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Committee on Education  
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**Office of the State Superintendent of Education**

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## INTRODUCTION

Good morning Chairman Grosso and members of the Committee. My name is Renee Murphy. I am a Senior Policy Attorney at Children's Law Center<sup>1</sup> (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. Nearly all the children we represent attend DC public schools – whether traditional public schools, charter schools, or nonpublic special education schools funded by DC.

I appreciate this opportunity to testify regarding the performance of the Office of the State Superintendent of Education (OSSE). OSSE has had a number of achievements this year. A few notable examples:

- After the passage of the Federal *Every Student Succeeds Act* (ESSA) in December 2015, OSSE made and executed an ambitious public engagement strategy for creating the school accountability rating system for public schools in DC. We appreciate the opportunities to engage and OSSE's responsiveness to ideas and feedback, especially around ensuring that subgroups of students are transparently included in the system.

- The Division of Transportation, responsible for the safe travel of about 3,000 children with significant disabilities for school, established a new Transportation Advisory Council (TAC).<sup>2</sup> The TAC has parents, parent representatives, and schools to provide recommendations for program changes and is prioritizing all of our longstanding recommendations.

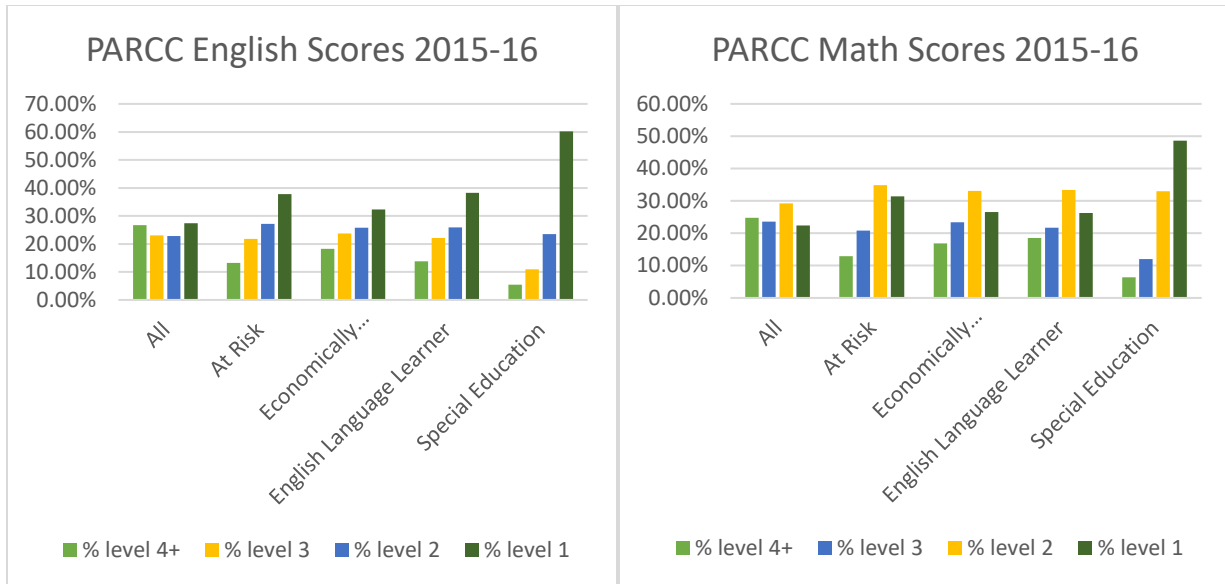
Despite progress, OSSE and all the education agencies need to work urgently to create a high-quality public education system that meets the needs of all children.

### **SPECIAL EDUCATION NEEDS URGENT REFORM**

DCPS and Public Charter Schools, and therefore OSSE as the State Education Agency with oversight and enforcement responsibility over both, are failing children with disabilities in special education, who make up 15% of students enrolled throughout the year.<sup>3</sup> 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.<sup>4</sup> Because that is the goal, students are given a right to an education appropriate to that student's unique needs, designed to allow the student to access the same curriculum as other students and make progress (a "free, appropriate public education" or FAPE).

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.

Unfortunately, city-wide test results show that our clients' struggles to help their children progress and stay on grade level are not unusual. In fact, they are the norm. Children with disabilities have worse academic achievement than any other group, by far. Many are years behind despite their ability to learn. Only 5% of students in special education are proficient (Level 4+ on PARCC) in English/Language Arts (ELA) and 6% in Math. Sixty percent are scoring at the lowest level (Level 1) in ELA and 49% in math, compared to 25-30% of all students.<sup>5</sup>



Merely 4% of high schoolers are college or career-ready on the English statewide exam and less than 2% on the math exams, which improved less than one percent since last year.<sup>6</sup> Last school year, only 50% of children with disabilities graduated on time with a diploma, while 25% dropped out.<sup>7</sup> Only 37% of students with disabilities were enrolled in any post-secondary school or training or employed within one year of leaving high school.<sup>8</sup>

**IMPLEMENTATION OF SPECIAL EDUCATION LAW REFORMS: *Expand Strong Start/DC Early Intervention Services, Begin Post-Secondary Transition Planning at Age 14, Make Initial Evaluations Faster, and Support Parent Involvement***

