petitions made against students age 14 and older. Court involvement is inappropriate if a student has not been offered interventions or services.

Further, as we've testified many times before, 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. The data, although incomplete, suggests that SST meetings are more effective than referrals to court or CFSA. Of the DCPS students who were truant in SY2014-2015

and reenrolled in DCPS in SY2015-2016, students who were referred for an SST meeting had a 41% truancy repeat rate, compared to a 64% truancy repeat rate for students referred to CFSA and a 72% truancy repeat rate for students referred to Court Social Services (CSS). We urge that this data continue to be collected, not just from DCPS, but the public charter schools, as well.

Reducing Suspension and Expulsion

Excessive use of exclusionary discipline practices also keeps students out of school. As we testified last week, 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 of the school year, so they can learn and succeed.⁴⁴ The *Pre-K Student Discipline Amendment Act of 2015* was a good first step, by stopping the suspensions and expulsions of pre-k students.⁴⁵ However, data from OSSE's *State of School Discipline: 2015-2016 School Year* report show that we still have more to do to keep kids on track.

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.⁴⁶ 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;⁴⁷
- Students with disabilities were 1.4 times more likely to be suspended out of school, controlling for race and other factors;⁴⁸ and
- Of the students under CFSA's care that received an out-of-school suspension last school year, over half received more than one.⁴⁹

Exclusionary discipline practices have an extremely negative impact on the students being disciplined, as well as on the school community as a whole. Similar to the harmful effects of chronic school absence, over a decade of research correlates exclusionary discipline with decreased academic performance, dropping out, substance abuse, and criminal activity.⁵⁰ A student doesn't learn from his or her behavior and come back to school ready to behave and learn, which continues to be a belief among school leadership, despite evidence to the contrary.

As highlighted in Tyrone's story, students are being kept out of school for long periods of time before a hearing is conducted at OAH to examine the legitimacy of the long-term suspension imposed. DCPS acknowledges an average of over 22 days between the date of incident and hearing,⁵¹ contrary to DC regulations which require hearings to be held within 4 school days.⁵² Long-term suspensions are 11 days or more, so if the regulations are followed, then a decision is rendered within the time-frame that is a short-term suspension. Because hearings are taking so long to be scheduled and

held, some students are spending more time out of school than they should, especially for the cases where no violation is eventually found.⁵³ Additionally, students cannot enroll at C.H.O.I.C.E. Academy pending their hearing and are not allowed to return to their original school. It was happening last year and is still occurring this school year. These practices lead to denials of education for students before they have the fair hearing to which they are entitled.⁵⁴

We urge this Committee to ask DCPS about their underlying reasons for the long, illegal delays and what DCPS is doing to change it. If DCPS cannot answer sufficiently now, they should be required to submit a report.

Trauma-Informed Schools

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

Children in the District have a high rate of experiencing trauma.⁵⁵ 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.⁵⁶ While experiencing any one discrete negative event, such as physical abuse or witnessing a murder, can cause trauma, children can also experience trauma through the cumulative effect of multiple, ongoing events, like living in poverty, experiencing homelessness, or

being repeatedly removed from one's parents. Importantly, with respect to our discussion today, there is now wide agreement that trauma significantly impacts a child's ability to progress at school.

Increasingly, experts on trauma agree that schools can play a significant role in the adjustment of traumatized children.⁵⁷ A supportive school community that views children and families through a trauma-lens can help children feel safe and connected – this is the first step in preparing these children to learn. In schools best equipped to handle trauma, with staff trained in its effects and who are able to make strong linkages to mental health providers, teachers will be able to focus on teaching rather than continuously managing behavior issues.

DCPS has done, and continues to do, important work to bring trauma-informed practices in the DCPS schools. In SY2016-2017, Evidence-Based Treatments were expanded to more DCPS schools. For example, Grief and Trauma Intervention for Children (GTI) was expanded to 37 DCPS schools, and Cognitive Behavioral Intervention for Trauma in Schools (CBITS) was expanded to 5 DCPS schools.⁵⁸ While expanding these trauma-informed services is encouraging, services alone are not enough for schools to be trauma-informed. That is why we continue to urge DCPS to adopt a trauma-informed policy and comprehensive plan for all DCPS schools, and we encourage the Chancellor to see this through.

