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Committee of the Whole
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Budget Oversight Hearing:

*District of Columbia Public Schools
Office of the State Superintendent of Education
Office of the Deputy Mayor of Education
DC Public Charter School Board
State Board of Education
Office of the Student Advocate
Ombudsman for Education
District of Columbia Athletic Association*

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Introduction

Thank you, Chairperson Mendelson and members of the Committee. My name is Sharra E. Greer. I am the Policy Director at Children's Law Center.¹ I am also a resident of the District with two children attending public school in DC. 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 almost 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. Children's Law Center appreciates the opportunity to provide testimony to the Committee of the Whole on the Mayor's FY22 budget proposal for the education agencies. While we are providing extensive written testimony, for convenience, we have included an appendix at the end which lists our budget asks by agency.

Establishing the District's annual budget may be the Council's most important, and most difficult, job. The budget funds the education of our children, supports our most vulnerable community members, and pays for the myriad services the District provides the public. The budget requires hard choices and tradeoffs in allocating limited dollars to fulfill the needs of District residents. But come August, after the Council has given its stamp of approval, the budget will define our priorities and announce to the country who we are as a community. What will it say about us? Will it say, in the words

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of human rights advocate Pauli Murray, that we are a “true community ... based upon equality, mutuality, and reciprocity”—will it “affir[m] the richness of individual diversity as well as the common human ties that bind us together”?

How do we build a budget for a “true community”? We start by recognizing that different members of our community have experienced the COVID-19 pandemic very differently. We may all be weathering the same storm, but we are doing so from vastly different boats. The burdens of the pandemic have fallen hardest on the District’s Black and Brown residents:³

30,000 COVID Cases	5x Unemployment	4+ Months Behind
Nearly 30,000 of DC’s Black or Latinx residents have been infected with COVID-19 compared to just 10,000 cases among white residents.	Unemployment East of the River skyrocketed to five times the rate in Wards 2 & 3.	During just the first six months of virtual school, at-risk students fell 5 months behind in math and 4 months behind in reading.

The stark disparities in the impact of COVID-19 have only exacerbated the deeply imbedded inequities these members of our community have long faced.⁴

A budget for a “true community” would honestly and aggressively confront these inequities. It would fund programs that allow students, especially at-risk students and students with disabilities, to recover the learning they have lost and to thrive going

forward. It would provide the behavioral health supports many students need to manage the stress and trauma they have experienced. It would prioritize the protection and care of children placed in foster care. It would support stable, healthy housing for families threatened by economic insecurity and dangerous housing conditions. And it would fund these pressing needs not by pitting social programs against each other, but by building a budget that creates a “true community” based on equity and justice.

We Cannot Go Back to “Normal”

There is no question that students, teachers, and staff coming back to the school building will be fundamentally changed by their experiences over the past year. Besides accounting for pandemic-related learning loss, school leaders must also consider the sizable opportunity gap that already existed between Black and Brown learners and students with disabilities and their white and non-disabled peers.⁵ This persistent gap has likely been widened by grief, loss of family economic stability, increased at-home stressors, and loss of socialization opportunities with peers. Despite these challenges, the District is now in a position to support budget priorities which envision supports for the whole child - especially low-income Black and Brown students and students with disabilities. For these reasons, our goal for the FY22 budget cannot simply be to return to “normal.”

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To best help students move past the losses endured during the pandemic, we must take stock of where students were before the pandemic even began. While COVID did not create the opportunity gap among DC's students, it has highlighted the degree to which young Black and Brown people in low-income communities are the furthest from opportunity on various fronts – education, healthcare, and job security, among others. For this reason, we must conceptualize the return to school not as a return to “normal,” but rather as an opportunity to address the structural failures that have perpetuated the opportunity gap.

This imagined state of “normal” was failing most students in DC's public schools, particularly Black and Brown students and students with disabilities. We must use this budget, in particular the infusion of federal relief dollars, to build an education sector that is stronger and more equitable than the one we had before the pandemic. We must ensure that every dollar is invested such that it supports Murray's vision of a “true community.” For the education sector, this means building trust with families, supporting the needs of the whole child, and reimagining something better than the “normal” that has been long been inadequate.

A. Investments in Building Trust and Belonging

A “true community” cannot thrive without a sense of trust and belonging. Long before the pandemic, there was a lack of trust between DC's public education sector and

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the families it serves. Moreover, time and again throughout the pandemic, the education sector has failed to establish meaningful open communication with DC families. Before we can work to overcome the challenges we now face, we must first address the ways in which we have failed. Across a number of public hearings and roundtables held in recent months, both Councilmembers and public witnesses have noted how the repeated starts and stops of returning to in-person learning has eroded an already fragile trust.

The District has an opportunity to rebuild trust between parents, students, and the school community. Our client families have shared with us a lack of trust, lack of clear communication, and feelings of confusion and concern. For families who have students with disabilities, these fears have been compounded when their children are not making meaningful educational progress through virtual learning and/or are immunocompromised or otherwise vulnerable to experiencing severe illness from COVID-19. However, the seeds of many of these trust issues were planted long before the pandemic started. The frayed knots that tied together many of our client families' relationships with their school communities almost severed as we struggled to help them get their children devices and internet service for school, and access special education services to which their children are entitled.

Moreover, while parents have stressed that they are concerned about learning loss generally, they have also shared stories of the trauma and loss endured by their children:

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the loss of connection to a trusted adult, the joys of playing and interacting with peers, the absence of a predictable routine, and the loss of the sense of fun and belonging that can exist uniquely inside a school community. Crucial to rebuilding trust with students and families will be listening to their fears and needs and responding with transparency and a good faith effort to address their reasonable concerns about student health, safety, and wellbeing.

Preserve Investments in Family Engagement

Our client families are not the only ones sharing that they require increased trust, collaboration, and communication from DCPS and Charter LEAs to bring students back into the school building. We have heard the testimony of families who have come before the Council to share similar stories and experiences.⁶ Some families feel like an afterthought in the decision-making process, others, particularly the families of students with disabilities, feel forgotten altogether. DCPS and Charter LEAs have an obligation to listen to the feedback families are providing and make investments in Family Engagement to help create stronger ties among stakeholders within the school community.

When schools reach out to address families' concerns, more students return to in-person instruction. The Washington Post recently profiled the efforts of Victorie Thomas, principal at DCPS's W.B. Patterson Elementary School.⁷ Thomas "knew that many

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children at Patterson were among the students in the District who needed in-person learning the most.”⁸ She embarked on a multifaceted campaign to reach parents through social media, schoolwide meetings, and virtual tours of the safety features at the school building. “In the end, 71 of the school’s 315 children signed up to return to the Southwest Washington campus, which has a predominantly Black student body. That is a far smaller number than most schools in the city’s wealthier neighborhoods, but far higher than almost any other school in wards 7 and 8. These are wards where parents are the most reticent to return to school, neighborhoods where trust in schools and government institutions is low and health outcomes are poor.”⁹

Patterson ES and Principal Thomas are a prime example of the sort of intensive stakeholder engagement that can start to repair the harms suffered not only over the past year, but also those that have pervaded local government for decades. “The experiences at Patterson show the power that individual schools have in building relationships and confidence with families. But it also shows the significant hurdles that persist as the city attempts to equitably reopen school buildings.”¹⁰

Schools and educators know their students and families best, but we must acknowledge that the way to communicate with families has likely fundamentally changed. Providing teachers and administrators with the resources, skills, and training to better communicate with families and rebuild bridges that have eroded during the

pandemic is likely to yield dividends in both socio-emotional learning and academic achievement for our students. We cannot address the nuts and bolts of learning loss without ensuring that students are engaged and ready to learn and that parents are bought-in and committed to their school's plan for success.¹¹ We urge the Council to preserve the Mayor's increased investment the DCPS Family Engagement budget this year.¹²

B. Investments in Historically Under-Resourced Communities

Proposed Increases to the UPSFF Do Not Go Far Enough

In April of 2021, the Office of the Deputy Mayor of Education (DME) briefed the Council on their proposed changes to the Uniform Per Student Funding Formula (UPSFF). Therein, the DME shared the Mayor's plan to fund a 3.6% increase to the base amount of the UPSFF, to increase the at-risk weight from 0.2256 to 0.24, to create a new supplemental at-risk weight for students who are over-age in high school, and the creation of a new weight, at 0.75, for English language learners (ELLs) in secondary grades.¹³ We were glad to see increases in the UPSFF; however, we are concerned that these increases do not go far enough to meaningfully address the opportunity gaps for historically under-resourced student populations.

