



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

Testimony Before the District of Columbia Council
Committee on Education
April 14, 2016

Public Hearing:
FY17 Agency Budget Hearing for District of Columbia Public Schools

Renee Murphy
Senior Policy Attorney
Children's Law Center

Introduction

Good morning Chairman Grosso and members of the Committee on Education. My name is Renee Murphy. I am a Senior Policy Attorney 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 8 children in DC's poorest neighborhoods – more than 5,000 children and families each year. The majority of the children we serve attend District of Columbia Public Schools (DCPS).

The Mayor's proposed FY17 budget for the District of Columbia continues to make education a budget priority. The per-student funding level was increased for inflation costs, and adjustments were made for a small enrollment increase, resulting in a 2.3 percent budget increase for DCPS.² While the myriad of problems our schools face cannot be solved through increased funding alone, increased funding will certainly enhance the schools' ability to meet students' needs. In my testimony today regarding DCPS's budget, I will focus specifically on the proposed budgets for special education, as well as touch briefly on the funding for at-risk students.

I do want to note that while I have a few concerns, I am not requesting increased funds for DCPS. Children's Law Center strongly believes that if there are additional funds to help students with disabilities, expansion of the Strong Start/DC Early

Intervention Program is the top priority. Expanding the Strong Start/DC Early Intervention Program now, as opposed to waiting, will reduce the need for special education services for hundreds of children, preventing some from needing any special education services, and certainly give hundreds more a better start in school.³ I will go into more detail on this issue when I testify at the Budget Hearing for the Office of the State Superintendent of Education.

Special Education

Overall, the funding proposed for FY17 should allow DCPS to hold steady on improvements in its special education programs. The academic performance of the approximately 7,000 DCPS students in special education is currently unacceptable.⁴ The Partnership for Assessment of Readiness for College and Careers (PARCC) scores of students with disabilities show that fewer than four percent of students with IEPs are meeting or exceeding expectations.⁵ Fewer than one-half of one percent of DCPS *high school* special education students are college or career-ready in math.⁶ There has been some, small improvement: DCPS has shared that students are making literacy progress in DCPS's intensive full-time special education classrooms, and when in inclusion at least 80% of the school day.⁷ DCPS has also made targeted investment in literacy interventions for students in full-time special education classrooms and some resource classrooms, over the last three years. Unfortunately, we still see DCPS schools

struggling to provide quality special education in many settings for students on the ground.

Thus, it is essential that DC maintain the proposed funding for DCPS's special education services and supports to allow more schools to improve quality of services and instruction. Re-organization at DCPS has moved functions of the former Office of Specialized Instruction (OSI), which directed and provided many supports for our clients, into four different Offices: the Office of the Chief Operating Officer, the Office of Teaching and Learning, the Office of Instructional Practice, and the new Division of Wellness in the Office of the Chief of Schools.⁸ The bulk of special education work is now in the Office of Teaching and Learning, although school psychologists and social workers, who provide significant supports, have moved into the Division of Wellness. This reorganization means that funding has shifted to different offices' budgets, combining special education funding with other funding streams, which makes the specifics of special education funding in the proposed FY17 budget very difficult to compare to FY16. DCPS has informed Children's Law Center that the budgets for special education services and supports are intact or perhaps slightly increased.⁹ Although DCPS has tried to assist us in understanding the specifics, the budget books do not explain the funding stream changes, and we have not yet gained a complete understanding.¹⁰ For example, the DSI Inclusive Academic Programs budget line, which the Agency Budget Chapter describes as including related services, specialized

instruction, home and hospital instruction, 504, paraprofessional support, and extended school year services, shows a proposed budget decrease of \$9,792,000 and loss of 25 Full Time Equivalents (FTEs).¹¹ The loss of 25 FTEs is comparable to the increase last year in that budget line, which DCPS explained last year was from a consolidation of special education activities, including related services, specialized instruction, extended school year services, and transition services.¹² It appears that some of those activities have shifted, but from the proposed budget, it is not clear which services or amounts of funding, nor into which budget lines each activity has moved.¹³ These services are crucial to the success of many of our clients, and, as we said last year, I encourage the Council to track the individual funding levels for each of these important programs. I also urge the Council to push for more transparency in where the special education funding is now reflected in the proposed budget.