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.⁵⁹ Children and families are more likely to take advantage of mental health services when they are located in a school. Services are more effective when 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 has increased the availability of Evidence-Based Treatment (EBT) services to address the mental health challenges of students in schools,⁶⁰ they are not found at all schools, and many schools have mental health staff with caseloads that are too large to provide adequate services.

Additionally, gaps in mental and behavioral health professionals, especially school psychologists, continue to be a huge problem. From the start of SY2014-2015 to date, more than 20 DCPS schools have experienced a shortage in school psychologist staff.⁶¹ Most of these schools come from the District's poorest neighborhoods in Wards 5, 7 & 8, and several schools, such as Burrville Elementary and J.C. Nalle Elementary, have seen gaps in three consecutive years.⁶² Students in these schools cannot afford to go without access to the vital services provided by a school psychologist. What's even more concerning is that this shortage may be exacerbated due to a shift in the credentialing of school psychologists from OSSE to the Department of Health (DOH).⁶³

We urge the Council to look into this and take any necessary actions to prevent the gap from deepening.

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 Capitol 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.⁶⁴ 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 new Chancellor should play a key role in eliminating the continuous gaps in mental and behavioral staff and supporting the expansion of mental health services within DCPS schools, including implementation of the new plan. We hope these efforts are made a priority and move quickly from plan to action.

CONCLUSION

Thank you again for the opportunity to testify. 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 DCPS FY16 Performance Oversight Responses, Q78.

³ DCPS FY16 Performance Oversight Responses, Q65.

⁴ DCPS FY16 Performance Oversight Responses, Q75, compared to DCPS FY15 Performance Oversight Responses, Q.71.

⁵ In order to protect the confidentiality of our clients, names are changed and no specific identifying details are used. In addition, the situation described has occurred with multiple clients this year.

⁶ According to the law, the IEP team, comprised of the parent, an LEA representative (of which there is one or more designated at each DCPS school), teachers, and others with knowledge of the child should make decision about the services and placement of the student.

⁷ See 34 C.F.R § 300.530(d).

⁸ DCPS FY16 Performance Oversight Responses, Q72. We note that 15% was a goal from DCPS’s previous strategic plan, although DCPS has never explained why 15% children identified as needing special education is a legitimate goal based in research and realities about DC. Other states recognize more than 15% of students as needing special education, including Vermont, Indiana, Massachusetts, Maine, New Jersey, New York, Pennsylvania, and Rhode Island. See https://nces.ed.gov/programs/digest/d15/tables/dt15_204.70.asp?current=yes

⁹ 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

¹⁰ Detailed 2015-16 and 2014-15 PARCC and MSAA Achievement Results, OSSE, at <https://drive.google.com/open?id=0BxRyVj1lhggyY0JKTnRXOHhUd0U>.

¹¹ OSSE FY16 Performance Oversight Responses, Q10-ACGR and Q50. DCPS explained that that 47% includes students who earned the less-valuable “IEP Certificate of Completion.” Testimony of Kerri Larkin, for Public Roundtable on “The State of Special Education and Disability Services in Public Schools,” November 16, 2016. Accessed at

http://dcps.dc.gov/sites/default/files/dc/sites/dcps/release_content/attachments/DCPS%20Testimony_Roundtable%20on%20SpEd_11%2016%2016.pdf

¹² DCPS FY16 Performance Oversight Responses, Q76.

¹³ 34 CFR § 300.1.

³¹ 34 CFR § 300.320(b)(2).

¹⁵ See, *Enhanced Special Education Services Act of 2014– DC Act 20-487*.