To begin improving special education outcomes, children need OSSE to ensure the full funding and implementation of the *Enhanced Special Education Services Act of 2014*. This reform bill unanimously passed the Council in 2014, after extensive community discussion of changes that would help parents, children, and schools. What

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

*Expand Early Intervention Services (Part C of the IDEA)*

In DC, many babies and toddlers have unaddressed developmental delays and, as a result, start school behind their peers. One of the key provisions of the special education reform laws that was not funded and implemented on time is the expansion of DC's Strong Start/Early Intervention Program (DC EIP). Strong Start/DC EIP meets the needs of DC's infants and toddlers with developmental delays by conducting evaluations and providing individualized plans for services in the child's natural, inclusive environment. It provides family-focused early intervention services and much needed service coordination to ensure services from a variety of funding sources, including Medicaid, are delivered timely. Recognizing the critical importance of children's development at this age, Strong Start/DC EIP's deadlines are short under Part C of the IDEA.<sup>9</sup>

The good news is that 46% of children who get early intervention services completely catch up and several years later are still doing as well as peers, according to national research.<sup>10</sup> For other, more severely delayed or disabled children, getting help early improves their expected skills.<sup>11</sup> Research on early intervention programs shows they produce long-lasting and substantial gains in outcomes, such as reducing the need for special education placement, preventing grade retention, increasing high school

graduation rates, improving labor market outcomes, reducing social welfare program use, and reducing crime.<sup>12</sup> Children who do not receive the specialized support they need as infants and toddlers have a much harder time making up lost ground later.<sup>13</sup> Expanding Strong Start/DC EIP is a truly effective way to help children start strong.

Under the *Enhanced Special Education Services Act of 2014*, children who are 25% delayed in one area of development would have become eligible for DC EIP in July 2017, if expansion had been funded. This reform would finally bring DC's eligibility in line with most states.<sup>14</sup> Currently, infants and toddlers are eligible for early intervention services in DC if they have a delay of 50% in one area or 25% in two or more areas.<sup>15</sup> More than a thousand children will likely become eligible under the expanded eligibility criteria, which will double the program and require more staff.<sup>16</sup> Children with this milder 25% delay are more likely to catch up to peers, if they receive early intervention services.<sup>17</sup> Many will have mild-to-moderate language delays, which, if unaddressed, are associated with later reading, social, emotional, and behavioral problems in and out of school; therefore, investments in improving language skills need to be made well before school, in order to change the trajectory of language delays/disorders.<sup>18</sup> In addition, the expansion would help all children with delays. Other states with broad 25% delay eligibility find and provide services to a larger percentage of children with severe developmental delays, and DC can expect similar results.<sup>19</sup>

In last year's *Budget Support Act*, this Committee required OSSE to report quarterly on its progress toward expanding Strong Start by July 1, 2018.<sup>20</sup> OSSE's initial Report did not contain the detailed data, benchmark goals, action steps, or a timeline for implementation, as required in the *BSA*, stating that details would be included in future reports.<sup>21</sup> The first Report also did not address the Council's requirement that OSSE plan with the Department of Health Care Finance for a "carve out" from Medicaid MCOs.<sup>22</sup> Removing early intervention services from Medicaid Managed Care would likely improve timeliness, continuity, and quality of services for children to be the same as for children not on Medicaid, which is necessary because of disparities between the progress of Strong Start children on Medicaid vs. not on Medicaid.<sup>23</sup> OSSE's second Report was due to this Committee on January 1, 2017, but we understand it has not been provided. We urge this Committee to inquire about OSSE's progress. As part of the implementation, we assume that the FY2018 budget proposal from the Mayor will include sufficient funds to launch the expansion on July 1, 2018.<sup>24</sup>

Lastly, we note some concerns about Strong Start/DC EIP's administration and performance with families in the last year. OSSE has had vacancies in Strong Start leadership, specifically the Special Assistant and Program Manager, since last summer. Recent hiring of a Special Assistant with decades of experience with early intervention is an encouraging sign, and we urge OSSE to fill the Program Manager position as soon as possible.<sup>25</sup>



In the last year, after four years of program growth, increases in the number of children served has slowed.<sup>26</sup> As of early December 2015, 917 children were receiving early intervention services, and currently there are 929.<sup>27</sup> The number of referrals has grown, but the percentage of those referrals that results in evaluation has decreased from 61% to 46% between FY15 and F16, and declined further to 27% so far this fiscal year (compared to 43% evaluated by this time last fiscal year).<sup>28</sup> Without completing the evaluation, children do not receive services. In addition, children referred from Wards 7 and 8 have the lowest evaluation completion rate – 20% lower than Ward 3. This is a troubling disparity, since Wards 7 and 8 have the highest child poverty rates in the District<sup>29</sup> and research shows a strong correlation between child poverty and increased developmental delays.<sup>30</sup> We hope that this Committee will ask for more details and ensure OSSE provides clarifying data about the reasons why fewer and fewer referrals are ending in completed evaluations, what steps OSSE will take to complete more evaluations, and OSSE's plans to eliminate disparities between Wards.