I understand from Thomas Flanagan, DCPS's Deputy Chief of the Inclusive Programming Division, that DCPS is taking targeted steps toward improving special education services. DCPS is maintaining the number of special education teachers and aides in schools overall, shifting some teachers into smaller elementary schools to enable scheduling of more inclusive hours of specialized instruction.¹⁴ DCPS is also adding 4.6 school psychologists and 9.5 social workers within the individual school budgets.¹⁵ These are important investments in meeting the needs of special education students, as are the following investments:

- DCPS is beginning a two- to three- year process of improving school-level leadership regarding inclusive special education. DCPS is entering a consultative training relationship with the Council for Exceptional Children for a cohort of about 20 to 25 school-level leaders in FY17.¹⁶
- DCPS is consciously including special education teachers alongside general education teachers in the school-based LEAP initiative designed to provide job-embedded professional development. One goal of this initiative includes developing skills and knowledge in general education teachers on best practices for instructing children with disabilities.¹⁷
- DCPS is planning for all middle school students to have transition plans in their IEPs, to implement the *Enhanced Special Education Services Act of 2014* requirement that transition planning begin at age 14 starting in July 2016.¹⁸
- DCPS has 10 Workforce Development Coordinators to assist schools regarding transition to adulthood, with support from Rehabilitation Services Agency for three FTEs.¹⁹
- DCPS is continuing the partnership with the Ivymount School, including an additional \$200,000 to expand the partnership to a middle school classroom at School Without Walls at Francis-Stevens. Ivymount School

provides educational programs and therapeutic services to students with special education needs from 4 to 21 years of age.²⁰

Concerns

Earlier Evaluations for Services

As part of the package of reforms passed by this Council to improve special education services and outcomes, the *Enhanced Special Education Services Act of 2014* requires DCPS to evaluate students within 60 days, rather than 120 days, starting in July 2017.²¹ This will allow students to receive interventions to improve their educational progress sooner. Although the Fiscal Impact Statement for this law indicated that an additional \$3,000,000 would be necessary to implement the law in FY17, DCPS has indicated that the proposed budget for FY17 is sufficient to evaluate children within 60 days rather than 120 days from July 1, 2017 until the end of the fiscal year.²² DCPS appears confident that, until FY18, the pressures on the schools and related service providers who conduct evaluations will not be budgetary but rather about how existing staff is utilized at different peak times during the school year. DCPS is planning to re-analyze the evaluation staffing need during the next school year to plan for needed FY18 funding during next year's budget process. Because DCPS has included funding to implement this law in FY17, we urge this Committee to make clear that this provision of the *Enhanced Special Education Services Act of 2014* is funded and in effect in the approved budget and financial plan.

Early Stages

The proposed FY17 funding for Early Stages, the central provider for special education evaluation and school assignment for children ages 3-5, contains only a small increase, yielding an additional .5 FTE.²³ Early Stages must not only be sustained, but it should also continue to expand if we are to succeed in timely identifying and evaluating all students who need special education supports. Early Stages may need additional staffing and budget in FY17 to implement the requirement to evaluate children within 60 days in the *Enhanced Special Education Services Act of 2014*.²⁴ Data reported regarding Early Stages shows fewer than five percent of evaluations were completed within 60 days in school year 2014-15, with essentially the same staffing level as in the currently proposed FY17 budget.²⁵ In addition, supporting expanded reach of Early Stages should be a priority in order to find and serve all eligible children. The science is clear that intervention is most effective early in a child's life.²⁶ Experts estimate that Early Stages should serve approximately 10-12% of preschool children because of the characteristics of the population, but this year's data shows Early Stages is only serving over 8.5%.²⁷ We are concerned that, in addition to the pressure to complete evaluations on the shorter timeline, the program should be reaching more children. These two factors combined may result in spending pressures in FY17.