First, we would like to highlight the unique needs of ELLs following a year of virtual instruction. The DME noted in his briefing that the new ELL weight for secondary

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students acknowledges the greater needs of older ELLs in our public schools. While this decision may make sense based on historical data, we have concerns that all ELLs, regardless of age, will need increased supports after more than a year of virtual instruction. At a public roundtable held by the Special Committee on COVID-19 Pandemic Recovery, Dr. Jack Buckley with the American Institute for Research noted concerns about ELLs who have been home for much, if not all, of the last year with limited exposure to English language use.¹⁴ Specifically, Dr. Buckley noted that these students will likely need more time and attention before they can return to pre-pandemic achievement levels. Additionally, we have heard from our advocacy partners at the DC Charter Alliance that the funding distinction between elementary and secondary ELs creates the risk of waiting until students are very far behind their peers before we make significant investments in supports. For these reasons, we encourage the Council to allocate funding such that the increase to the ELL weight in the UPSFF applies to all English language learners.

Regarding the increases to the at-risk weight, our concerns are two-fold. First, the proposed increases do not rise to the level recommended by the 2014 DME-commissioned adequacy study on this topic which recommended an at-risk weight of 0.37.¹⁵ The DME explained the discrepancy in his briefing to Council by arguing that the adequacy study operated with a different definition of “at-risk” than the District currently uses. If this

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definitional gap is causing a discrepancy in funding adequacy numbers, it might be time for a new adequacy study that examines our current definition of “at-risk” and determines what a sufficient at-risk weight should be.

Our second concern regarding at-risk funding revolves around the oft-debated distinction between using at-risk dollars to supplement or to supplant local school budgets. Children’s Law Center believes that at-risk dollars ought to supplement local school budgets such that they can be used for additional supports for this vulnerable population of students. However, recurring problems with school budget transparency makes it nearly impossible for Council or the public to follow school dollars from Council’s budget to individual schools. In DCPS, the use of the comprehensive staffing model and opaque central office funding has hindered efforts to ensure that at-risk dollars are actually being used to support at-risk students. In the charter sector, the sparse budget transparency requirements make following the money equally difficult. While we are happy to see these important increases to the UPSFF, we are not be confident that these investments will have the desired impact for the historically under-resourced communities that they are intended to support. We urge the Council to question OSSE and DCPS on how they will ensure that these funds are used as intended.

Implementation of the Students' Right to Home or Hospital Instruction Act of 2020

On December 17, 2020, Mayor Bowser signed into law the Students' Right to Home or Hospital Instruction Act of 2020 (DC Act 23-526). The Council unanimously approved this new law to remedy problems in providing instruction to students confined to home or hospital due to a medical condition. These problems include the unjustified denial of home or hospital instruction (HHI) and delays in the delivery of HHI. DC Act 23-526 provides important legal protections to the hundreds of DCPS and DC public charter school students who need HHI every year.¹⁶ Beginning in school year 2022-23, the law will require each LEA to establish an HHI program, process HHI requests in a timely manner, defer to a healthcare professional's opinion about a student's need for HHI, and promote caregiver awareness of its HHI program. The law also requires OSSE to issue implementing regulations and establish an appeals process that allows caregivers to challenge an LEA's denial of an HHI request.

We commend the Council for passing this important new law. To ensure it goes into effect, the Council must appropriate the necessary funds to implement DC Act 23-526. According to the Act's fiscal impact statement,¹⁷ the Act will cost \$162,000 in FY22 to fund two OSSE budget items: (1) OSSE's cost in hiring one employee to develop HHI regulations and to manage the HHI appeal process (\$122,000); and (2) OSSE's cost in contracting with a vendor to build and maintain a tracking system for the appeals process

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(\$40,000). There is no FY22 fiscal impact for DCPS or the charter school sector because the new HHI requirements for LEAs do not take effect until SY 22-23.¹⁸

These minimal costs pale in comparison to the law's substantial educational benefits. As the Committee Report stated, DC Act 23-526 "will ensure that students who need home or hospital instruction both receive it and that it is provided in a timely manner. Every day that a student misses school translates to learning loss. Students who are experiencing medical issues should not also have to worry about being left behind in school. Parents should not have to be involved in protracted battles with LEAs just to obtain necessary home or hospital instruction for their children."¹⁹ We urge the Council to find the \$162,000 and allocate it to OSSE's budget so that this important law can go into effect.

Fund the Addressing Dyslexia and Other Reading Difficulties Amendment Act of 2020

We urge the Council to fund the Addressing Dyslexia and Other Reading Difficulties Amendment Act of 2020. This legislation requires that OSSE implement universal screening for dyslexia and other reading difficulties, provides enhanced funding for teacher training, and will help to provide schools with science-based curriculum to address the needs of students with dyslexia. We know that there are likely many District children who have dyslexia and are either not diagnosed or receiving adequate services. Researchers estimate that 5-10% of school aged children may have

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dyslexia or a related reading disorder.²⁰ Also, reading disabilities and dyslexia can impact more than just a child's academic performance. Issues with reading in first grade can create behavioral issues by third grade²¹ and untreated reading disabilities and dyslexia can negatively impact a child's social and emotional health.²² For children with dyslexia specifically, providing early intervention has shown to reduce the symptoms of the disorder.²³ The FY22 budget needs just \$272,000 for OSSE to implement the law, but the effect on the District's learners could be truly impactful. We urge the Council to find the funds to implement this law in FY22.

C. Investments to Close the Digital Divide

One of the stark inequities laid bare by the COVID-19 pandemic is the digital divide. As schools switched to online learning, it quickly became apparent that many students, especially students of color and low-income students, lacked devices and reliable internet connections at home.²⁴ These inequities create significant educational barriers. As a recent report stated, "[p]ermanently closing the digital divide is a fundamental matter of equity."²⁵

Mayor Bowser and school leaders have made some progress on this front. Chancellor Ferebee has stated that "DCPS remains committed to providing technology resources and support for every student who needs a device or access to the internet."²⁶ Using CARES Act funding, both DCPS and charter LEAs invested significant sums to

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provide devices to students. In addition, last September Mayor Bowser instituted the “Internet for All” program,²⁷ which seeks to provide 12 months of free home internet service to up to 25,000 low-income families.²⁸

While schools have made progress, much more needs to be done. According to a teacher survey conducted by the State Board of Education earlier this year, more than 75% of DC teachers reported that their students’ internet access was too slow for distance learning. More than 50% reported that they were not able to get help when they had technical issues.²⁹ *All* students and teachers need access to the necessary technology in the classroom and at home to engage in a 21st century digital education as the COVID-19 public health crisis subsides and students return to school.

To achieve this objective, the District needs to commit funding and planning to four key areas as recommended by the Digital Equity in DC Education coalition for DCPS:

- Ensuring a 1:1 student-device ratio and a computer for every teacher.
- Increased staffing for IT support and asset management.
- Enhancing digital literacy skills for students, families, and teachers.
- Increasing investment in tech infrastructure, including internet connectivity in schools and other classroom technology.³⁰

Children’s Law Center supports these objectives for both DCPS and public charter schools. We also believe the District should ensure all students have fast, reliable internet access at home. The Mayor’s “Internet for All” program has fallen short of expectations

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because many families are unaware of the program or have struggled to sign up. It is also funded for only 12 months.

In December 2020, Congress authorized additional emergency relief funds for elementary and secondary schools, providing DC LEAs with the means to continue funding digital equity initiatives. DCPS has committed to using \$27 million of these funds to support the technology needs of students and teachers through FY22, with \$13.2 million going to ensure a 1:1 student-device ration in grades 3-12 and a 3:1 ratio in grades PK-2; \$5.7 million going to ensure every teacher has an updated, dedicated device; and \$8 million going to enhanced tech support and software.³¹ DC's public charter schools will have access to similar federal relief funds and should use them to help ensure digital equity for their students.³²

The Council should assess whether these federal funds are sufficient to meet the technology needs of DC students in FY22. Some illustrative estimates suggest they may not be.³³ If that is the case, the Council should appropriate additional local funds. The Council should also require that the Mayor and school leaders develop a long-term plan for closing the digital divide for DC students. It would be a serious mistake to view the digital divide as a problem merely during the pandemic. As a recent research paper states, "the digital divide must not be thought of as a short-term problem with a short-term solution. It predated the coronavirus pandemic, and it will persist indefinitely

unless we invest in robust and sustainable solutions.”³⁴ The focus on digital equity created by the pandemic, and the federal funds that help provide short-term solutions,³⁵ offer an opportunity to establish a long-term solution for closing the digital divide in the District.

Supporting the Needs of the Whole Child

We acknowledge that students have lost academic progress during this pandemic, but we firmly believe that to address those gaps we cannot simply focus on getting students back in their seats. If the District is going to successfully address pandemic-related learning loss and pre-existing opportunity gap many Black and Brown students experienced, we must also address the socio-emotional and behavioral health needs our students face. The students entering our school buildings in Fall of 2021 will be much different than those who left the school building in March of 2020. Schools must be ready to provide flexible, student-centered solutions to behavioral issues and socio-emotional learning challenges that are likely to occur.

