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**Testimony before the District of Columbia Council
Committee on Education
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**Agency Performance Oversight Hearing:
Office of the State Superintendent of Education**

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Good morning Chairman Catania and members of the Committee. My name is Sharra E. Greer. I am the Policy Director of Children's Law Center¹ (CLC) and a resident of the District. I am testifying today on behalf of CLC, the largest non-profit legal services organization in the District and the only such organization devoted to a full spectrum of children's legal services. Every year, we represent over 2,000 low-income children and families, focusing on children who have been abused and neglected and children with special health and educational needs. Nearly all the children we represent attend DC public schools, whether traditional public schools, charter schools, or nonpublic special education schools funded by DC.

Since the Office of the State Superintendent of Education (OSSE) was created in 2007, it has made tremendous strides. OSSE has succeeded in developing much of the infrastructure necessary to support a well-functioning education system. Superintendent Mahaley Jones has shown dedication to improving outcomes for students and commitment to working collaboratively with community partners. Under her watch, OSSE has made progress toward a number of important goals, including expanding the availability of early intervention services for infants and toddlers and ensuring that all schools in DC have fair student discipline processes. OSSE has also accomplished a major overhaul of special education transportation, improving services sufficiently to allow the *Petties* class action lawsuit to close. There remains much more work to be done, however, to create a truly high-quality public education system in DC. I am going to focus my testimony today on special education and children with disabilities.

Too often when special education is discussed, it is in the context of how much money could be saved by bringing children back from nonpublic schools to DC and their local schools. This focus on costs and savings ignores the cause of the problem. DC has so many children in

nonpublic placements out of state because we do not have schools and programs that can serve them locally. We agree that, all things being equal, children should be educated close to home. It not only saves tuition and transportation costs, but also provides a better educational experience for children when they do not have to spend hours on a bus and they can go to school with peers in their local school community. But in this case all things are not equal: children with disabilities will only be able to succeed if their schools can provide the specialized supports they need. If DC is to succeed in significantly increasing the number of students with disabilities that can attend their local schools, it must develop specialized and well-resourced special education programs at those schools.

This is a long-standing and complex problem that cuts across agencies. Addressing it requires OSSE, the DC Public Schools (DCPS), the Public Charter School Board (PCSB), the individual public charter schools, and the Deputy Mayor for Education (DME) all to prioritize strategic planning and investment in special education. OSSE, as the State Education Agency (SEA), has a key leadership role to play. As the SEA, OSSE has the ultimate responsibility for DC's compliance with the Individuals with Disabilities Education Act (IDEA).² The IDEA requires that each eligible student with a disability be provided a free appropriate public education (FAPE), consisting of the particular specialized instruction and related services that each student needs in order to make educational progress.³ DC's education system presents distinct challenges for OSSE's oversight. Although there are only approximately 77,000 schoolchildren in DC,⁴ they are spread among the DC Public Schools (DCPS), approximately 50 public charter schools, and dozens of nonpublic schools and residential treatment centers. These

different schools vary widely in the demographics of the students they serve and in the resources they have available for students with special needs.

In its role as the SEA, OSSE is responsible for ensuring that children enrolled in all of these different programs receive the special education and related services they need. One promising step OSSE has taken in the past year to increase the availability of special education services is the development of a co-located program at Options Public Charter School that serves students with emotional disabilities referred by other charter schools. While we have had mixed experiences with this particular program, the model of co-locating classrooms to provide access to specialized services for students at smaller charter schools is the right approach. OSSE also reports making progress toward developing a State-Level Consortium to increase access to specialized related services such as assistive physical education or occupational therapy.⁵ In the coming year, OSSE should focus on expanding these and other programs to increase the availability of high-quality special education services in the DC schools. As the SEA, OSSE is uniquely positioned to globally assess the unmet needs of DC students and develop targeted plans to provide LEAs with the resources and technical assistance they need.