***Post-High School Transition: Plan Earlier and Do Better***

Under federal special education law, schools are obligated to provide special education students between ages 16 and 22 years old with plans about what they will do after high school, including “transition services.”<sup>31</sup> 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* planned to lower the age at which transition planning must begin to age 14, effective July 2016, subject to a small amount of funding.<sup>32</sup> For eighth graders, this will mean important planning about high school opportunities suited to the child's interests and discussions about diploma coursework. OSSE has made a commitment to moving forward with this reform and has already begun offering training to middle schools on transition planning.<sup>33</sup> In addition, the OSSE-coordinated Post-Secondary Transition Community of Practice is creating additional training and resources.<sup>34</sup> 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.<sup>35</sup> We anticipate that OSSE will continue this work and the funds will be in the Mayor's proposed budget so the reform can be fully implemented.

In addition to beginning transition planning earlier, OSSE must continue to focus on improving the quality and quantity of services offered to students for successful post-secondary transition. The success of all students with disabilities depends on this effort, but especially the 50% who are not graduating on time and the 25% of students dropping out. OSSE has brought a heightened focus to secondary transition by providing on-site support and monitoring of compliance in all high schools this school year, with plans to provide on-site support in middle schools this spring.<sup>36</sup> However,

the focus on transition plans has still only resulted in 61% compliance with IDEA secondary transition requirements.<sup>37</sup>

Offering more programs that engage students in learning job skills will lead to fewer students dropping out and to improved academic skills, a conclusion we reach after working with thousands of students over the past 20 years. We find many of the teenagers we work with are very motivated by learning vocational skills, even if they gave up years ago on learning to read or do math. We also find that many of our clients make more progress in academics when those academics are tied to practical skills. Unfortunately, although OSSE is the State Education Agency and the one most able to pull together information from both DCPS and Public Charter Schools, OSSE still has not assessed the needs of DC's students regarding their post-secondary transition, in areas such as academic needs, life skills needs, need for alternatives as overage/under-credited students, or vocational needs.<sup>38</sup> OSSE also does not know what DC schools have to offer for students as part of their individualized plan, leaving a landscape in which schools, teachers, and students are left in the dark about ways they could collaborate or cooperate to meet student needs.

We urge OSSE to assess and map the needs of DC's special education students starting at age 14, as well as available vocational and transition programs used in schools. Based on the information from these assessments, OSSE should develop and implement a plan to expand the vocational, academic, and life skills training

opportunities for special education students. This plan should be developed in coordination with DDS – the agency tasked with providing some pre-employment training services while students are in school<sup>39</sup> and in helping adults with disabilities obtain and maintain employment.

### ***Evaluate Children to get Special Education Services Faster***

OSSE must help schools prepare for the change in the evaluation timeline that will help students get services they need more quickly. Under the *Enhanced Special Education Services Act of 2014*, a student with a suspected disability must be evaluated in 60 days, if the reform is funded.<sup>40</sup> Currently, schools have 120 days to complete the evaluation, the longest timeline in the nation.<sup>41</sup> The impact that faster diagnosis, and thus faster services, will have on students cannot be overstated. DC's current law continues to have a devastating impact on DC children with disabilities. For example, one of our clients, with severe needs, was approved by her insurance for psychiatric residential treatment (PRTF) during the summer.<sup>42</sup> However, no psychiatric residential treatment facility would accept the youth because the LEA had not evaluated and created an Individualized Education Program (IEP). Meanwhile, the LEA refused to expedite evaluations and an IEP for this youth, and her condition deteriorated. She engaged in extremely unsafe behaviors, including running away out of state, likely being trafficked, and now DC is paying for detention to keep the youth safe rather than provide her desperately needed treatment. In addition to devastating the lives of this

youth and her family, DC will have to pay for updated psychiatric reviews and for the approval process for PRTF for a second time,<sup>43</sup> all because our special education evaluation deadline remains far too long.

Last year, we testified that OSSE must assist schools to evaluate children for special education needs much more quickly than they do now and should monitor data in the Special Education Data System (SEDS) about how long schools are taking to complete evaluations. In fall 2016, we learned that OSSE's plan was to send a survey to schools to do a needs assessment, and to re-examine the past Fiscal Impact Statement. OSSE sent the survey in early December, with a deadline of December 30, 2016.<sup>44</sup> We urge this Committee to ask for details about OSSE's assessment of school needs based on their data from the survey and data from SEDS regarding which LEAs are already meeting a sixty-day timeline for evaluations and which LEAs still need assistance. Since almost all school districts in the United States are able to evaluate children within the shorter 60-day timeline, OSSE should be able to provide schools with model processes gleaned from other states and districts as technical assistance very quickly. OSSE has made a commitment to moving forward with this reform,<sup>45</sup> so we expect to see funding in the FY2018 budget proposal from the Mayor to implement this vital reform.

### ***Increase Parent Involvement in Special Education***

OSSE should lead efforts to ensure all public schools in DC follow the

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

To ensure compliance, OSSE should incorporate the requirements with reminders or warnings into SEDS, which it does with many other legal requirements. We understand that this would require contractor time to reprogram<sup>46</sup> but urge this change so that schools take compliance with this law seriously.