Since the Mayor’s announcement that DCPS plans to bring all students back into school buildings this Fall, there has been a great deal of focus on the logistics of fully returning to in-person learning amidst the shifting public health situation. Important as it is to address issues of learning loss, enrollment and attendance, and the physical safety of students and teachers, we must also prioritize meeting students’ behavioral health

needs when they return to school buildings. We simply cannot prioritize the acceleration of academic gains at the cost of our students' access to socio-emotional learning, behavioral health supports, socialization opportunities, and play. That is why we recommend the Council preserve and expand investments in school-based mental health while also investing in academic recovery that will not only address losses suffered during the pandemic but also acknowledges the persistent opportunity gap. Schools and parents should not be made to choose between their students' academic achievement and their emotional well-being.

A. Expanding Investments in School-Based Mental Health

For school reopening to be successful, we must be prepared to address the toxic stress and trauma students have experienced during the pandemic and meet their behavioral health needs.³⁶ We should not be surprised if students struggle to re-integrate back into in-person classrooms, to follow directions from teachers, or to get along with classmates they have not seen in over a year. If we are to successfully re-engage students and their families back into school communities, we must understand challenging student behaviors as symptoms of behavioral health needs that have not been met – instead of as “problems” requiring punishment.³⁷ To do this, schools must have resources in place that enable them to identify and appropriately address students' behavioral health needs.

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The Department of Behavioral Health's (DBH's) school-based mental health expansion program (SBMH) provides schools with a critical resource for identifying and addressing behavioral health needs across the school community broadly, as well as for individual students and teachers. SBMH takes a public health approach and partners with community-based organizations (CBOs) to bring behavioral health services to children in all public schools – both traditional and charter.³⁸ Even with school buildings closed, SBMH clinicians have been able to connect with students virtually and continue to deliver services.

For SY 21-22 we must ensure that all DC students have access to this vital resource. Expanding SBMH to all remaining DC public schools – traditional and charter – means that every school will have at least one full-time behavioral health clinician available on site to provide services at all three tiers.³⁹ Clinicians hold many essential responsibilities including assessing behavioral health needs of students, mapping out existing resources and gaps, and connecting students and families to services beyond school walls. Ensuring that clinicians have full-time positions helps promote a high-quality delivery of services.

The Mayor's proposed budget allocates \$5.8 million for SBMH in next year's budget.⁴⁰ While we are very pleased to see the Mayor make a significant investment in SBMH – \$5.8 million is not sufficient to expand SBMH to all remaining public schools.

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An additional \$841,000 is required to place one full-time clinician in each of the 83 DC public schools that do not yet have a SBMH clinician.⁴¹ We are so close to ensuring students at all DC public schools have access to at least one behavioral health clinician – we strongly urge the Council to get this done by allocating the additional \$841,000 needed for SBMH in DBH’s budget.⁴²

B. Achieving Academic Recovery Through In-Person Learning

As we envision a way back to our brick-and-mortar learning environments, we urge the Council to focus on funding investments that will support a safe and effective learning environment. We support exploring if current District investments in high dosage tutoring are adequate to support the programs need and proposed scale. We ask that the Council consider funding the expansion of eligibility for students with disabilities who are turning 20 or older during this school year to make up for lost opportunities to receive the services they are entitled to under their IEP. We also ask the Council to reverse the deep cuts to the OSSE Department of Transportation (DOT) budget to ensure that our students with disabilities can be safely transported to school and back each day.

Avoiding a Reliance on High-Stakes Standardized Assessments

While there is an understandable instinct to gather as many data as possible to get a comprehensive picture of the academic losses suffered by students over the last year,

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we caution the Office of the State Superintendent for Education (OSSE) against requiring or even encouraging standardized testing en masse as students return to in-person learning. The federal Department of Education already granted DC a waiver for the PARCC testing for SY20-21.⁴³ However, as we plan for SY21-22, we want to make sure that schools are supported in their efforts to conduct individualized, formative assessments that more accurately demonstrate a student's mastery of skills and topics.

Furthermore, statewide standardized assessments are unlikely to tell us anything we do not already know – namely, that the pandemic has impacted District residents inequitably. Communities in Wards 4, 5, 7, and 8 suffered greater rates of COVID infection⁴⁴ and deaths⁴⁵ in addition to greater rates of unemployment⁴⁶ and, thus, economic instability. Of course, children trying to learn amidst such disruption will have greater rates of learning loss. As such, wasting hours of instructional time on high-stakes testing will impose an inequitable burden on students and schools hardest hit by the pandemic while providing little useful data upon which to allocate funds or supports.

Additionally, the data from broadly administered standardized assessments take months to analyze and comprehend. Traditionally, students have taken the PARCC test in April or May of a school year, but the results are not available until August of the following school year. Even then, these results provide big picture overviews of student achievement. While these data can be useful to schools as they analyze their strengths

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and weakness over the long run, they are not an efficient way to develop learning plans for individual students. Alternatively, we can use historical testing data to allocate resources to those schools that have long suffered from underfunding. Moreover, if the District invests in more precise tools to measure learning loss, then we must also make sure that our historically under-resourced schools have sufficient staff to support the sort of particularized assessments that will allow schools to pinpoint and address the needs of individual students.

Investments in Academic Recovery

Helping students catch up and reach grade-level standards will require more than the status quo. Children's Law Center was pleased to learn about the District's plan to provide funding and staffing for high dosage tutoring interventions for students across the board. At the May 27, 2021 Council hearing Deputy Mayor Paul Kihn explained that logistically, high dosage tutoring would look like students receiving a couple of meetings per week with a tutor lasting no less than 45 minutes alongside at least 2 other students. The primary location of this high-intensity tutoring will be at the child's school and delivered by adults who know them and have access to their academic records to better tailor the instruction. Apart from providing the high dosage tutoring in schools, there are plans to expand who provides the tutoring and the location of tutoring services to other

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places where students spend their time including: parks, recreation centers, libraries, and out of school time programs.

Managing this programs effectiveness, ensuring all students who need tutoring will have access, juggling all possible locations tutoring will be provided, and managing obtaining enough qualified providers to provide the services will likely be a very logistically complex, and time-consuming role. That's why Children's Law Center is concerned to see that Mayor's FY22 budget for OSSE only includes funding for one full time staff person to manage the high intensity tutoring program.⁴⁷ We urge the Council to inquire about the high dosage tutoring program's planned roll-out, logistics, and proposed District-wide implementation as soon as possible. Students will need these supports as soon as possible and we cannot wait an entire fiscal year to get this important program developed and implemented. We urge the Council to ask OSSE and the Deputy Mayor for Education's Office to provide additional clarity about the proposed program, its plans to create a robust infrastructure to ensure that concerns about student access and effectiveness are allayed, and what adequate funding would look like to best support the high-dosage tutoring program.

We are also concerned about potential workforce issues derailing the high dosage tutoring program. As you may know, Children's Law Center has testified about ongoing workforce issues when students try to access their compensatory education awards.

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DCPS has a policy that does not allow DCPS teachers to serve as compensatory education providers.⁴⁸ We are concerned that the same policy, if applied to the high dosage tutoring program, it will severely limit the workforce available to support the program. Teachers know their students better than anyone. And although we recognize that teachers are working harder than ever to provide a high-quality education to students virtually and in person, ensuring that teachers were eligible to provide high dosage tutoring if they so choose will likely create a larger workforce pool. We recommend that DCPS waive this policy to ensure we have enough of a workforce to provide all the high dosage tutoring that will be necessary for students in FY22.

Extended Eligibility for Students with Disabilities

For many students with disabilities, their last two years of special education have been virtual and has lacked any meaningful access to key related services, social experiences, opportunities for socio-emotional growth or transition activities. For those students, we recommend that OSSE offer extended eligibility to ensure these students have sufficient time to access the resources and services to which they are entitled under the IDEA.⁴⁹ Typically, extended eligibility has been provided as a compensatory education remedy. However, extending eligibility through a compensatory education award is not the only way the District can ensure this small group of students can access education supports past the age of 22.

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From the onset of the pandemic, Children’s Law Center and other advocates from the Special Education Advocates Coalition have asked OSSE to amend its policy and provide an extension of eligibility for students with disabilities past age 22 without a compensatory education award. As of the time of this hearing, we have been unsuccessful in persuading OSSE to consider this important change to their policies. We note that extending eligibility as a matter of policy due to the negative effects of COVID-19 on a student’s ability to access their special education supports is not a novel idea. Some jurisdictions including New York and Vermont have explicitly created policies allowing for their State Education Agencies to extend eligibility past age 22.⁵⁰ In the absence of such a policy from their state education agency, other jurisdictions like Virginia, have created an opportunity for schools to provide funding to extend eligibility past 22 through their budget process.⁵¹ The Virginia budget amendment allowed for students with disabilities who were 19 years or older during SY 20-21 to remain in school for one additional year. The amendment allocated \$6.5 million from federal funds in the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 to cover the state’s cost of per-pupil expenses that did not qualify under IDEA. The Council has an opportunity to act during this budget season to ensure that this group of students can achieve meaningful academic progress during their last year of education. For some of the students who we serve, extending eligibility past 22 would be their last chance to

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make meaningful educational progress and engage with supports and therapies to transition them into adulthood.