Expansion of Early Intervention (Part C of the IDEA)

One of the best ways to reduce the need for special education services is to catch developmental delays as early as possible. DC's Early Intervention Program (EIP) is designed to do just that. Early intervention services help infants and toddlers with disabilities catch up to their peers before they start school. Brain science research in the past decade has shown definitively that children's experiences during their first years of life set the groundwork for their future success. Children who do not receive the specialized support they need as infants

and toddlers have a much harder time making up lost ground later.⁶ However, when young children do receive the supports they need, the payoffs are enormous. Research on early intervention programs shows that they produce “long-lasting and substantial gains in outcomes such as special education placement[,] grade retention, high school graduation rates, labor market outcomes, social welfare program use, and crime.”⁷ RAND estimates that well-designed early childhood interventions generate a return to society ranging from \$1.80 to \$17.07 for every dollar spent.⁸

In recognition of the pivotal role that early intervention plays in helping today’s infants and toddlers grow up into successful adults, OSSE has proposed significantly expanding the pool of children served by DC’s Early Intervention Program (EIP). This is a smart and vital investment. OSSE has released draft regulations that expand the eligibility criteria for EIP so that it will serve approximately twice as many as the 477 children it currently serves,⁹ an important step forward for a system that has historically served a disproportionately small percentage of DC’s infants and toddlers.¹⁰ DC’s current eligibility criteria require infants and toddlers with disabilities to have at least a 50% delay in one or more areas of development in order to receive early intervention services,¹¹ which results in relatively few of the children who need intervention services being able to access them. In draft regulations first released last summer, OSSE proposed extending eligibility to include children with a 25% delay in two or more areas of development.¹² While this still puts DC behind at least 32 other states,¹³ it is an important step forward. If the proposed regulations go into effect, hundreds more infants and toddlers will receive the help they need to start school ready to learn. OSSE should finalize

these draft regulations as soon as possible and OSSE and the Council should work together to make sure that next year's budget includes the funding necessary to support the expansion.

Special Education Transportation

Since OSSE took on responsibility for DC's special education transportation, we have seen major improvements. Ryan Solchenberger, the Director of Transportation, and the skilled team he has assembled have brought welcome energy and innovative ideas to a system with a long history of dysfunction. Under Mr. Solchenberger's watch, OSSE has invested in new buses to replace outdated ones and for the first time has the capacity to track the location of buses with real-time GPS technology. Chronic issues such as buses that lack functional air conditioning during the hottest days of summer have largely been resolved. OSSE reports that the vast majority of buses are bringing students to school on time every day; in February 2013, 97.5% of buses arrived at school before the bell. Technical improvements allowed the special education transportation system to draw down \$664,292 in Medicaid revenue this past year.¹⁴ The long-running *Petties* class action lawsuit closed in December 2012 after the court monitor and judge agreed that DC had substantially improved its transportation operations.¹⁵

Our clients' experiences confirm that the transportation system is substantially improved, but they also show that there remains work to be done. In fall 2012, many of our clients were hours late for school and even missed entire days of school for weeks at a time because their buses were not correctly routed. Some clients were stuck at school because no bus came to pick them up. Some parents reported that when they called the Parent Call Center for information about their children's bus routes they were put on hold for long periods of time or given inaccurate information. Transportation problems don't just make children miss

instructional time. They can also endanger the health and wellbeing of children with emotional and physical disabilities. Among our clients are a child with diabetes who arrived home from school late with dangerously high blood sugar levels and a child with autism who came home from school with self-inflicted wounds when the aide on his bus failed to properly supervise him. Most of these problems have abated as the school year has gone on, and many of the problems were caused by DCPS or the charter schools failing to send accurate and timely information to OSSE rather than by an error on OSSE's part, but when seen as a whole they indicate that the Transportation Department has not yet reached the very high level of reliability that is necessary to protect the health of children and ensure that they attend school regularly.

OSSE has thoughtful and appropriate plans in place to address many of the remaining systemic issues that we have identified. For example, OSSE is designating call center representatives as points of contact for each school and developing an electronic system to make it easier for schools to submit updated transportation requests. OSSE is developing a system for bus drivers to record electronically which students have boarded the bus. This will help the agency better track students' locations and will also support its claiming of federal Medicaid revenue. OSSE is also developing an online customer feedback form to make it easier for parents to communicate their concerns to the agency. We trust that these initiatives will bring the Division of Transportation to an even higher level of performance in the coming year.