## **IMPROVE CAPACITY TO PROVIDE EFFECTIVE SPECIAL EDUCATION**

The large number of students with disabilities not making meaningful progress is evidence that capacity within our public schools to provide effective, appropriate education for students with disabilities remains a key issue. It is a long-standing and complex problem that needs OSSE's interagency leadership, since OSSE is the State Education Agency with ultimate responsibility for DC's compliance with the IDEA.

Students with disabilities have a great variety of strengths and needs, so the IDEA requires that each LEA offer an array of services and settings, from fully-inclusive general education with necessary supports, to pull-out smaller groups in the school, all

the way to specialized separate schools.<sup>47</sup> 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 mainstream 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. If DC is to succeed in significantly increasing the number of students with disabilities who can successfully attend their local schools and be prepared for future education, work, and independent living, OSSE must help develop specialized and well-resourced special education programs throughout DC’s public school sector.

DC needs to dedicate funding to strengthen special education programming options. Although OSSE describes a large number of training workshops offered to schools,<sup>48</sup> we know, through our work with families, that the understanding that comes

from workshops does not always translate into practice without ongoing coaching and support. That ongoing support and work to improve outcomes for students with disabilities needs more investment, similar to the significant investment in Restorative Justice. OSSE should also provide resources for schools to more easily purchase evidence-based programs to lift the fundamental reading and math skills of children with disabilities and train staff members to deliver them.

One positive development is that this fiscal year, OSSE finally has spending authority for the Enhancement Fund pursuant to the *Special Education Quality Improvement Act of 2014*.<sup>49</sup> The Enhancement Fund has about \$3M to be used to support collaborations and public-private partnerships needed to tap expertise, pool resources, and bring new programming into schools.<sup>50</sup> The Enhancement Fund, in the law, captures “savings” from the nonpublic school tuition budget. That budget has been stable for the past two years, and likely will remain so without real changes in the programs within schools that increase student progress. Thus, there is concern the Enhancement Fund will not provide sustained funding after this year for the important capacity-building work it was designed to fund. We urge the Committee to inquire of OSSE how it will continue to fund these partnerships and collaborations in future years.

#### **TRANSPARENCY & ACCESSIBILITY OF SPECIAL EDUCATION INFORMATION**

Public reporting can be an important mechanism for accountability, for sharing of best (and worst) practices, and for change to happen. Currently, parents struggle to



find information about special education programming and how schools are doing educating students with disabilities. If information were centralized publicly and easily accessible, most likely on LearnDC or MySchoolDC, about what schools are doing and about whether that was working, students, parents, and other schools would benefit. The type of information that DC schools should be transparent about includes: staffing details, caseloads, details about specialized classrooms, types of supports in inclusion classrooms, and evidence-based programs and practices for both academics and social-emotional progress.<sup>51</sup> In the same place, DC should also have transparent information about the LEA's performance on IDEA Federal compliance measures, and other compliance data, such as the percent of services in IEPs actually delivered and attrition of special education students. It should identify when a school is under OSSE's Continuous Improvement Plans and corrective actions regarding special education students.<sup>52</sup> Lastly, public information about the performance, progress, and proficiency of children with disabilities in those different programs and at different levels of inclusion programming (mostly inclusion, some pull-out specialized instruction, self-contained special education, etc.) will be key to fueling change. As stated by DC Appleseed, "Without that data, the District cannot compare students' performance in general and specialized public and nonpublic settings, or determine where it needs additional internal or external capacity to serve students with certain kinds of disabilities." There is currently no centralized source of information on DC's special

education programs. I recommend that OSSE, as the State Education Agency with oversight of special education, work to catalog all of the information, including which schools have specialized classrooms or programs, and make that information available to assist parent choice, working with all the education agencies.

## **SPECIAL EDUCATION TRANSPORTATION**

We look forward to continuing to work with Ms. Gretchen Brumley, Director of the Division of Student Transportation, and her skilled team, to bring innovative and effective ideas to DC's special education transportation. The Division's stable leadership has made significant progress over the years. We were very excited to learn about a pilot program to transport students from Ivymount for partial-day inclusion experiences, which is best practice when transitioning a student back to a local public school. We hope this pilot will lead to a policy change, as we have been recommending for several years. The Division's training initiatives, especially to train staff in behavior intervention, will hopefully solve many concerns that we have heard from clients about children being inappropriately taken to police stations or denied bus service without following OSSE procedures.<sup>53</sup>

Challenges with staffing for busses, specifically that so many drivers and aides are absent each day, and with staffing the Parent Resource Center during peak calling times have affected our clients, however.<sup>54</sup> We have encountered children chronically arriving hours late to home or school, and children who need consistent staff who know

their needs constantly having different bus personnel. Children and parents need the Division to continue to strive for solutions.

In addition, we must repeat the same concerns about OSSE transportation policies we raised last year. However, we are encouraged that OSSE has formed the Transportation Advisory Council, of which we are a participant, and the Council has agreed to look at these issues among others.