Although the population of DC students who would be eligible for extended eligibility after this school year will likely be small, providing them the opportunity to stay in school past age 22 will have a huge positive impact on those individual student's lives. We urge the Council to ask OSSE for a clear picture of how many students would be eligible to remain in school past age 22 if given the option. We also ask that the Council consider setting aside corresponding funds to support these students if they or their families choose to stay enrolled in school for SY 22-23.

Adequately Fund OSSE's Department of Transportation

For many families of students with disabilities, ensuring that transportation to and from school will be safe and efficient is key. Although last year OSSE DOT saw a significant drop in the number of students they transported, we anticipate that with high quality safety protocols both on the school bus and in our brick-and-mortar LEAs we will see student ridership will increase. The Mayor's FY22 budget does not reflect that assumption and still shows a \$500,000 reduction in intra-district transfer funds as compared to what was approved for last year at the height of the pandemic and virtual learning.⁵² That is why Children's Law Center is concerned to see that OSSE DOT's FY22

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budget has sustained cuts which might impact the services that students with disabilities will receive.

First, we want to highlight that there seems to be a large increase in one-time local funding in overtime and fewer dollars to support OSSE DOT salaries. Although the budget shows that OSSE's number of full-time employees (FTE's) remains the same, there is a decrease of \$ 1.3 million allocated for salaries.⁵³ This likely means that any positions in OSSE DOT that are currently unfilled will be unfunded and stay vacant. These vacancies could have real impacts on the quality of services our students with disabilities receive. For example, fewer drivers will lead to routes being consolidated and students having to endure longer ride times each day. It might also translate to fewer staff available to assist parents navigating scheduling issues through the parent resource center.

Meanwhile, the FY22 budget reflects a very puzzling and substantial increase of 66.2% in overtime pay when compared to FY21.⁵⁴ Our organization knows firsthand how important it is to have overtime available for OSSE DOT employees. Many of our students in foster care live outside of the District, and it can take hours each day to safely transport these students from schools to their placements creating the need for staff overtime. However, we remain concerned that the large increase in overtime and the cuts to payroll indicate that the Executive plans to have fewer employees working at

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OSSE DOT, but paying out more overtime. This is a missed opportunity to ensure OSSE DOT has adequate staffing and that more DC residents can get back to work. We do not dispute that OSSE DOT does need a robust overtime budget to cover the realities of their routes and schedules, but the Council should consult with OSSE DOT to determine how much of the overtime local dollars could be reprogrammed to support adequate staffing levels for FY22.

Further, we ask the Council to protect the Capital investments allocated to OSSE DOT in the FY22 budget. In particular, we ask that the council preserve the \$961,000 capital investment in updating the routing and scheduling software.⁵⁵ Routing and scheduling remains one of the most frustrating aspects of OSSE DOT's process. Frequent disruptions to the route, long ride times, missed pickups, and issues with entering changes to routes on the school side have long plagued our client families. The modernization of the routing and scheduling software will hopefully simplify OSSE DOT's internal processes for creating routes and modifying schedules which will trickle down to improved services for students with disabilities.

Address Facility Budget to Support Students in the Charter Sector

The charter sector educates about half of the students in the District. Each charter LEA is responsible for their physical facilities and maintenance. In years past, charter LEAs were allocated facilities funding based on an automatic escalation provision that

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allowed schools to plan on annual increases. However, this provision sunsets this school year and, to date, has not been replaced or renewed. Additionally, the pandemic has had led to two significant spending pressures for school leaders. First, schools have had to expedite upgrades to HVAC systems to ensure proper air filtration to protect children and staff from transmission of COVID-19. Additionally, supply chain disruptions have resulted in unprecedented rise in building materials costs.⁵⁶ We are concerned that the charter school facilities allotment funding has remained flat at last year's rate and instead a new \$10M fund administered by OSSE has been put in its place. If facilities funding isn't provided in a predictable and consistent manner through the UPSFF, schools will be forced to use dollars intended for students on facilities upgrades. We ask the Council to incorporate language into the Budget Support Act that continues the automatic escalation of charter facilities funding at 3.1% annually for five (5) years.

Reimagining What Is Possible

If the past year has taught us anything, it is that we do not have to educate kids in the same ways that we always have. Over the past year we have reimagined what a classroom looks like, what attendance and engagement look like, how we assess student progress, and how we support families in the education of their children. While the past year has stretched us to our limits, we have to reflect on what we have learned and what

lessons we should take forward. Specifically, we think it is critical that we use this time and this budget to reimagine both school discipline and virtual options for instruction.

A Trauma-Informed Recovery Cannot Include Police in Schools

We anticipate that students will come back to the classroom very different people than they were in March 2020. For example, witnesses and Councilmembers alike noted in recent public hearings on the return to in-person learning that children have embraced a certain level of autonomy that is likely to cause conflict as they return to the structure and discipline of a brick-and-mortar classroom. Additionally, the trauma and isolation of the past year is surely going to require a period of adjustment as children re-learn social and interpersonal skills that are likely to have lapsed as they spent 18 months at home. As a result, we can anticipate that school discipline will be a significant focus of returning to in-person learning. It is of the utmost importance that this work on school discipline be trauma-informed in acknowledgement of the significant challenges that our young people have faced throughout the pandemic. For this reason, we ask the Council to divest completely from the school safety division of MPD and invest those funds into several school and student supports, outlined below, that promote school safety and positive school climates without a need for police.

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Over the past year, on top of a global pandemic, Black and Brown young people have seen time and time again that they cannot trust the police to keep them safe. Through social media and the news, they face constant reminders that they are likely to be treated worse by law enforcement than their white peers. These incidents of police brutality cause racial stress for all Black and brown people. We believe that now is the time to reimagine what a safe and positive school environment looks like. We need to move away from the utilization of police in schools and towards a school environment that supports students. We ask the Council to eliminate the School Safety Division from Metropolitan Police Department (MPD) budget and reprogram those funds to various investments in school-based supports for students and educators.

To successfully transition toward police-free schools, the divestment from MPD's School Safety Division must be paired with investments in programming and supports that will improve school climates and create safe schools without a need for police. The below recommendations are based upon our experiences with and observations of programs that have been implemented to varying degrees in some schools across the District. Our recommendations include expansions of programs to support student behavioral health, alternative discipline practices, and professional development for teachers and other school staff. Additionally, we recommend that community-based programs with established and trusted relationships with young people be brought into

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the school setting. These recommendations are consistent with those put forth by the Police Reform Commission in their final report.⁵⁷

Restore Funding to OSSE's School Safety and Positive Climate Fund

The Student Fair Access to School Amendment Act of 2018 created the School Safety & Positive Climate Fund (“the School Climate Fund”) to be administered by OSSE⁵⁸ to enable schools to foster safety, promote a positive academic, disciplinary and physical environment, and encourage trusting and caring relationships between adults and students. Through the use of Multi-Tiered Systems of Support (“MTSS”),⁵⁹ OSSE offers training and resources for teachers, staff, and administrators who want to foster school safety and a positive school climate. The Mayor’s budget proposes to allocate \$1,215,000 to the School Climate Fund. This represents a 12.5% decrease to the School Climate Fund. We urge the Council to restore the \$175,000 cut from the OSSE budget to ensure that the School Climate Fund can continue to support programs that have demonstrated positive outcomes in schools. Additionally, we ask the Council to reprogram the \$500,000 in local funds allocated to the DME for training to the School Climate Fund so that OSSE can provide teachers and school staff with training in trauma-informed care, restorative justice programming, social emotional learning, and Positive Behavior Interventions and Supports (PBIS).

Trauma-Informed Care

OSSE supports trauma-informed care, which involves understanding, recognizing, respecting, and appropriately responding to the effects of trauma at all levels. Trauma-informed care emphasizes physical, psychological and emotional safety for students and educators while promoting environments of healing and recovery.⁶⁰ Nationally, roughly one in five children have experienced traumatic and other adverse childhood experiences.⁶¹ These traumatic experiences can range from food insecurity to child neglect and abuse. Trauma may manifest itself in students as absenteeism, performing below grade level in reading and math, and behavioral problems.⁶² Students experiencing these forms of complex trauma can benefit from teachers and school staff who not only have been trained to recognize the signs of trauma in children, but also who are supported by trauma-informed intervention strategies to assist these students.⁶³

One program that was working with schools to implement a trauma-informed approach even before the pandemic was the MedStar Georgetown Center for Wellbeing in School Environments (“WISE Center”). The WISE Center has been partnering with DC schools to reduce mental health and educational disparities through a trauma-informed approach and would benefit from continued OSSE support. The WISE Center offers comprehensive services including regular mental health consultations in schools, family-based mental health programs, as well as classroom coaching to provide

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educators tools to intervene and de-escalate conflicts. By engaging in early intervention, the WISE Center aims to reduce the need for mental health treatment and/or medication. The WISE Center also recognizes that stressed educators increasingly feel responsible for the social-emotional health of their students, yet often lack training and support to cope themselves, especially when working with troubled students. In response, it has developed programming targeting educator wellbeing and providing the tools to help teachers help themselves, and ultimately, their students. The Council should ensure that OSSE's School Climate Fund is sufficiently funded to support programs like those offered by the WISE Center that will help schools successfully reintegrate students and staff.