School Discipline

In addition to increasing the array of special education programs in the local schools, OSSE should focus on making sure that schools do not push out students with disabilities.

National data shows that students with disabilities are disproportionately suspended and expelled from school¹⁶ and our clients' experiences show that DC is no exception. We have found that some of the LEAs have discipline policies that unfairly penalize special education students. OSSE has several times issued proposed regulations to create a floor of procedural protections that all DC schools must provide to students before suspending or expelling them. OSSE should finalize these regulations this coming year. Without regulations to govern the LEA's school discipline policies, students will continue to be inappropriately suspended and expelled. This is deeply problematic because children who are suspended or expelled often fall behind in their classes and lose the benefit of the supportive relationships they have developed with teachers, school staff, and peers. Research shows that suspensions and expulsions may actually increase the likelihood that students will misbehave in the future, become truant, and fail to graduate.¹⁷ The stakes are too high for OSSE not to act.

Oversight of Nonpublic Schools

As well as overseeing DCPS and the public charter schools, OSSE oversees the nonpublic schools and residential treatment centers where DC children are placed when their local schools cannot accommodate their disabilities. In the past year, OSSE has expanded its role in placing children with disabilities in nonpublic schools and residential treatment centers. Previously, OSSE's Placement Oversight Unit was responsible for placements for children with disabilities if those children attended independent charter schools (i.e., charter schools that act as their own LEA for special education purposes). OSSE's Placement Oversight Unit now is also responsible for placing children who attend DCPS and the charter schools that have elected to have DCPS serve as their LEA. As OSSE continues in this role, OSSE should increase its

oversight of the curricula provided by the nonpublic schools and residential treatment centers. We have found, for example, that some of the schools do not offer courses required for a DC high school diploma. Some schools also enroll students in courses for which DCPS will not give them credit. It's not fair to send students to a school that cannot provide the courses they have to take in order to graduate. When OSSE considers which school can meet a students' needs, OSSE should take into consideration the specific courses offered by the school.

District-Wide Data Collection and Sharing

DC has struggled for years to create a functional database that can track students as they move between schools and advance from grade to grade. Without the capacity to track, for example, whether a student who withdrew from one school has enrolled in another, OSSE has been severely limited in its ability to monitor students' progress and how well schools are functioning. A well-functioning and comprehensive data system is critical if OSSE is to track the information necessary to guide its oversight of DC's public education system. I understand that OSSE has made substantial progress in the development of the state-wide longitudinal educational database and I hope that we will see the effects of this progress in the coming year.

As well as sharing information between education agencies, it is also necessary to share information between the education agencies and the other child-serving agencies. In particular, OSSE and the Child and Family Services Agency (CFSA) need to share data in order to track the educational progress of children in foster care. At this point, to our knowledge, CFSA and the education agencies do not have a way to track whether DC wards advance from grade to grade, change schools, or graduate. This information must be collected and shared in order to provide

CFSA and the education agencies with the data necessary to guide the development of programs to serve this especially vulnerable population of students.

Graduation Requirements

Finally, OSSE, the LEAs, and the State Board of Education should work together to standardize high school graduation requirements. The many different LEAs in DC have different requirements for high school graduation. While this does allow LEAs to offer innovative curricula, it also creates serious problems for students who change LEAs. Many students in DC are transient: OSSE reports that approximately 2,800 students attending DCPS and the charter schools are homeless.¹⁸ There are approximately 1,700 children in the care of CFSA in out-of-home placements and approximately 900 of these children are high-school aged.¹⁹ In total, homeless students and students in foster care account for as much as 5-10% of the total student population. Many of these students must change schools frequently through no fault of their own. They should not have to lose credits when they involuntarily change schools, but often one LEA refuses to accept credits from another. LEAs also sometimes refuse to accept credits earned in Maryland public schools, which causes problems for the many children in foster care who are moved by CFSA from foster homes in Maryland to foster homes in DC. OSSE and the State Board of Education should focus in the coming year on standardizing graduation requirements and credit transfer policies so that all students receive credit for the courses they take.