¹⁶ 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](http://ruralinstitute.umt.edu/transition/handouts/VRBS_and_WIOA-28apr15.pdf)

¹⁷ DCPS FY16 Performance Oversight Responses, Q78, and DCPS SY2016-17 Transition Services Manual, found at <http://dcpstransition.com/wp-content/uploads/2016/10/2016-FINAL-TRANSITION-MANUAL.pdf>

¹⁸ OSSE FY16 Performance Oversight Responses, Q10-ACGR and Q50.

¹⁹ Often in this work, in our experience, although reading, writing, and math are key life skills that students will need for successful life after high school, academics are ignored or forgotten as an aspect of transition planning.

²⁰ Attachment to DCPS Testimony for Committee on Education Roundtable on Special Education, November 16, 2016, slide 18. Accessed at

http://dcps.dc.gov/sites/default/files/dc/sites/dcps/release_content/attachments/Attachment%20for%20DCPS%20Testimony%20Rountable.pdf.

²¹ See, Matos, Alejandra, “Alternative high schools are giving D.C. students another shot at graduation,” *Washington Post*, December 18, 2016.

²² DCPS FY16 Oversight Responses, Q77. General education teachers being informed about needed accommodations (e.g., more time on a test, preferential seating, movement breaks) is not the same as being provided all the special education services in a student’s IEP, which IEP is designed to provide what is needed for the child to access the curriculum. Each school making a “decision” to hire or not hire a special education teacher for credit recovery, which might be based on budget or easy availability, does not ensure that students who need the special education teacher to succeed will have that. Providing a paraprofessional for summer school, while an improvement over what DCPS has committed to provide in past summers, is not providing special education services.

²³ DCPS FY16 Performance Oversight Responses, Q76.

²⁴ DCPS FY15 Performance Oversight Responses, Q72 (Vocational). See also, OSSE FY16 Performance Oversight Responses, Q49A and Q49B, yielding an estimate that DCPS is serving over 1500 students age 16 and up, based on numbers of students with IEPs age 16 and up and that DCPS serves 60% of student with IEPs.

²⁵ DCPS FY16 Performance Oversight Responses, Q76.

²⁶ See, *Enhanced Special Education Services Act of 2014– DC Act 20-487*. Evaluation must be done within 60 days of parent consent and 90 days of referral, giving schools no more than 30 days to secure parent consent.

²⁷ “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.

²⁸ Email from Kerri Larkin, DCPS Deputy Chief of Specialized Instruction, November 14, 2016. On file with Children’s Law Center.

²⁹ DCPS FY16 Performance Oversight Responses, Q75, 20% were done within 60 days of referral and 44% done within 90 days of referral (unfortunately, it is impossible to tell the percentage done within 60 days of signed parental consent, but the 44% are likely within the new deadline) compared to less than 5% in 60 days in DCPS FY15 Performance Oversight Responses, Q.71.

³⁰ We know this from experiences in DCPS IEP meetings, as well as communication from Kerri Larkin, Deputy Chief of Specialized Instruction, on November 14, 2016 stated that this is an IMPACT business rule. We asked for a copy of that policy, but have not received it. Email on file with CLC.

³¹ See *Enhanced Special Education Services Act of 2014– DC Act 20-487*.

³² DC Office of the Ombudsman for Public Education 2016 Annual Report, p. 11, accessed at http://sboe.dc.gov/sites/default/files/dc/sites/sboe/publication/attachments/DC%20Omb%202016%20Annual%20Report_v19.pdf

³³ 34 CFR § 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.

³⁴ Testimony of Kerri Larkin, for Public Roundtable on “The State of Special Education and Disability Services in Public Schools,” November 16, 2016. Accessed at http://dcps.dc.gov/sites/default/files/dc/sites/dcps/release_content/attachments/DCPS%20Testimony_Roundtable%20on%20SpEd_11%2016%2016.pdf

³⁵ Jennifer Blair and Louise Lewis, “The DCPS Inclusive Vision Project: A Roadmap for Implementing Inclusive Best Practice in Our Schools,” at OSSE LEA Institute: *It Takes a City: DC Does it Best!*, May 20, 2016, accessed at https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/K12_SPED_DCPS%20Inclusive%20Vision%20Project.pdf.