Restorative Justice Programming

OSSE has invested in the concept of restorative justice programming for children and youth and has supported its use within the community. OSSE promotes restorative justice as a culture and set of practices that engage a community in building relationships and repairing harm through mutual, inclusive dialogue, understanding, and cooperation.⁶⁴ Through Restorative DC, OSSE offers restorative justice support to both DCPS and DC public charter schools through the SchoolTalk support framework.⁶⁵ These supports range from individual training sessions for students and staff, facilitation of important restorative conversations such as “dialogue circles” amongst students and staff, and conferences on restorative justice.⁶⁶ From Restorative DC's evaluations,

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students have observed a reduced number of physical altercations after engaging in restorative dialogue to address conflicts as they arise. Students are learning to discuss issues and express themselves in a socially appropriate way, and school staff have expressed a desire for additional opportunity to work with Restorative DC facilitators.

Restorative DC receives funds both from grants and from OSSE. In school year 2019-20, OSSE provided \$900,000 to Restorative DC to support its work in schools that chose to explore restorative justice programming. Restorative DC offers both a “whole school” approach in which a designated representative spends between 40 and 60 hours working with educators and students and conducting support circles over the school year, and a more targeted approach in which the representative collaborates with educators on specific goals. The cost per school year, per school ranges between \$48,000 and \$60,000 depending on each school’s needs, with funds paying for programming, coaching, modelling, and evaluations.

Restorative DC needs at a minimum the same \$900,000 from OSSE’s School Climate Fund that it received in school year 2019-20, to continue its work with participating schools. However, increased funding would allow additional DC schools to explore and incorporate restorative justice programming. An expanded budget would also help Restorative DC improve programming to meet school needs, particularly at schools that are underperforming. We recommend that DC continue to invest in

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restorative justice programming for children and youth in schools and communities through OSSE's School Climate fund.

Social-Emotional Learning

Social-emotional learning is the process through which children and adults understand and manage emotions, set and achieve positive goals, feel and show empathy for others, maintain positive relationships, and make responsible decisions.⁶⁷ DCPS is already implementing and integrating social-emotional learning curriculums with support from the Collaborative for Academic, Social and Emotional Learning (CASEL) and OSSE's Social Emotional Learning (SEL) & School Culture Team. We recommend that the District continue to fund and expand funding for social-emotional learning in FY22.

DCPS joined CASEL's Collaborative Districts Initiative in 2018 to assist the District in implementing social-emotional learning programming.⁶⁸ CASEL's social-emotional learning guides are leveraged in approximately 100 DCPS schools as a way for school administrators reflect upon instructional and school culture practices, determine professional development needs, and deliver training opportunities tailored to individual school needs.⁶⁹ In addition, the OSSE SEL & School Culture Team supports schools with implementing social-emotional learning in school policies, practices, and

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programs with a focus on supporting SEL curriculum implementation, culture reset, and developing and implementing alternatives to suspension.⁷⁰

The use of social-emotional learning has been widely successful in the District.⁷¹ Children’s Law Center is encouraged by the broad use of SEL curriculums in a large number of DC public schools through CASEL and OSSE SEL programming.⁷² However, current funding for non-restorative justice approaches within the OSSE School Climate and Culture Fund is not sufficient for proper implementation and maximum efficacy. For example, for the 2018-2019 school year, DCPS estimated costs to fund social-emotional learning programs at \$312,500.⁷³ Currently, however, OSSE school climate funding for nearly *all* non-restorative justice approaches—i.e., programs that do not have a restorative justice element such as social-emotional and PBIS (discussed below)—received approximately \$350,000 for fiscal year 2021.⁷⁴ This is not enough to provide the proper implementation for social-emotional learning. While we are pleased to see that Mayor Bowser’s proposed budget would provide \$33 million in student learning acceleration and social emotional supports, such additional funds are not guaranteed in the long term. The Council must ensure that sustainable investments are made in these programs.

Positive Behavioral Intervention and Supports (PBIS)

DC students and teachers should have all the support available to address positive alternative approaches to student behavior and educator mindset. When used in conjunction with other MTSS like trauma-informed approaches, restorative justice, and social-emotional learning, PBIS programs help improve individual student classroom behavior and create safe schools by focusing on preventing problem behaviors rather than punishing students. PBIS is an effective evidence-based, three-tiered framework for improving and integrating all of the data, systems, and practices affecting student outcomes, and studies have shown that schools that implement school-wide PBIS programs show a decrease in the number of suspensions, improved perceptions of safety by students, and improvements in academic performance.⁷⁵

When schools are provided with the necessary resources to implement PBIS, students achieve improved social and academic outcomes, schools experience reduced exclusionary disciplinary practices, and school personnel feel more effective.⁷⁶ However, proper implementation requires not only the proper training of professionals to utilize this framework, but also staff available to engage in the day-to-day coordination with our teachers and students.

As discussed above, we are pleased to see that Mayor Bowser's proposed budget would provide \$33 million student learning acceleration and social emotional supports,

which also can include PBIS. But these federal dollars are not a guaranteed for our local community. We recommend that, at a minimum, the Council approve the funding requested by the Mayor to OSSE. We note, however, that any increased funding would permit OSSE to allocate additional funds to the School Climate Fund to enhance and expand PBIS programming. Additional funding would help ensure fidelity to PBIS with additional on-campus coaching and staffing, ample training for staff, and comprehensive oversight of all programming to be properly evaluated.

C. An Equitable Recovery Must Continue to Offer a Virtual Learning Option

After hearing the Mayor's announcement that all students would return in to in person learning this Fall, we had many families reach out to our attorneys with questions and concerns.⁷⁷ Some are worried about sending their younger children to school unvaccinated, as not all children are eligible for vaccines at this time.⁷⁸ Other parents are hesitant to vaccinate their children at all.⁷⁹ Vaccine hesitancy among young people may become a challenge just as it has been among adults across the country and our city And other children live with caregivers who may have chronic illness or who are otherwise susceptible to complications from a COVID-19 infection and may feel uncomfortable sending their children back into the school building. It remains unclear how many of our client families plan to send their children back to the school building next fall.

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Additionally, as more individuals become vaccinated, questions will arise as to the length of time vaccines remain effective, whether boosters will be necessary, the vaccines' effectiveness against novel variants, and the possibility of breakthrough infection in fully vaccinated children and adults. We also assume that, going forward, children and school staff will remain subject to quarantine after exposures. For these reasons, it is likely that we will need a high-quality virtual option to ensure education continuity for all students.

We Support the Creation of a DCPS Virtual Academy

Virtual learning has been a challenge for most students. However, for some students virtual learning has allowed them to participate and engage with their schoolwork now more than ever. Virtual learning has been specifically helpful for our students who are young parents, those who work, and those who have struggled to engage in traditional brick and mortar classrooms for a variety of reasons. To ensure that students with chronic illnesses or those who want to continue virtual learning have an opportunity to do so, we support the creation of a DCPS Virtual Academy, opening alongside schools this fall.

The idea of a fully online school is not new. Many school districts around the country have been using this model usually through private providers.⁸⁰ A Virtual DCPS Academy would be a stand-alone school program where teachers can provide live instructional content solely to virtual learners. Students could be grouped by school into

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virtual classrooms to keep them engaged with peers. Virtual Academy teachers would be able to teach from home or from a central office building which would solve issues of internet connectivity and resources for some. This model has been successfully implemented by other countries⁸¹ and jurisdictions.⁸² We are however concerned about the very narrow criteria currently being proposed for the virtual academy. We urge that the academy not only be open to a narrow group of children with specific health issues, but also other children whose family members may not be able to be vaccinated and have high risk factors. In addition, we urge the Council to examine with the LEAs whether this option should be open to a broader group of students who would benefit from a virtual environment.

Conclusion

Children's Law Center appreciates the opportunity to provide this testimony regarding the FY22 budget for the education agencies. We believe that if all students are to thrive, the District must continue focus on students with disabilities and Black and Brown students who have historically faced an incredible opportunity gap. This gap, now compounded by the pandemic, reflects historical inequalities and a reality that, for many District residents, race predicts opportunities, outcomes, and the distribution of resources for children and youth. An equitable recovery would ensure that those students who have historically received the fewest resources would have the chance to access

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programming and supports that would not only correct the academic imbalance caused by COVID-19 but would also recognize the lack of academic progress and structural racism experienced by these students before the pandemic occurred. We appreciate that the Council is now consciously analyzing and prioritizing the goals of Race Equity into its work and we hope to continue to see its importance in the way we think about education. It is our sincere hope that the Council and District government maintains its focus on pandemic recovery generally through this lens of Racial Equity as we move forward in the coming months and years.