- Allow parents to designate different pick-up and drop-off addresses. OSSE's transportation policy limits students to one address for pick-up and drop-off.<sup>55</sup> That address must be their address of District residency.<sup>56</sup> The policy indicates OSSE will make exceptions to this requirement on a case-by-case basis for children in foster care or living in group homes.<sup>57</sup> However, children with divorced parents, children who need to be dropped off at after-school therapy appointments, and children who need to attend before- or after-care nonetheless bear the burden of this policy.
- Provide transportation home after extracurricular activities. OSSE's current policy is not to provide transportation from extracurricular activities, unless the activity is identified as necessary by the students' IEP team. This prevents many students with disabilities from participating in extracurricular activities. Students placed at schools far from home because their local schools don't have the services they need and students who have disabilities

that prevent them from using public transportation cannot participate in extracurricular activities unless the school system provides transportation. DC's failure to do so is arguably a violation of Section 504, the federal law that requires schools to provide students with disabilities equal access to school activities.<sup>58</sup> We urge OSSE to develop a plan to provide this transportation by the start of the next school year.

- Limit ride times to 60 minutes for students who live and attend school in DC, with a waiver for extenuating circumstances. While the *Petties* order was in effect, ride times for students who lived and attended school in DC were limited to 60 minutes each way. After *Petties* closed, OSSE extended the ride time limit to 75 minutes each way for students traveling to programs in the District of Columbia.<sup>59</sup> We have heard from some parents that their children are on the bus for over an hour each way, even though they only live a few miles from school. In each month during the 2015-16 school year, approximately 15% to 20% of students receiving transportation services had a ride time of over 60 minutes.<sup>60</sup> We understand, in a few cases, children's homes and schools may be so far apart that there is no way for them to have a shorter ride time; however, we are concerned that children who live near their schools may also have long ride times. These long rides are harmful to students – they keep them from homework, sports, and time with their

families. Accordingly, we recommend OSSE return to the previous limit. In the few cases where distance and traffic make it truly impossible to cross town in 60 minutes, OSSE should be allowed to waive the limit with appropriate documentation provided to the IEP team.

We recognize implementing these recommendations would require additional funding. We urge OSSE and the Committee to ensure OSSE's Division of Student Transportation is provided the necessary funds in the FY18 budget to maintain and improve its current level of services and make these expansions.

## **SCHOOL ATTENDANCE AND CULTURE**

As the District's state education agency, OSSE plays a vital role in keeping students in school, and attendance is critical to students' academic success. In the last year, OSSE has collected data and released reports on the state of disciplinary practices and school attendance in the District.<sup>61</sup> OSSE should provide guidance and adequate funding to ensure alternatives to suspension and expulsion, and truancy prevention programs, are available to all public and public charter schools. Additionally, OSSE should increase their efforts to push schools to create a positive school climate and incorporate trauma-informed practices that will improve outcomes for all youth.

### ***Reducing Suspension and Expulsion***

As we testified just a few weeks ago and many times before that, reducing the use of exclusionary discipline practices is an important part of making sure every

student is in school every day of the school year, so they can learn and succeed.<sup>62</sup> The *Pre-K Student Discipline Amendment Act of 2015* was a good first step, by stopping the suspensions and expulsions of pre-k students.<sup>63</sup> 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.<sup>64</sup> 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;<sup>65</sup>
- Students with disabilities were 1.4 times more likely to be suspended out of school, controlling for race and other factors;<sup>66</sup> and
- Of the students under CFSA's care that received an out-of-school suspension last school year, over half received more than one.<sup>67</sup>

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.<sup>68</sup> 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.

While it is very encouraging that suspensions and expulsions overall are down, the District can do more to keep students in school and learning. One such way is for the Council to codify standardized legal definitions for suspensions and expulsions for schools across educational sectors, which – as OSSE notates in its report – is currently missing.<sup>69</sup> We strongly encourage the creation of these legal definitions and would be happy to work with the Council and other stakeholders on this.

### ***Chronic Absenteeism/Truancy Prevention***

The District has seen some improvement in school attendance; however, chronic absenteeism and truancy continue to be serious problems in our schools. In the 2015-2016 school year, DCPS reported a 20.9% truancy rate and the charter schools reported a truancy rate of 19.8%.<sup>70</sup> In addition to the creation of the Truancy Taskforce, the District has taken many steps to address chronic absenteeism and truancy, including passing the *School Attendance Clarification Amendment Act of 2015*.<sup>71</sup>

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 the heart of any truancy reduction effort. The *Attendance Accountability*

*Amendment Act of 2013* recognizes this by requiring schools to conduct Student Support Team (SST) meetings when a student reaches 5 unexcused school absences. However, schools are still not fully complying with this law or its underlying regulations.<sup>72</sup> DCPS completed only 70% of their required SST meetings that were referred for attendance in school year 2015-2016.<sup>73</sup> Neither OSSE nor the Public Charter School Board oversight responses included data on the SST completion rates in charter schools. Thus, OSSE should collect data on and monitor whether all public and public charter schools are completing require SST meetings and should intervene well before children become chronically truant or dropout of school.

