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Committee on 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 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. Nearly all the children we represent attend public schools in DC overseen by OSSE, and we assist hundreds of children with developmental delays and disabilities each year.

The Office of the State Superintendent of Education (OSSE) plays a variety of critical roles in ensuring that DC residents, from birth through adulthood, are able to learn. The Mayor's proposed budget continues to prioritize education, increasing local investment in OSSE by 3.2%.² Today, my testimony will focus on OSSE's supports for children with disabilities: the Strong Start/DC Early Intervention Program (DCEIP), special education, and special education transportation. Although the budget is not transparent about most of special education funding, OSSE has informed us that they have maintained funding at the level spent in FY15.³ While we appreciate the continued investment overall, the budget has a significant omission – it fails to fund the expansion of eligibility for services to infants and toddlers with developmental delays

required by the *Enhanced Special Education Services Act of 2014*. This program and its expansion is a priority that should receive the necessary funds and supports.

Hundreds, if not thousands, of children will be left behind if the Council fails to fund this program. As I will explain shortly, the decision is also penny wise and pound foolish. A failure to invest in services to infants and toddlers will result in costly special education services once these children begin attending school.

Strong Start/DC Early Intervention Program

Strong Start/DC Early Intervention Program (DCEIP) is the key program providing supportive services to children with disabilities and their families starting at birth. Strong Start/DCEIP evaluates the needs of infants and toddlers with developmental delays and provides services to children at home. This teaches parents and other caregivers how to improve the child's development themselves. The program also provides services in child care centers, thus providing valuable training to child care providers to support children's developmental needs.⁴ It also provides 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/DCEIP's timelines are short under Part C of the *Individuals with Disabilities Education Improvement Act (IDEA)*.⁵ Early intervention services to young children who have developmental delays have been shown to positively impact outcomes across developmental domains, including

language and communication, cognitive development, and social/emotional development.⁶ If children with delays receive Strong Start/DCEIP services, national research shows that the majority catch up in at least one developmental area by the time they reach preschool.⁷ For other, more severely delayed or disabled children, the services improve their expected functioning.⁸

Fully funding the expansion of the Strong Start/DCEIP would give hundreds of young children a better start. In the *Enhanced Special Education Services Act of 2014*, this Council unanimously made a good policy decision to expand eligibility to infants and toddlers with 25% delay in one area of development, giving OSSE and its partner agencies over two years, until July 2017, to work on implementation.⁹ Currently, infants and toddlers are eligible for these services if they have a severe delay of 50% in one area or 25% in two or more areas.¹⁰ Over 1,000 children per year with 25% delay in one developmental area would receive services to improve their development under the Act, according to the estimates in the Fiscal Impact Statement.¹¹ National research shows that 46% of infants and toddlers with developmental delays who receive early intervention services catch up and need no special education services.¹² Several years later they are still doing as well as peers in early literacy and math.¹³ Thus, about 460 children each year would experience such lasting improvements and need no special education even years later.¹⁴ We now understand from OSSE leadership, the Deputy Mayor for Education's office, and the Deputy Mayor for Health and Human Service's

office that they propose to delay expansion for yet another three years, until 2020.¹⁵

Children who do not receive the specialized support they need as infants and toddlers have a much harder time making up lost ground later,¹⁶ so this long delay would leave over 3,000 children behind and push many of them into the special education system. DC should not further delay. Instead, it should invest the approximately \$4 million needed in FY17 to implement the expansion.¹⁷

We understand that there are system and interagency improvements that do need to be made by and for Strong Start/DCEIP. As we testified last month, OSSE and the Department of Health Care Finance (DHCF) need to work to maximize Federal funding sources. If the agencies approached the need for these system improvements with a sense of urgency, they could be accomplished by July 2017. Also, DC does need to fix payment problems that make attracting, maintaining, and expanding quality providers of services very difficult. We understand that OSSE and the Medicaid MCOs are at fault.¹⁸ If expansion of Strong Start/DCEIP is not funded this year, we urge this Committee to require OSSE and the Deputy Mayors to report each quarter about what action steps they have taken and their progress toward making the changes needed to accomplish Strong Start/DCEIP expansion, since progress appears to have been limited over the last year and a half without such oversight.

In addition, I have concerns that that the proposed budget is not sufficient to meet the current spending pressures on the program. In FY15, the program needed

\$10.1 million to fund the individualized service needs of the 835 children in the program.¹⁹ We acknowledge that the proposed budget includes a \$2.3 million enhancement to at least match the budget for children's services in FY17 to that \$10.1 million. However, the program has continued to grow, successfully locating more of DC's most vulnerable infants and toddlers. As of early December 2015, 917 children were eligible and receiving early intervention services.²⁰ Each of the additional 82 children in the program needs individualized therapeutic services and service coordination. Under Federal and local law, their services are mandatory and cannot be waitlisted or reduced.²¹ As a result of Strong Start/DCEIP's hard work finding more of the eligible children, Strong Start/DCEIP may be facing a budget shortfall of about \$1.5 million for FY16 that will recur in FY17.²² Without additional funding in FY17, the program will have to cut either services or children, contrary to law and the needs of children.