At-Risk Funding

A large percentage of DC children live in poverty and face other stressors that impact their ability to grow and thrive.²⁸ Living in urban poverty greatly increases children's chances of being traumatized. Children living in poor urban neighborhoods are more likely to experience potentially overwhelming stressors, such as family chaos, conflict, violence and dissolution, victimization/incarceration and/or death of a family member, and neglect and/or maltreatment, than children raised in more affluent communities.²⁹ In particular, living in urban areas greatly increases children's exposure to community violence. Recent research on the incidence of community violence indicates that one out of ten children under the age of six living in a major American city reports witnessing a shooting or stabbing.³⁰

All of these factors impact a child's ability to learn in school. In FY15 the District began to include funding for a new weight in the formula for students considered "at-risk." The "at-risk" weight applies to students who are homeless, in the District's foster care system, qualify for Temporary Assistance for Needy Families (TANF) or the Supplemental Nutrition Assistance Program (SNAP), or high school students that are one year older, or more, than the expected age for the grade in which the students are enrolled.³¹ According to the FY17 formula, an additional \$2,120.36 will go toward each student in this new category, which includes those who are academically behind and living in poverty.³² About 24,858 DCPS students will be identified as "at-risk" in FY17.³³

Recent analysis by Mary Levy raises concerns that about half of the “at-risk” resources are being used to fund positions in DCPS’s comprehensive staffing model, rather than supplementing the school budgets.³⁴ We appreciate Chairman Grosso’s and the members of the Committee on Education’s dedication to ensuring that the “at-risk” funds follow student needs and suggest that the Council continue to monitor “at-risk” funding utilization.

Conclusion

Thank you for the opportunity to testify. I am happy to answer 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 Although Local Funds and interagency transfers to DCPS are increasing about \$29.4million, about \$9.5 million in Federal funding to DCPS is expiring. DCPS Proposed Budget FY17, D-14.

³ 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)*. <https://www.sri.com/work/publications/national-early-intervention-longitudinal-study-neils-final-report>. See also, Early Childhood Technical Assistance Center. (July 2015). *Child Outcomes Highlights for FFY 2013: Outcomes for Children Served through IDEA’s Early Childhood Programs*.

⁴ OSSE Performance Oversight Responses, Q51 Attachment - showing 7,306 DCPS students with IEPs in Child Count.

⁵ PARCC data tables accessed at <http://osse.dc.gov/parcc/2015results>.

⁶ *Id.*

⁷ Presentation to Children’s Law Center staff by Thomas Flanagan, February 19, 2016.

⁸ Email from Thomas P. Flanagan, Deputy Chief, Inclusive Programming Division, April 12, 2016. The Office of the Chief Operating Officer includes Compliance, which includes between \$1.2 and 3.6M of former Office of Specialized Instruction (OSI) FTEs and funding. See DCPS FY17 Proposed Budget, Appendix C, C-1, lines SS06 and 0746/0756 (which show \$1.2M in Federal IDEA funds). The Office of Instructional Practice proposed budget also includes six FTEs who had been focused on inclusive instruction in OSI, at \$527,000. See *id.* at C-2, line 0756. The Office of the Chief of Schools Division of

Wellness has \$6,455,000, which includes psychologists, school social workers, and Section 504 of the Rehabilitation Act of 1973 management that used to work in OSI. *See id.* at C-5, line SS52.

⁹ Meeting with Thomas Flanagan, April 7, 2016. Some special education fiscal management and operations have moved into other Central office operations teams, for efficiency.

¹⁰ Meeting with Thomas Flanagan, April 7, 2016.

¹¹ DCPS Proposed FY17 Budget, D-18 and Appendix C, C-7, line SS86, compared with DCPS Proposed FY16 Budget, Table 4, Appendix C-4, line SS86.

¹² Phone call with Dr. Nathaniel Beers, DCPS former Chief of Special Education & Donna Anthony, former Chief of Staff; DCPS Office of Specialized Instruction, April 21, 2015. *See also* DCPS Proposed Budget FY16, D-32.

¹³ Special Education Instruction in the Schoolwide budget, which is described as including related services, has an increase of \$4.7M. However, this budget line also shows a reduction of 49.3 FTEs, rather than a corresponding gain of 25 FTEs, so this line may not be where all the Inclusive Academic Programs funding has moved. *See* DCPS FY17 Proposed Budget, Appendix B, B-1, line ZZ30. DCPS has explained the Office of the Chief of Schools, Division of Wellness has \$6,455,000 that includes psychologists, school social workers, and Section 504 of the Rehabilitation Act of 1973 management that used to work in OSI (although the budget narrative does not describe this shift). *See* DCPS FY17 Proposed Budget, Appendix C, C-5, line SS52. In addition, the Budget makes it appear that Early Stages is getting an increase of \$4,117,000 and 51 FTEs combining the new ZZ87 and SS87 lines, for a total of 85.5 FTEs. However, Early Stages has 85 FTEs this school year, which was not clear in the FY16 budget, but is clear in DCPS's Performance Plan responses. *See*, DCPS FY15 Performance Oversight Responses, Q87 Attachment.