The *School Attendance Clarification Amendment Act* changed the referral requirements to only count full school day unexcused absences when referring students to the courts or CFSA.<sup>74</sup> However, while some believe referrals are required to keep certain children from falling through the cracks, we continue to believe referrals to the courts and CFSA for unexcused absences may be ineffective and might even be counterproductive. We continue to lack adequate data to determine if these referrals are having any effect. To address this issue, OSSE should begin to track whether a student, who has been referred to the courts or CFSA, accumulates additional unexcused absences after the referral, the number of unexcused absences, and whether another referral was made during that school year or any subsequent school years. This



additional data should be included in OSSE's annual report of the state of attendance in the District.

### *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.<sup>75</sup> 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.<sup>76</sup> 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.

OSSE has done, and continues to do, important work to bring trauma-informed practices into the District's schools. For example, OSSE has overseen implementation of the Community Schools Incentive Initiative, which is designed to “integrate academics, health and social services, youth and community development, in order to improve

student outcomes.”<sup>77</sup> This model continues to show promising results for the participating schools.<sup>78</sup> OSSE has also offered a series of trainings to LEAs to address positive behavior support and effective response to behavioral crisis. Some the trainings include: Positive Behavioral Interventions and Supports; Trauma-Informed Care; Youth Mental Health First Aid; Nonviolent Crisis Prevention; and Restorative Justice.<sup>79</sup> In addition to exploring the expansion of the community schools model to all high-poverty schools, OSSE should expand beyond just providing training and create a model trauma-sensitive schools policy that DCPS and the public charter schools can adopt and tailor to fit their student population.

## CONCLUSION

Thank you again for the opportunity to testify. I welcome any questions.

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<sup>1</sup> 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.

<sup>2</sup> OSSE FY16 Performance Oversight Responses, Q61.

<sup>3</sup> This statistic comes from a look at all students who were enrolled at any point in school year 2015-16. See, OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 15. Retrieved from [http://osse.dc.gov/sites/default/files/dc/sites/osse/page\\_content/attachments/2015-16%20School%20Year%20OSSE%20Discipline%20Report.pdf](http://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2015-16%20School%20Year%20OSSE%20Discipline%20Report.pdf). We acknowledge that point-in-time numbers, such as those included in OSSE Oversight, show about 13% students with disabilities, but the Discipline Report reveals that about 2000 students with disabilities are cycling in and out of schools and account for 15% of all school year enrollment, which may be a sign that the needs of those mobile students are not being met.

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<sup>4</sup> 34 CFR 300.1

<sup>5</sup> Detailed 2015-16 and 2014-15 PARCC and MSA Achievement Results, OSSE, at <https://drive.google.com/open?id=0BxRyVj1IhggyY0JKTnRXOHhUd0U>. 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](https://www.nationsreportcard.gov/reading_math_2015/files/2015_Results_Appendix_Reading.pdf)

<sup>6</sup> Detailed 2015-16 and 2014-15 PARCC and MSA Achievement Results, OSSE, at <https://drive.google.com/open?id=0BxRyVj1IhggyY0JKTnRXOHhUd0U>.

<sup>7</sup> OSSE FY16 Performance Oversight Responses, Q10-ACGR and Q50.

<sup>8</sup> OSSE FY16 Performance Oversight Responses, Q52 and District of Columbia IDEA Part B, Local Education Agency Report for Federal Fiscal Year 2014 (July 1, 2014- June 30, 2015).

<http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Report%20to%20the%20Public%20Part%20B%20FFY%202014.pdf> Note: This report contains the most recent audited data regarding special education performance.

<sup>9</sup> Federal requirement is that evaluation, eligibility determination, and development of the individualize plan occur within 45 days of referral and services begin within 30 days of plan development. 34 CFR § 303.310. 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.

<sup>10</sup> [https://www.sri.com/sites/default/files/publications/neils\\_finalreport\\_200702.pdf](https://www.sri.com/sites/default/files/publications/neils_finalreport_200702.pdf)

<sup>11</sup> <http://ectacenter.org/eco/assets/pdfs/childoutcomeshighlights.pdf>

<sup>12</sup> Karoly, L. A., Kilburn, R. M., & Cannon, J. S. (2005). *Proven benefits of early childhood interventions*. Santa Monica, CA: RAND Corporation. [http://www.rand.org/pubs/research\\_briefs/RB9145.html](http://www.rand.org/pubs/research_briefs/RB9145.html). See also, Law, J., Todd, L., Clark, J., Mroz, M. & Carr, J. (2013). High quality early intervention services to young children who have or are at risk for developmental delays have been shown to positively impact outcomes across developmental domains, including health, language and communication, cognitive development, and social/emotional development. See, Center on the Developing Child at Harvard University. (2010). *The foundations of lifelong health are built in early childhood*.

<http://developingchild.harvard.edu/resources/the-foundations-of-lifelong-health-are-built-in-early-childhood/>; American Speech-Language-Hearing Association. (2008). *Role and responsibilities of speech-language pathologists in early intervention: Technical report*. <http://www.asha.org/policy/TR2008-00290.htm>;

and Landa, R. J., Holman, K. C., O’Neill, A. H., & Stuart, E. A. (2010). Intervention targeting development of socially synchronous engagement in toddlers with autism spectrum disorder: A randomized controlled trial. *Journal of Child Psychology and Psychiatry*, 52(1), 13-21.