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

¹ Children’s Law Center fights so every child in DC can grow up with a loving family, good health, and a quality education. Judges, pediatricians, and families turn to us to advocate for children who are abused or neglected, who are not learning in school, or who have health problems that cannot be solved by medicine alone. With almost 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. And we multiply this impact by advocating for city-wide solutions that benefit all children.

² Pauli Murray: Selected Sermons and Writings, page 210. *See*

<https://www.facebook.com/paulimurrayproject/posts/true-community-is-based-upon-equality-mutuality-and-reciprocity-it-affirms-the-r/10153189445686943/> .

³ *See* Children’s Law Center Annual Report – 2020 at 4, *available at*

<https://www.childrenslawcenter.org/sites/default/files/Final.childrens.law.annual.report.2020..pdf> . *See*

also Letter from Mayor Bowser to Honorable Phil Mendelson, at 1 (May 18, 2020), *available at*

[https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC-GOVT-FY-2021-](https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC-GOVT-FY-2021-PROPOSED-BUDGET-VOLUME-1.pdf)

[PROPOSED-BUDGET-VOLUME-1.pdf](https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC-GOVT-FY-2021-PROPOSED-BUDGET-VOLUME-1.pdf) (page 21) (recognizing the “distressing health disparities that exist

across our nation and within our community”); Perry Stein, “Low Attendance and Covid Have Ravaged

D.C.’s Poorest Schools – Fall Will Be About Reconnecting, Washington Post (May 10, 2020), *available at*

https://www.washingtonpost.com/local/education/in-dc-schools-spring-was-ravaged-by-covid-and-disconnection-fall-will-be-about-catching-up/2020/05/10/60ad1774-8b3f-11ea-8ac1-bfb250876b7a_story.html .

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⁴ See President Obama's commencement speech historically Black colleges and universities (May 16, 2020) (recognizing "the disproportionate impact of Covid-19 on our communities" and stating that "a disease like this just spotlights the underlying inequities and extra burdens that black communities have historically had to deal with in this country"), available at <https://www.nytimes.com/2020/05/16/us/obama-hbcu-speech-transcript.html?action=click&module=RelatedLinks&pgtype=Article> .

⁵ OSSE's 2019 Students with Disabilities Landscape analysis highlights this problem. Looking at ELA PARCC scores, only two out of 20 students with Disabilities scored at grade level compared to their non-disabled peers who performed at grade level nine out of 20 students. See OSS, Students with Disabilities Landscape Analysis, at 8, (2019), available at https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/SWD%20Landscape%20Analysis%2010.10.19.pdf .

⁶ Public Hearing Before the District of Columbia Council Committee of the Whole, (May 26, 2021).

⁷ See Stein, Perry, 'They got back to us': How one school built trust and got reluctant parents to return, Washington Post, (Feb. 28, 2021), available at: https://www.washingtonpost.com/local/education/dc-school-reopening-parents-fears/2021/02/28/8a331c24-776b-11eb-948d-19472e683521_story.html.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ During a recent meeting between the Flamboyan Foundation and Children's Law Center we discussed ideas of how parent engagement can directly support the process of improving parent-school communication and serving to foster a school environment that prioritizes belongingness, joy, and respect between students, teachers, parents, and administrators.

¹² Mayor's Proposed FY 2022 Budget and Financial Plan, Volume 3 Agency Budget Chapters, District of Columbia Public Schools, C070, at p.510, available at: https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/ga_dcps_tables_2022m.pdf.

¹³ https://mayor.dc.gov/sites/default/files/dc/sites/mayoromb/release_content/attachments/4-8-21-LEA-Meeting.pdf

¹⁴ Testimony of Dr. Jack Buckley Public Hearing Before the District of Columbia Council Special Committee on COVID-19 Pandemic Recovery, (May 26, 2021).

¹⁵ Adequacy Study at 116, available at:

https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/DC%20ADEQUACY%20STUDY_FULL%20REPORT.pdf

¹⁶ See DCPS Responses to Fiscal Year 2018 Performance Oversight Questions at 140-141, available at https://www.dropbox.com/sh/ontbjkp1y9c5cz2/A.AAuHwo5FGiLniA5nVlvNU6Va/Performance%20Responses/D.C.%20Public%20Schools?dl=0&preview=POH+-+DCPS+FY18+Response+final.pdf&subfolder_nav_tracking=1.

¹⁷ [https://lims.dccouncil.us/downloads/LIMS/43042/Other/B23-0392-FIS - Student Right to Home and Hospital Instruction.pdf](https://lims.dccouncil.us/downloads/LIMS/43042/Other/B23-0392-FIS_-_Student_Right_to_Home_and_Hospital_Instruction.pdf) . The HHI Act has no fiscal impact in FY21.

¹⁸ As described in the fiscal impact statement, once DC Act 23-526 goes into effect during the 2022-23 school year, the Act will require DCPS to spend \$360,000 in FY23 and \$361,000 in FY24. It will require the

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charter school sector to spend \$285,000 in both FY23 and FY24. OSSE will need \$142,000 in both FY23 and FY24 to fund its duties under the Act.

¹⁹ Committee Report on B23-392, Committee of the Whole, at 4 (Nov. 17, 2020), *available at* https://lms.dccouncil.us/downloads/LIMS/43042/Committee_Report/B23-0392-Committee_Report2.pdf .

²⁰ Stefan Samuelsson & Ingvar Lundberg. The impact of environmental factors on components of reading and dyslexia. *Annals of Dyslexia* at 201– 17. (2003).

²¹ Paul Morgan et. al. Are Reading and Behavior Problems Risk Factors for Each Other?. *Journal of Learning Disabilities* at 417-436. (2018).

²² *Id.*

²³ v National Center for Educational Evaluation and Regional Assistance. Assisting Students Struggling with Reading: Response to Intervention and Multi-Tier Intervention in the Primary Grades at 13. (2009). Retrieved from: https://ies.ed.gov/ncee/wwc/Docs/PracticeGuide/rti_reading_pg_021809.pdf .

²⁴ “The divide disproportionately affects Black, Latinx, and Native American students (who make up about 55% of disconnected students while representing about 40% of total students). It also disproportionately affects students in lower-income families: About 50% of disconnected students come from families with annual incomes less than \$50,000.” Common Sense Media, et al., “Looking Back, Looking Forward: What it will take to permanently close the K-12 digital divide,” at 5 (2021) (2021 Digital Divide Report), *available at* [k https://www.common Sense Media.org/sites/default/files/uploads/pdfs/final_-_what_it_will_take_to_permanently_close_the_k-12_digital_divide_vfeb3.pdf](https://www.common Sense Media.org/sites/default/files/uploads/pdfs/final_-_what_it_will_take_to_permanently_close_the_k-12_digital_divide_vfeb3.pdf) .

²⁵ 2021 Digital Divide Report at 8 (“Historically, students caught in the digital divide have had overall GPAs about 0.4 points lower than students with access.”).

²⁶ Email from Chancellor Ferebee to DCPS community (Aug. 13, 2020), *available at* <https://dcpsreopenstrong.com/updates/technology-tips-for-learning-at-home/> .

²⁷ <https://dc.gov/release/mayor-bowser-announces-33-million-investment-provide-home-internet-low-income-dc-students#:~:text=Washington%2C%20DC-Mayor%20Bowser%20Announces%20%243.3%20Million%20Investment%20to%20Provide,to%20Low%20Income%20DC%20Students&text=OCTO%20is%20reaching%20out%20to,schools%20to%20the%20inter net%20providers> .

²⁸ The program is funded by a \$3.3 million grant from the Governor’s Emergency Education Relief Fund established by the 2020 federal Coronavirus Aid, Relief and Economic Security (CARES) Act.

²⁹ DC State Board of Education, 2021 DC All-Teacher Survey at Table 7 (March 17, 2021), *available at* <https://sboe.dc.gov/sites/default/files/dc/sites/sboe/publication/attachments/2021-03-17-FINAL-DC%20State%20Board%20All-Teacher%20Survey%20Report%20%28March%202021%29.pdf> .

³⁰ Letter from Digital Equity in DC Education to Mayor Bowser (Jan. 11, 2021) (Digital Equity in DC Education Jan. 11 Letter), *available at* <https://drive.google.com/file/d/1BT2hnTODdlTxuFNrCVgGc9bPq5a6q-0H/view> .

³¹ See Testimony of Chancellor Ferebee Before the Committee of the Whole (April 2, 2021), *available at* <http://chairmanmendelson.com/wp-content/uploads/2021/04/04.02.2021-DCPS-School-Level-Budget-Testimony.pdf> ; DCPS ESSER Overview, *available at* <https://dcpsbudget.com/budget-data/central-office-budgets/covid-19-agency-budget-additions/> ; Digital Equity in DC Education, March 2021 Update, *available at* <https://drive.google.com/file/d/1SdNCZkIYRre61SpSPOuaCzcq4Pa7p2w0/view> .