³⁶ Testimony of Kerri Larkin, for Public Roundtable on “The State of Special Education and Disability Services in Public Schools,” November 16, 2016 (discussing least restrictive environment reviews).

³⁷ See, 34 CFR § 300.321(a)(1). See also 34 CFR § 300.501(b)(i) and (c); 34 CFR § 300.327; 34 CFR § 300.320(a)(2). DCPS, when asked, will acknowledge that the Central Office process cannot legally override the IEP team decision, but few DCPS school-based team members, in practice, will go against the Central Office recommendation, which is understandable because the recommendation comes from superiors.

³⁸ Testimony of Kerri Larkin, for Public Roundtable on “The State of Special Education and Disability Services in Public Schools,” November 16, 2016. Accessed at http://dcps.dc.gov/sites/default/files/dc/sites/dcps/release_content/attachments/DCPS%20Testimony_Roundtable%20on%20SpEd_11%2016%2016.pdf

³⁹ See, *id.*, also DCPS Dedicated Aide User Manual, Office of Special Education (updated August 24, 2012). Children’s Law Center acknowledges that this version may not be DCPS’s current version, but is what we have.

⁴⁰ See, *id.*; Attachment to DCPS Testimony for Committee on Education Roundtable on Special Education, November 16, 2016, slide 12. Accessed at http://dcps.dc.gov/sites/default/files/dc/sites/dcps/release_content/attachments/Attachment%20for%20DCPS%20Testimony%20Roundtable.pdf

⁴¹ See our testimony from 2013 for a full listing of closed programs. Prospect Learning Center for students with learning disabilities closed in summer 2013, see <https://www.washingtonpost.com/apps/g/page/local/dc-public-schools-closure-list-january-2013/25/> Prospect Learning Center was for students with specific learning disabilities who needed a small school to learn, and nothing has replaced it despite that parents were generally happy when their children were there. Mamie D. Lee and Sharpe Health consolidated at River Terrace in summer 2015.

⁴² See, 34 CFR § 300.232(a) and 300.232(f).

⁴³ See, Truancy Taskforce Summative Data for SY2013-2014 Presentation.

⁴⁴ 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>

⁴⁵ D.C. Code § 38-271.01(5A).

⁴⁶ Calculation by Children’s Law Center based on data from OSSE’s 2016 report, *State of Discipline: 2015-2016 School Year*, p. 10.

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- ⁴⁷ OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 23.
- ⁴⁸ 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.
- ⁴⁹ OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 39.
- ⁵⁰ OSSE (2014). *Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools*, p. 7.
- ⁵¹ DCPS reports an average of 22.7 calendar days from the incident date to the date of the hearing. See, DCPS FY16 Performance Oversight Responses, Q59.
- ⁵² 5 DCMR § B2506.2.
- ⁵³ DCPS FY16 Performance Oversight Responses, Q59.
- ⁵⁴ *Goss v. Lopez*, 419 U.S. 565, 574 (1975).
- ⁵⁵ 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>
- ⁵⁶ 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
- ⁵⁷ 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.
- ⁵⁸ Information provided to Children's Law Center by Deitra Bryant-Mallory, Director of School Mental Health for DCPS, (September 2, 2016).
- ⁵⁹ 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>
- ⁶⁰ In SY2016-2017, Grief and Trauma Intervention for Children (GTI) was expanded to 37 DCPS schools, Cognitive Behavioral Intervention for Trauma in Schools (CBITS) was expanded to 5 DCPS schools, and Cannabis Youth Treatment (CYT) was expanded to an additional DCPS school. Information provided to Children's Law Center by Deitra Bryant-Mallory, Director of School Mental Health for DCPS, (September 2, 2016).
- ⁶¹ See, DCPS FY15 Performance Oversight Responses, Q10, and DCPS FY16 Performance Oversight Responses, Q11.
- ⁶² *Id.*
- ⁶³ See, OSSE Oversight Hearing testimony from Eric Rossen, Director of Professional Development and Standards at the National Association of School Psychologists (February 14, 2017).
- ⁶⁴ D.C. Law 19-0141.