<sup>13</sup> See, Zero to Three Policy Center, “Improving Part C Early Intervention: Using What We Know about Infants and Toddlers with Disabilities to Reauthorize Part C of IDEA,” available at: <http://main.zerotothree.org/site/DocServer/PartC.pdf?docID=567>; “Early Childhood Experiences: Laying the Foundation for Health Across a Lifetime,” available at: <https://folio.iupui.edu/bitstream/handle/10244/613/commissionearlychildhood062008.pdf?sequence=2>.

<sup>13</sup> 34 C.F.R. § 303.321(c).

<sup>14</sup> At least 32 other states extend eligibility to children with a delay of less than 50% in one area of development. Of those states, 17 – including Maryland and Virginia – extend Part C eligibility to children with a 25% delay in one area of development. Additionally, six states extend eligibility to children who are “at risk” of developmental delay, as permitted by the Individuals with Disabilities Education Act (IDEA). These children may be at risk of developmental delay because of biological and environmental factors including low birth weight, nutritional deprivation, or a history of abuse or neglect.

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<sup>15</sup> 5 DCMR A §3108.3

<sup>16</sup> Revised Fiscal Impact Statement – *Enhanced Special Education Services Act of 2014*, (October 6, 2014).

<sup>17</sup> See, Hebbeler, K., Spiker, D., Bailey, D., Scarborough, A., Mallik, S., Simeonsson, R., & Singer, M. (2007). *Early intervention for infants & toddlers with disabilities and their families: Participants, services, and outcomes. Final report of the National Early Intervention Longitudinal Study (NEILS)*, at page 2-9

<sup>18</sup> Law, J., Todd, L., Clark, J., Mroz, M. & Carr, J. (2013). *Early Language Delays in the UK*. London, UK: Save the Children. (Citing studies from around the world about early language delay’s connections with emotional or mental health concerns and later behavioral and criminal issues at pages 10-11.); National Academies of Sciences, Engineering, and Medicine. (2016). *Speech and Language Disorders in Children: Implications for the Social Security Administration’s Supplemental Security Income Program*, p 88.

<sup>19</sup> McManus, B., Magnusson, D., & Rosenberg, S. (2013). Restricting State Part C Eligibility Policy is Associated with Lower Early Intervention Utilization, *Maternal & Child Health Journal*, 18, 1031-1037.

<sup>20</sup> See, Fiscal Year 2017 Budget Support Act of 2016, D.C. Law 21-0160 § 4142(c).

<sup>21</sup> See, LIMS (October 14, 2016). *Correspondence from the Mayor – OSSE FY16 Budget Support Act for FY17 Reporting Requirements: Part C of the Individuals with Disabilities Education Act (IDEA) and the Strong Start-Early Intervention Program (DC EIP)*. Retrieved from <http://lims.dccouncil.us/Legislation/RC21-0125?FromSearchResults=true>

<sup>22</sup> See, Fiscal Year 2017 Budget Support Act of 2016, D.C. Law 21-0160 § 4142.

<sup>23</sup> DC Part C Annual Performance Report for FFY13, Indicator 11, State Systemic Improvement Plan Phase 1. <https://osep.grads360.org/services/PDCService.svc/GetPDCDocumentFile?fileId=11457>

<sup>24</sup> The Fiscal Impact Statement (FIS) for the Act projected it would cost \$3 to \$5 million local dollars to start on July 1<sup>st</sup> and at least \$11 million in the first full year. We understand that OSSE is re-examining this estimate, in light of some progress with Medicaid billing and other initiatives, but we have not been able to learn what the new estimate is. Source: Meeting with OSSE leadership, including Superintendent Kang and Assistant Superintendent for Early Learning Elizabeth Groginsky, January 4, 2017.

<sup>25</sup> OSSE FY16 Performance Oversight Responses, Q30.

<sup>26</sup> OSSE was serving 836 children as of January 23, 2015, and served 580 children as of January 14, 2014. OSSE FY14 Performance Oversight Responses, Q23; OSSE FY13 Performance Oversight Responses, Q53.

<sup>27</sup> OSSE FY16 Performance Oversight Responses, Q31(g); OSSE FY15 Performance Oversight Responses, Q32(i).

<sup>28</sup> OSSE FY16 Performance Oversight Responses, Q29(b).

<sup>29</sup> In 2015, the child poverty rates for Wards 7 and 8 were 39.9% and 49.6% respectively, compared to Ward 3 which had the lowest poverty rate at 2.9%. See, Kids Count Data Center. *Child Poverty by Ward*, (2015). Retrieved from <http://datacenter.kidscount.org/data/tables/6748-child-poverty-by-ward?loc=10&loct=3#detailed/21/1852-1859/false/573,869,36,868,867/any/13834>

<sup>30</sup> Farah, M.J. & Hackman, D.A. (2012). The Oxford Handbook of Poverty and Child Development. In V. Maholmes & R. B. King (Eds.), *SES, Childhood Experience, and the Neural Bases of Cognition* (pp. 307-318). New York, NY: Oxford University Press.

<sup>31</sup> 34 C.F.R. § 300.320(b)(2).

<sup>32</sup> See, *Enhanced Special Education Services Act of 2014– DC Act 20-487*.