¹⁴ Meeting with Thomas Flanagan, April 7, 2016. DCPS is adding .5 FTE special education teachers, for a total of 739, with 256 of them detailed to full-time special education classrooms and 483 supporting inclusive education and pull-out learning lab instruction, the same breakdown as FY16.

¹⁵ Email from Thomas P. Flanagan, Deputy Chief, Inclusive Programming Division, April 12, 2016.

¹⁶ Meeting with Thomas Flanagan, April 7, 2016 and email from Thomas P. Flanagan, Deputy Chief, Inclusive Programming Division, April 12, 2016.

¹⁷ *Id.*

¹⁸ *Id.* *See also*, *Enhanced Special Education Services Act of 2014– DC Act 20-487*.

¹⁹ Meeting with Thomas Flanagan, April 7, 2016

²⁰ Meeting with Thomas Flanagan, April 7, 2016.

²¹ *See*, *Enhanced Special Education Services Act of 2014– DC Act 20-487*.

²² Revised Fiscal Impact Statement – *Enhanced Special Education Services Act of 2014* (October 6, 2014.)

²³ Early Stages has budget of \$7,481,000 and 85.5 FTEs proposed in FY17, an increase of .5 FTE from FY16. DCPS Proposed FY17 Budget lines CZ87, SS87, and ZZ87.

²⁴ The revised FIS estimated that Early Stages would need \$600,000 in additional funding for FY17 and \$2,000,000 in FY18 for additional staffing. Revised Fiscal Impact Statement – *Enhanced Special Education Services Act of 2014* (October 6, 2014.)

²⁵ DCPS FY15 Performance Oversight Responses, Q71. We acknowledge that Early Stages has the challenge of physically getting young children into their center to complete evaluations, different than evaluations for children attending DCPS schools.

²⁶ National Research Council and Institute of Medicine, Shonkoff, J. & Phillips, D. A. (Eds.). (2000). *From neurons to neighborhoods: The science of early childhood development*. Washington, DC: National Academy Press; Center on the Developing Child at Harvard University. (2008). InBrief. *The science of early childhood development*. <http://developingchild.harvard.edu/resources/inbrief-science-of-eed/>

²⁷ DCPS FY15 Performance Oversight Responses, Q87 Attachment. The national average rate at which preschool children receive special education is 5.94%, but experts estimate that the District should serve a larger proportion of children because of the characteristics of the population. Comparisons with other cities suggest that DC should provide special education services to approximately 10-12% of preschool children. Memorandum Opinion & Findings of Fact and Conclusions of Law, p. 9. *D.L. v. D.C.*, Civil Action No. 05-1437 (RCL). Nov. 16, 2011.

²⁷ See, Q2 Attachment, "FY 2013 Performance Accountability Report," p. 8.

²⁸ <http://www.urban.org/uploadedpdf/412659-child-poverty-and-its-lasting-consequence-paper.pdf>

²⁹ Laurel J. Kiser, Clinical Psychology Review, *Protecting Children from the Dangers of Urban Poverty* (2007) 27, 211-225.

³⁰ K. Collins et. al. Family Informed Trauma Treatment Center, *Understanding the impact of trauma and urban poverty on family systems: Risks, resilience, and interventions*. (2010), 4, available at:

http://nctsn.org/nccts/nav.do?pid=ctr_rschrprod_ar or <http://fittcenter.umaryland.edu/WhitePaper.aspx>.

³¹ See,

<http://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/Frequently%20Asked%20Questions%20Proposed%20FY15%20UPSFF%20with%20appendices.pdf>.

³² FY17 DCPS Proposed Budget, D-26.

³³ *Id.*

³⁴ Analysis completed by Mary Levy, April 2016. See, <http://www.dcfpi.org/analysis>

-of-fy-2017-dc-public-schools-at-risk-funds for more information on calculations and definitions. See

<http://www.dcfpi.org/wp-content/uploads/2016/03/Final-Proposed-Education-Toolkit-for-Posting1.pdf>