Special Education Services

In its role as the State Education Agency, OSSE is responsible for ensuring that school-age children receive the special education and related services that they need. DC's children with special needs continue to have dismal academic performance and graduation outcomes. The Partnership for Assessment of Readiness for College and Careers (PARCC) scores of students with disabilities are bleak. Fewer than one percent of high school special education students are college or career-ready in math and less

than four percent are ready in English.²³ The reading and math achievement of elementary and middle school students with disabilities is barely better, at 4.3% and 4.2% proficiency. Thus, it is essential that DC continue to invest in special education services and supports to allow more schools to improve quality of services and instruction.

OSSE has explained that it is maintaining the level of spending from FY15 for special education to meet Federal maintenance of effort requirements in the IDEA.²⁴ Unfortunately, the proposed FY17 budgets for OSSE's supports to special education instruction and services are completely obscured by the consolidation of the previous Division of Special Education into the Division of Elementary, Secondary, and Specialized Education. We asked for more specifics about how much funding and staff has moved into each new budget line and what functions are being funded at what level in special education, but OSSE has not provided details. In the past, special education funding in OSSE has been devoted to a variety of tasks, including monitoring of compliance and quality of services, grants to schools, technical assistance, training, and investigation of complaints. There is no way to compare spending on these functions from last year, and there will be no way to track special education funding in future years. As I said at the DCPS budget hearing, I urge the Council to push for more transparency about where the special education funding is now reflected in the proposed budget.

Nonpublic Tuition

The FY17 budget for nonpublic school tuition for children with significant needs who require specialized schools stays essentially flat. Nonpublic schools are a necessary part of the continuum of placement options, and flat funding this year is appropriate.²⁵ While we hope that more DC children will be able to attend local schools with high-quality special education services, at this point the local schools are not yet able to provide consistently high-quality services to children with complex needs. Also, as we have said in the past, even in the highest-functioning school districts, some children require such specialized services that even the best local schools could not provide them. Since some students will likely always need to be educated in nonpublic settings, we are glad to see the sustained support in the proposed budget.

Special Education Transportation

In our oversight testimony, we praised the Division of Student Transportation (OSSE-DOT) for making major progress in recent years. This school year, our experiences show that OSSE-DOT has remained strong. The proposed FY17 budget decreases OSSE-DOT funding levels by \$2.44 million from actual spending in FY15. After discussing my concerns with OSSE-DOT leadership, I am convinced that this will not impact special education transportation services. I understand that some costs were one-time, related to work that will allow consolidation of two current terminals and better meet the needs of the Division and employees and that OSSE-DOT has achieved

significant fuel and maintenance cost savings.²⁶ OSSE-DOT is also able to add several employees to the Parent Call Center in the proposed FY17 budget, which we hope will help reduce wait times and improve customer service. However, I do want to encourage the Council to continue to support special education student transportation. These services are crucial for our clients' success. Without them, many medically fragile and complex children would not be able to get to school safely or even be able to get to school at all. Additionally, while OSSE-DOT made great strides in offering efficient and quality transportation services, there are still improvements to be made, including transportation to partial-day inclusion, transportation to extracurricular activities, and limiting bus rides to 60 minutes each way.²⁷ Without necessary resources, OSSE-DOT has little chance of making these improvements.

Conclusion

Thank you 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 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 OSSE Proposed FY17 Budget, D-32, line “Total for General Fund.” OSSE is also receiving an additional \$48,245,000 in Federal grants, for a total 11.5% increase, see D-31.

³ Email from Andrew Eisenlohr, Special Assistant for Budget & Finance at OSSE, April 14, 2016.

⁴ Berman, J., Bhat, S., & Rieke, A. (March 2016). *Solid Footing: Reinforcing the Early Care and Education Economy for Infants and Toddlers in DC*, Washington, DC: DC Appleseed and DC Fiscal Policy Institute, page 18. http://www.dcappleseed.com/wp-content/uploads/2016/03/Solid-Footing_Cost-of-ECE-Report_March-2016.pdf.

⁵ Federal requirement is that evaluation, eligibility determination, and development of the individualized 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.