<sup>33</sup> See, e.g., OSSE LEA Look Forward Newsletter for October 26-November 1, 2016, publicizing a free half-day training, Introduction to Secondary Transition for Middle Schools.

<sup>34</sup> Children’s Law Center is participating in the Community of Practice, thus has knowledge from attending meetings over the fall and from Working Group planning documents circulated in the Community of Practice.

<sup>35</sup> 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)

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- <sup>36</sup> OSSE FY16 Performance Oversight Responses, Q53, Information from Dr. Amy Maisterra on January 4, 2017.
- <sup>37</sup> OSSE FY 2016 Performance Accountability Report, p. 9. Retrieved from [https://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/OSSE\\_FY16PAR.pdf](https://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/OSSE_FY16PAR.pdf).
- <sup>38</sup> OSSE FY16 Performance Oversight Responses, Q53.
- <sup>39</sup> See, Endnote 35, regarding WIOA funding and requirements of DDS.
- <sup>40</sup> See, *Enhanced Special Education Services Act of 2014– DC Act 20-487*.
- <sup>41</sup> “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.
- <sup>42</sup> In order to protect the confidentiality of our clients, no names or specific identifying details are used.
- <sup>43</sup> The Department of Behavioral Health requires a re-review after too much time has passed, and to get a new review, the youth must have psychiatric evaluations within six months. Our special education timeline of 120 is so long that PRTF approval and psychiatric evaluations are now out of date.
- <sup>44</sup> A copy of the email sending the survey, and downloaded survey questions, are available from Children’s Law Center.
- <sup>45</sup> Information provided during meeting with OSSE leadership, including Sup. Kang and Asst. Superintendent for Elementary, Secondary, and Special Education Dr. Amy Maisterra, January 4, 2017.
- <sup>46</sup> CLC meeting with OSSE’s Elisabeth Morse, Deputy Assistant Superintendent for Policy, Planning, and Charter, January 6, 2017. Notes on file at CLC.
- <sup>47</sup> 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.
- <sup>48</sup> OSSE FY16 Performance Oversight Responses, Q56.
- <sup>49</sup> See, *Special Education Quality Improvement Act of 2014*, DC Act 20-0488.
- <sup>50</sup> Information provided during meeting with OSSE leadership, including Sup. Kang and Asst. Superintendent for Elementary, Secondary, and Special Education Dr. Amy Maisterra, January 4, 2017.
- <sup>51</sup> DCPS has made vast improvements in describing its self-contained special education classrooms and telling the public where they are located, in the last five years. However, information at the school level about staffing and about how inclusion classes are supported (e.g., co-teaching all day or for certain subjects, what evidence-based/research-based programs should be used in the pull-out classes) is either not available or disbursed, for DCPS and PCS schools.
- <sup>52</sup> See, OSSE FY16 Performance Oversight Responses, Q55, 57. We note that OSSE failed to provide the list of schools under Corrective Action or with Improvement Plans as requested by this Committee.
- <sup>53</sup> OSSE Division of Transportation Performance Accountability Report, p. 9.
- <sup>54</sup> OSSE Division of Transportation Performance Accountability Report, p. 5-6.
- <sup>55</sup> Special Education Transportation Policy, p. 9, at <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Transportation%20PolicyV07292014.pdf>
- <sup>56</sup> *Id.*
- <sup>57</sup> *Id.*
- <sup>58</sup> 29 U.S.C. § 794.
- <sup>59</sup> OSSE FY15 Performance Oversight Responses, Q61(f).
- <sup>60</sup> *Id.*
- <sup>61</sup> OSSE FY16 Performance Oversight Responses, Q11. See, OSSE’s *State of Discipline: 2015-2016 School Year* report and OSSE’s *State of Attendance: 2015-16 School Year* report.

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- <sup>62</sup> 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>
- <sup>63</sup> D.C. Code § 38-271.01(5A).
- <sup>64</sup> Calculation by Children’s Law Center based on data from OSSE’s 2016 report, *State of Discipline: 2015-2016 School Year*, p. 10.
- <sup>65</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 23.
- <sup>66</sup> 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.
- <sup>67</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 39.
- <sup>68</sup> OSSE (2014). *Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools*, p. 7.
- <sup>69</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 8.
- <sup>70</sup> OSSE (2016). *State of Attendance: 2015-16 School Year*, p. 8.
- <sup>71</sup> D.C. Law 21-0140, effective since July 26, 2016.
- <sup>72</sup> 5-A DCMR 2100 *et seq.*
- <sup>73</sup> DCPS FY16 Performance Oversight Responses, Q55.
- <sup>74</sup> D.C. Code § 38-201(2B) and § 38-208(c)(1).
- <sup>75</sup> 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>
- <sup>76</sup> 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](http://www.nctsn.org/sites/default/files/assets/pdfs/policy_and_the_nctsn_final.pdf)
- <sup>77</sup> See, <http://osse.dc.gov/service/community-schools-incentive-initiative>
- <sup>78</sup> OSSE FY16 Performance Oversight Responses, Q41 Attachment – Community School Evaluation.
- <sup>79</sup> OSSE FY16 Performance Oversight Responses, Q44.