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³² See OSSE Preliminary Allocations of ESSER Funds (updated April 1, 2021), *available at* [https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/ESSER%20II%20%26%20Equivalent%20Allocation%20Table 4-1-21.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/ESSER%20II%20%26%20Equivalent%20Allocation%20Table%204-1-21.pdf) .

³³ For illustration purposes, the Digital Equity in DC Education coalition estimated that “[f]illing gaps in device provision and IT support/asset management will require at least \$32 million” – and that estimate only covers DCPS’s needs. Digital Equity in DC Education Jan. 11 Letter at 2.

³⁴ 2021 Digital Divide Report at 8.

³⁵ These federal funds include the federal ESSER funds described above, the FCC’s Emergency Broadband Benefit program, and other federal relief funds that potentially could be used to help close the digital divide. See National Digital Inclusion Alliance, Digital Equity Stimulus Funding (March 25, 2021), *available at* <https://www.digitalinclusion.org/blog/2021/03/25/digital-equity-stimulus-funding>; FCC Emergency Broadband Benefit, *available at* <https://www.fcc.gov/broadbandbenefit>.

³⁶ See Stein, P, *Low Attendance and Covid-19 Have Ravaged D.C.’s Poorest Schools – Fall Will Be About Reconnecting* (May 10, 2020), Washington Post, (“And when students do finally return to the classrooms, [DCPS Chancellor] Ferebee said the immediate focus will be on students’ mental health, addressing the trauma that many students have experienced during the health emergency... ‘It’s traumatic...Students have experienced trauma and stress,’ Ferebee said in an interview.”), *available at* https://www.washingtonpost.com/local/education/in-dc-schools-spring-was-ravaged-by-covid-and-disconnection-fall-will-be-about-catching-up/2020/05/10/60ad1774-8b3f-11ea-8ac1-bfb250876b7a_story.html.

³⁷ Kirp, D., *A four year old child is not a problem. And Expulsion is not a solution.* (April 25, 2021), The New York Times, *available at* <https://www.nytimes.com/2021/04/25/opinion/preschool-children-mental-health.html> .

³⁸ DBH began to implement the expansion of the school-based mental health expansion program during the 2018-2019 school year. DBH works with DCPS, OSSE, and the Public Charter School Board (PCSB) to match CBOs with individual schools. Once a school has been successfully matched with a CBO, a full-time CBO clinician is placed in the school to provide full-time behavioral health service. For more information, please see our FY21 DBH performance oversight testimony *available at* https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/TWeerasingha-Cote_CLCTestimony_DBHOversightHearing_FINAL.pdf

³⁹ The goal of SBMH is for all public schools to provide a full array of behavioral health supports at three tiers: (1) Tier 1 encompasses mental health promotion and prevention for all students; (2) Tier 2 includes focused interventions for students at risk of developing a behavioral health problem; and (3) Tier 3 is comprised of intensive support/treatment for individual students who are experiencing a behavioral health problem.

⁴⁰ DBH Budget Chapter, Table RM0-5

⁴¹ We previously estimated it would cost approximately \$6.4 million to expand SBMH to 80 additional schools. Since then, three new charter schools have been approved. \$6.4 million - \$5.8 million (in Mayor’s budget) + \$241K (cost for three additional schools) = \$841K. This is the difference we need the Council to fund.

Appendix - CLC FY22 Education Agencies Budget Recommendations

⁴² According to administration officials, an additional \$2.2 million of federal relief dollars will be allocated to OSSE to support SBMH. These funds, however, will not be used to fund expansion of SBMH into new schools. These funds will be used to support capacity building in schools, provide additional technical assistance to school leaders, and fund other program infrastructure, such as the Community of Practice. While we applaud this additional investment in SBMH and believe it is important to fund these other aspects of the program, we must note that because none of the funds going to OSSE will be used to fund expansion of SBMH to new schools, additional funding is still required (\$841,000 to expand to all remaining public schools).

⁴³ See Letter from Ian Rosenblum, Deputy Assistant Secretary for Policy and Programs, US Department of Education, to Interim Superintendent Shana Young, Office of the State Superintendent of Education of the District of Columbia (April 6, 2021), *available at*:

https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/DC%20assessment%20response%20letter.pdf

⁴⁴ See Total Positive Cases by Ward, COVID-19 Surveillance (last accessed May 25, 2021), *available at* <https://coronavirus.dc.gov/data>.

⁴⁵ See Total Lives Lost by Ward, COVID-19 Surveillance (last accessed May 25, 2021), *available at* <https://coronavirus.dc.gov/data>.

⁴⁶ See Office of Labor Market Research and Performance, Department of Employment Services, “D.C. Labor Market Indicators: January 2015 - April 2021”, at 6 “Unemployment Rate by Ward,” (2021), *available at*:

https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/DC%20Labor%20Market%20Indicators_April2021.pdf.

⁴⁷ Mayor’s Proposed FY 2022 Budget and Financial Plan, Volume 2 Agency Budget Chapters – Part II, Public Education System, p. 443.

⁴⁸ Employees of the District of Columbia are not able to provide compensatory education services. See OSSE, *Parent Guide to Independent Services* (2020), *available at*

https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/Parent_Guide_to_Independent_Services_August_2020_v21.pdf at 23.

⁴⁹ Extended eligibility is a recognized remedy available to individuals under the IDEA. See 34 CFR § 300.106.

⁵⁰ The Vermont Agency on Education has created a policy that allows for students who had their IEP delivery of services negatively impacted by COVID-19 to be considered for extended eligibility. One of the considerations must be met for the IEP team to consider extending eligibility. “Student turns age 22 and is within 3 months of graduation; Student was denied a significant amount of schooling because of the failure of state/local officials to offer educational services during the students’ entitlement years; Student has turned or is turning 22 and had limited access to transition services due to challenges related to the COVID-19 pandemic resulting in the additional need for supports, as evidenced by the Vermont Graduation Readiness Tool”. See: Vermont Agency of Education. Continuation of Special Education Services: Provision for Students Turning 22. (July 30, 2020). The State Education Agency of New York has also explicitly recommended that Districts allow students who are 21 years old to be allowed to continue on past their 22nd birthday.

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⁵¹ See the budget amendment at:

<https://budget.lis.virginia.gov/amendment/2021/2/HB1800/Introduced/CR/146/1c/> .

⁵² The intradistrict transfer funds for OSSE DOT come from their ability to bill Medicaid when a student with disabilities is transported to school to access a related service. At the height of the pandemic with most students engaging in virtual learning, most related services were being provided to students virtually. The budget book shows that last year's budget allocated \$9.5 million dollars in intradistrict transfer funds to OSSE DOT. This year's FY22 budget shows an even lower number –\$9 million. We understand that the actual amount received was closer to \$4.5 million as per OSSE DOT due to low census.

⁵³ OSSE DOT Budget, GO03 line 11 and 12 shows a 4 percent decrease to salaries but there is no corresponding decrease to FTE's.

⁵⁴ See OSSE DOT Budget Table GO0-3, line 13

⁵⁵ See OSSE DOT Budget Table GO0-1

⁵⁶ See, e.g., Ryan Dezember and Marco Quiroz-Gutierrez, "New Houses Are Costing More as Prices Jump for Wood, Bricks", *The Wall Street Journal*, (March 17, 2021), *available at*:

https://www.wsj.com/articles/commodities-boom-hits-home-11615973404?reflink=desktopwebshare_twitter

⁵⁷ District of Columbia Police Reform Commission, *Decentering Police to Improve Public Safety*, at 69, (Apr. 1, 2021), *available at*: <https://img1.wsimg.com/blobby/go/dd0059be-3e43-42c6-a3df-ec87ac0ab3b3/DC%20Police%20Reform%20Commission%20-%20Full%20Report.pdf>

⁵⁸ Student Fair Access to School Amendment Act of 2019, D.C. Law 22-157, Sec 207, , *available at*: <https://code.dccouncil.us/dc/council/laws/22-157.html>

⁵⁹ See School Culture and Climate Page, Office of the State Superintendent, *available at* <https://osse.dc.gov/page/school-climate-and-culture>.

⁶⁰ *Id.*

⁶¹ Sparks, S.D., Some FAQs for Educators on Children's Trauma. Education Week, (Aug. 9, 2019), *available at*: <https://www.edweek.org/ew/articles/2019/08/21/some-faqs-for-educators-on-childrens-trauma.html>.

⁶² Blodgett, Christopher, and Jane D. Lanigan, The association between adverse child experience (ACE) and school success in elementary school children, *Sch Psychol Q.*, doi: 10.1037/spq0000256, 37-146, (March 2018), *available at*: <https://pubmed.ncbi.nlm.nih.gov/29629790/>.