Conclusion

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

¹ Children’s Law Center works to give every child in the District of Columbia a solid foundation of family, health and education. We are the largest provider of free legal services in the District and the only to focus on children. Our 80-person staff partners with local pro bono attorneys to serve more than 2,000 at-risk children each year. We use this expertise to advocate for changes in the District’s laws, policies and programs. Learn more at www.childrenslawcenter.org.

² 20 U.S.C. § 1412(a)(11)(A)(i).

³ 20 U.S.C. § 1412(a)(1)(A).

⁴ OSSE FY 2012 Oversight Responses, Q3, p. 35. By comparison, the Chicago Public Schools serve over 400,000 students. http://www.cps.edu/about_cps/at-a-glance/pages/stats_and_facts.aspx.

⁵ OSSE FY 12 Performance Oversight Responses, p. 620.

⁶ See, e.g., 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,” Jack Shonkoff et al, Feb. 2003; Robert Wood Johnson Foundation, “Early Childhood Experiences: Laying the Foundation for Health Across a Lifetime,” March 2011.

⁶ 34 C.F.R. § 303.321(c).

⁷ “Proven Benefits of Early Childhood Interventions,” RAND Corporation Research Brief, available at http://www.rand.org/pubs/research_briefs/RB9145/index1.html.

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⁹ OSSE FY 12 Performance Oversight Responses, p. 608.

¹⁰ OSSE’s Part C State Annual Performance Report for FFY 2010 indicates that as of Dec. 1, 2010, DC’s Early Intervention Program served 1.94% of the District’s population of infants and toddlers, well below the national average of 2.82%. The incidence of disability in the District is likely higher than 2.82% because of the District’s characteristics as an urban jurisdiction. In FFY 2009, DC had served only 1.42% of infants and toddlers.

¹¹ OSSE “Comprehensive Child Find System” Policy, March 22, 2010, p. 4. Under this current policy, children may also be eligible for early intervention services based on having a diagnosed medical condition with a high probability of developmental delay or demonstrating a need for early intervention services through informed clinical opinion.

¹² Proposed 5 DCMR § A-3108.3(b).

¹³ At least 32 other states extend eligibility to children with a delay of less than 50% in one area of development. Of those states, 17 – including Maryland and Virginia – extend Part C eligibility to children with a 25% delay in one area of development. Additionally, six states extend eligibility to children who are “at risk” of developmental delay, as permitted by the Individuals with Disabilities Education Act (IDEA). These children may be at risk of developmental delay because of biological and environmental factors including low birth weight, nutritional deprivation, or a history of abuse or neglect.

¹⁴ OSSE FY 12 Performance Oversight Responses, p. 75.

¹⁵ “Judge dismisses long-running Petties case, gives final approval to D.C. control of special-ed buses,” Emma Brown, *Washington Post*, Dec. 19, 2012, available at http://www.washingtonpost.com/blogs/dc-schools-insider/post/judge-to-dismiss-long-running-petties-case-give-final-approval-to-dc-control-of-special-ed-buses/2012/12/19/5ef3e296-49fc-11e2-ad54-580638ede391_blog.html.

¹⁶ See, e.g., Connecticut Appleseed, “Keep Kids in School: Improving School Discipline,” p. 4, available at <http://www.ctappleseed.org/pdfs/S2PP-ExecutiveSummary.pdf>; Texas Appleseed, “Texas’s School to Prison Pipeline: Dropout to Incarceration,” 2007, p. 5, available at <http://www.texasappleseed.net/pdf/Pipeline%20Report.pdf>.

¹⁷ See, e.g., “Putting Kids Out of School: What’s Causing High Suspension Rates and Why They Are Detrimental to Students, Schools, and Communities.” Open Society Institute—Baltimore. “Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement,” Justice Center: The Council of State Governments and Public Policy Research Institute, July 2011.

¹⁸ OSSE FY 12 Performance Oversight Responses, p. 531.

¹⁹ See *LaShawn A. v. Gray* Progress Report for the period January 1-June 30, 2012, pgs. 99-10, November 21, 2012.