⁶ American Speech-Language-Hearing Association. (2008). *Role and responsibilities of speech-language pathologists in early intervention: Technical report*. <http://www.asha.org/policy/TR2008-00290.htm>; and Landa, R. J., Holman, K. C., O’Neill, A. H., & Stuart, E. A. (2010). Intervention targeting development of socially synchronous engagement in toddlers with autism spectrum disorder: A randomized controlled trial. *Journal of Child Psychology and Psychiatry*, 52(1), 13-21.

⁷ Early Childhood Technical Assistance Center. (July 2015). *Child Outcomes Highlights for FFY 2013: Outcomes for Children Served through IDEA’s Early Childhood Programs*.

⁸ *Id.*

⁹ *Enhanced Special Education Services Act of 2014*– DC Act 20-487.

¹⁰ 5 DCMR A § 3108.3.

¹¹ The Office of the Chief Financial Officer estimated that 1200 children per year would likely become eligible under the expanded eligibility, using Maryland’s experience with the same eligibility criteria as a guide. Revised Fiscal Impact Statement – *Enhanced Special Education Services Act of 2014* (October 6, 2014.)

¹² 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)*, Menlo Park, CA: SRI International. page 4-4, 4-16. https://www.sri.com/sites/default/files/publications/neils_finalreport_200702.pdf. See also, National Early Childhood Technical Assistance Center. (June 2001), *The Outcomes of Early Intervention for Infants and Toddlers with Disabilities and their Families*, available at <http://www.nectac.org/~pdfs/pubs/outcomesofearlyintervention.pdf>.

¹³ Hebbeler, K. et al, *Final Report of the NEILS*, page 4-16.

¹⁴ *Id.*

¹⁵ Telephone conversation of Judith Sandalow, Executive Director of Children’s Law Center, with Elizabeth Groginsky, Assistant Superintendent for Early Learning at OSSE, March 25, 2016. Conversations of the author with Claudia Lujan in the Office of the Deputy Mayor for Education, March 25, 2016 and Rachel Joseph, Chief of Staff in the Office of the Deputy Mayor for Health and Human Services, March 24, 2016.

¹⁶ 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>.

¹⁶ 34 C.F.R. § 303.321(c).

¹⁷ Revised Fiscal Impact Statement – *Enhanced Special Education Services Act of 2014* (October 6, 2014.)

¹⁸ Provider payment issues and their relationship to issues attracting and retaining quality providers were discussed at the DCEIP Interagency Coordinating Council meeting on February 9, 2016, notes on file with Children’s Law Center. For years, providers have told us about problems getting paid, including months of unpaid bills and lack of any payment when a family misses a session.

¹⁹ The budget line for Strong Start/DCEIP in FY15 and FY16 was D805, and \$10,100,000 of the \$12,446,000 expended in FY15 was local funding for services for children. The remainder was mostly Federal funding that supports the unique IDEA Part C function of Service Coordination and administration of the Federal requirements. In the FY17 budget line, E803, two FTEs and their budgets have moved from other budget lines, combining with the previous Strong Start/DCEIP Federal and local funding streams to equal \$14,434,000. Those two FTEs include oversight functions for IDEA Part C and support for prekindergarten special education services, an IDEA Part B function. Sources: Conversation with Elizabeth Groginsky, April 1, 2016 and emails from Andrew Eisenlohr, Special Assistant for Budget & Finance at OSSE, April 14 and 15, 2016.

²⁰ OSSE FY15 Performance Oversight Responses, Q32(i).

²¹ 20 U.S. Code §§ 1434, 1435(a) (requiring statewide system that finds and provides services for all eligible infants and toddlers with developmental delays and disabilities); 34 CFR § 303.310, 5 DCMR A §3108.3.

²² In FY14, the program was served only 540 children, so the program has consistently been increasing the numbers of children found, and there is no reason to expect any decrease. The Fiscal Impact Statement for the Act utilized \$18,800 per child as the cost. Using that per-child cost and the fact that the program is serving an additional 82 children in FY16 and should at least maintain that level in FY17, the cost would be \$1,541,600. We asked OSSE for updated information about per child costs, but have not received that information yet.

²³ PARCC data tables accessed at <http://osse.dc.gov/parcc/2015results>

²⁴ Statement during OSSE Budget Briefing, April 8, 2016 and email from Andrew Eisenlohr, Special Assistant for Budget & Finance at OSSE, April 14, 2016.

²⁵ In an email from Thomas Flanagan, DCPS Deputy Chief of Inclusive Academic Programs, on April 13, 2016, DCPS described that its new strategic plan goals include that nonpublic schools are part of the continuum of necessary services for students.

²⁶ Phone conversation and emails with Gretchen Brumley, Director of the Division of Student Transportation at OSSE, April 15, 2016.

²⁷ Children’s Law Center described each of these in detail in our OSSE Agency Performance Oversight testimony.