⁶³ There are many robust reports and training materials available to support teachers and staff. For a non-exhaustive list, please visit: Trauma Sensitive Schools, Helping Traumatized Children Learn, *available at*: <https://traumasensitiveschools.org/reports-and-resources/>

⁶⁴ *Supra* at note 1.

⁶⁵ See SchoolTalk, RestorativeDC, *available at*: <https://www.schooltalkdc.org/restoratedc1/>.

⁶⁶ See RestorativeDC, Restorative Practices, *available at*: <http://www.restoratedc.org/restorativepractices/>.

⁶⁷ CASEL's District Resource Center. 2021, *available at* <https://drc.casel.org/>.

⁶⁸ CASEL Partnership with Washington, DC. 2021, *available at* <https://casel.org/partner-districts/washington-dc/>.

⁶⁹ *Id.*

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⁷⁰ Responses to FY21 Budget Oversight Questions DC Public Schools, D.C. Public Schools, available at https://dccouncil.us/wp-content/uploads/2020/06/DCPS-FY21-Budget-Questions_final7392.pdf. See also Fiscal Year 2020 Budget Oversight Responses and Supporting Data, Office of the State Superintendent, <https://osse.dc.gov/page/fiscal-year-2020-budget-oversight-responses-and-supporting-data>.

⁷¹ *Id.*

⁷² At the time of this publication, SEL programs were implemented in 116 schools in DCPS. See <https://casel.org/partner-districts/washington-dc/>; see also https://dccouncil.us/wp-content/uploads/2020/06/DCPS-FY21-Budget-Questions_final7392.pdf

⁷³ Determination And Finding For A Sole Source Procurement, D.C. Public Schools, Office of Equity <https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DF%20Sole%20Source%20CSEL.pdf>.

⁷⁴ Office of the State Superintendent of Education, Fiscal Year 2021 Approved Budget and Financial Plan, available at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/gd_osse_chapter_2021a.pdf.

⁷⁵ Remi Christofferson, and Kathe Callahan. *Positive Behavior Support in Schools (PBSIS): An Administrative Perspective on the Implementation of a Comprehensive School-Wide Intervention in an Urban Charter School*. 2 NCPEA Educ. Leadership Rev. Doctoral Res. (2015). See also Edmund Nocera, Kathleen M. Whitbread, and Gene P. Nocera. *Impact of School-wide Positive Behavior Supports on Student Behavior in the Middle Grades*. 37 R. in *Middle Level Educ.*, 2 (2014) (“Research studies show that school-wide positive behavior supports (SWPBS) are an effective alternative to reactive, punitive policies and result in safer schools and increased academic achievement of students.”)

⁷⁶ “What is PBIS?”, Center for Positive Behavioral Interventions and Support, 2021, <https://www.pbis.org/pbis/getting-started>.

⁷⁷ Franklin, J., *DC public schools will fully reopen by fall, mayor says*, WUSA9, (April 8, 2021), available at <https://www.wusa9.com/article/news/education/bowser-expects-dc-schools-fully-reopen-fall-2021/65-033ad701-8c4e-47a8-9613-00ee57afd539>.

⁷⁸ Although we know that some vaccines have been approved for kids 12 and over, it is unclear if vaccines will be available for younger before next year. Kennedy, M., *Fauci says he expects vaccines for younger children by the end of year or early 2022*, NPR (May, 20, 2021), available at <https://www.npr.org/sections/coronavirus-live-updates/2021/05/20/998533237/fauci-says-he-expects-vaccines-for-younger-children-by-end-of-year-or-early-2022>.

⁷⁹ This Washington Post opinion piece gives some of the reasons why parents are experiencing vaccine hesitancy. Calarco, J., *Some parents won't vaccinate their kids against COVID. Here are their reasons* (March 29, 2021), Washington Post, available at <https://www.washingtonpost.com/outlook/2021/03/29/parents-oppose-coronavirus-vaccine/>.

⁸⁰ Before the pandemic, there were concerns with the quality of for-profit online learning academies already operating. Their reported educational outcomes were below average. Although this is an old article, it summarizes some of our concerns about teacher and education quality. Please see Kamenetz, A., *Virtual Schools Bring Real Concerns About Quality* (February 2, 2015), NPR, available at <https://www.npr.org/sections/ed/2015/02/02/382167062/virtual-schools-bring-real-concerns-about-quality>.

⁸¹ Some school districts in Ontario, Canada are using this model to deliver online content to students. See Wong, J., *Centralized virtual schools and synchronous delivery: How remote learning is shaping up for fall* (August 24, 2020), CBC, available at <https://www.cbc.ca/news/canada/e-learning-fall-update-1.5695047> .

⁸² Fairfax County has announced they will have a virtual program available to students who qualify due to a medical condition. The program will be staffed by teachers who are fully virtual. Fairfax County Public Schools. *Virtual Program School Year 2021-2022*, available at <https://www.fcps.edu/registration/virtual-program-school-year-2021-22> .

APPENDIX

Office of the State Superintendent of Education

Students' Right to Home or Hospital Instruction Act of 2020

- The Mayor's budget does not fund the bill
- We urge the Council to allocate \$162,000 which includes \$122,000 for 1.0 FTE to develop and manage the appeals process and \$40,000 for an appeals tracking system.

High-Impact Tutoring

- The Mayor's budget proposes \$13 million and 1.0 FTE
- We urge the Council to increase the investment to ensure that the office is fully funded
- Additionally we urge a change in DCPS waive the policy that prohibits their teachers from providing compensatory education to ensure we have enough of a workforce to provide all the high dosage tutoring that will be necessary for students in FY22.

School Safety & Positive School Climate Fund

- The Mayor's budget proposes \$1,215,000 (-12.5%)
- We urge the Council to restore cuts made to this fund in the Mayor's budget.
- Additionally, we urge the Council to reprogram the \$500,000 in spending on training for SROs and school security from the DME's budget to the School Climate Fund so that OSSE can provide teachers and school staff with training in de-escalation, trauma-informed responses, restorative justice, and positive behavior interventions and supports.

Extended Eligibility for Students with IEPs

- The Mayor's budget does not fund an extension for Students with IEPs.
- We urge the Council to invest local funds to ensure that eligible students can remain enrolled past 22 years old.

OSSE Department of Transportation

- The Mayor's Budget proposes a \$1.3 million reduction funding for OSSE DOT salaries and an increase of 66.2% in overtime pay.
- We urge the Council to consult with OSSE DOT to determine reprogramming of overtime local dollars to support adequate staffing.
- The Mayor also proposes a \$961,000 capital investment in routing & scheduling software.
- We urge to Council to protect this capital investment.

Charter School Facilities Allocations

- The Mayor's budget allocates \$10 million to be placed in a fund administered by OSSE.
- We urge the Council to incorporate language into the Budget Support Act that continues the automatic escalation of charter facilities funding at 3.1% annually for five years.

Dyslexia and Other Reading Difficulties Amendment Act of 2020

- The Mayor's budget does not fund the bill
- We urge the Council to allocate \$272,000 for OSSE to implement this law.

District of Columbia Public Schools

Changes to the Uniform Per Student Funding Formula

- The Mayor's budget proposes \$11,720,000 through a 3.6% increase to the base amount as well as the creation of new weights for English Language Learners in secondary grades and a new weight for overage high school students.
- Our asks are: 1) to apply the new EL weight to students in both elementary and secondary grades, and 2) to increase the at-risk weight to 0.37 as recommended by the 2014 adequacy study and ensure the funds are used as intended.

Closing the Digital Divide

- The Mayor's budget proposes an investment of \$27 million for student and educator technology which includes achieves targeted student-device ratios based on age/grade and a 1:1 teacher-device ratio.
- Our ask is that the Council retain these funds to close the digital divide.

Learning Acceleration

- The Mayor's budget proposes an investment of \$33 million in student learning acceleration and social emotional supports.
- Our ask is that the Council retain this investment and commit to finding a sustainable funding source in future budgets.

Family Engagement

- The Mayor's budget proposes an increase of \$157,000 to the DCPS budget for the Office of Family and Public Engagement.
- Our ask is that the Council retain this increase.

Office of the Deputy Mayor of Education

Training for school security, school resource officers, and the MPD Youth Division

- The Mayor's budget proposes \$500,000 for this purpose
- Our ask is to reprogram this \$500,000 to the School Climate Fund within OSSE's budget so that OSSE can provide teachers and school staff with training in de-escalation, trauma-informed responses, restorative justice, and positive behavior interventions and supports.

Safe Passage

- The Mayor's budget proposes an investment of \$4,816,089 and 1.0 FTE from ARPA funds to expand Safe Passage. There is an additional investment in micro-transit routes found in the budget for the Department of For-Hire Vehicles.
- Our ask is that the Council retain these investments and commit to finding sustainable funding sources in future budgets.

Department of Behavioral Health

School-Based Mental Health Expansion Program

- The Mayor's budget proposes \$5,800,000.
- Our ask is for an additional \$841,000 in DBH's budget to ensure that one full-time clinician in each of the 83 DC public schools that do not yet have one.