



Testimony before the District of Columbia Council
Committee of the Whole
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Performance Oversight Hearing
Office of the State Superintendent of Education

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Good afternoon Chairman Brown and members of the Council. My name is Sharra E. Greer. I am the Policy Director of DC's Children's Law Center¹ (CLC) and a resident of the District of Columbia. 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 1,200 low-income children and families, focusing on children who have been abused and neglected and children with special health and educational needs.

I appreciate the opportunity to testify today about the performance of the Office of the State Superintendent of Education (OSSE). In the past year, OSSE has continued to make substantial progress toward improving the education system in the District of Columbia. OSSE also continues to be a model agency in its openness to community feedback and its well-organized policy-making process.

I do, however, have some concerns, particularly with regard to special education. OSSE needs to continue working with DC Public Schools (DCPS) and the charter schools to develop a range of robust and effective special education programs within the public school system. This is necessary in order to reduce the number of students sent to expensive and distant nonpublic schools. In addition, OSSE needs to ensure that DC's special education transportation system functions adequately and that the local education agencies (LEAs) are fully aware of their responsibilities with regard to special education. OSSE also needs to bolster the Early Intervention Program (EIP) for infants and toddlers to ensure

¹Children's Law Center works to give every child in the District of Columbia a safe home, meaningful education and healthy life. As the largest nonprofit legal services provider in the District, our 70-person staff partners with hundreds of pro bono attorneys to serve 1,200 at-risk children each year. Applying the knowledge gained from this direct representation, we advocate for changes in the city's laws, policies and programs. For more information, visit www.childrenslawcenter.org.

that all young children with disabilities are identified and provided with the services they need. Finally, OSSE needs to fully staff its policy team, which currently has only one staff person and three vacancies, so that the agency can continue its important work of clarifying and revising local regulations.

Special Education

Special Education Capacity within the Public Schools

The most pressing problem facing DC's special education system is the lack of high-quality special education programs within the public schools. Thousands of DC schoolchildren must attend nonpublic schools outside of their neighborhoods because our local public schools do not have sufficient programs to address the needs of children with more serious disabilities. Not only is it often damaging to children to be transported and educated far from their local community and peers; the tuition costs for nonpublics, compounded by the costs of transporting children to those schools, is a tremendous burden on the District's education budget. The only viable way to have more children in their local schools is by developing effective programs in the public schools. If children are removed from nonpublics before the public schools have the capacity to educate them, then DC will suffer as thousands of students drop out of school or graduate without learning the skills they need to support themselves as adults. I urge OSSE to continue to take a leadership role in encouraging the public schools, both DCPS and the charters, to develop a broad array of effective special education programs.

Special Education Transportation

DC's special education transportation system is not yet functioning adequately. For the past several years, it was operated by a transportation administrator appointed by the judge overseeing the *Petties v. District of Columbia*, No. 95-00148 (*Petties*) class action lawsuit.

The court returned responsibility for operating the special education transportation system to OSSE before the beginning of this school year. During the first month of school, only approximately 60% of the buses arrived on time.² My office documented numerous instances where children spent two or even three hours on the bus going to and from school. Some of these children had serious physical disabilities that made such long bus rides particularly harmful. It is my understanding that some children still have overly long bus rides because OSSE still does not have a sufficient number of buses in service. In order to prevent children from arriving late for school and spending hours on the bus, OSSE needs to ensure that it has a sufficient number of buses, its bus fleet is in good maintenance, and its routing system is working smoothly. While we share the goal of having court monitoring of DC's special education transportation system end, OSSE has demonstrated that it is not yet able to operate an effective system. We believe that OSSE needs to be monitored into the start of the next school year when it can hopefully demonstrate the ability to run the system.

Training and Oversight of Local Education Agencies (LEAs)

CLC appreciates OSSE's efforts to provide clear guidance to LEAs about their role in providing special education. I also appreciate that OSSE has increased its oversight of the LEAs to ensure that they comply with their legal obligations under federal special education law. In our work, however, my colleagues have found that some LEAs still do not appear to understand their obligations fully. I encourage OSSE to continue its outreach to the LEAs through written guidance, site visits, and other forms of technical assistance.

Early Intervention

² Letter from David Gilmore, Supervising Court Master, to Hon. Paul L. Friedman, Dec. 13, 2010, p. 2.

The Early Intervention Program (EIP) for children with disabilities from birth to age three continues to have serious weaknesses. In Fiscal Year 2009, the EIP served only .57% of infants aged birth to 1 (the program's target was 1.40%) and only 1.42% of children aged birth to 3.³ While EIP is improving outreach, there is still a long way to go to ensure that key people such as pediatricians and child care providers not only know about the program and how to contact it, but also feel confident that if they do refer a child it will be worthwhile for the family. Even after children are referred, there are not sufficient providers to perform the full range of necessary evaluations. In particular, there is not sufficient capacity to perform developmental or psychological evaluations. Waiting lists for these evaluations are often six months long. This delay violates the federal law that requires evaluations to be completed within 45 days⁴ and, more importantly, causes real harm to children. Making children wait for needed evaluations defeats the purpose of Early Intervention, preventing them from receiving services when they would be most effective.

The program still has issues that must be resolved regarding funding for services. Providers continue to report long delays in receiving payments for such services as doing evaluations and writing service plans. As we struggle to recruit and retain enough qualified providers to meet the needs of our children, payment delays such as these are unacceptable. Providers also note that payment rates have not kept pace with fair market rates and this is something that EIP needs to examine more fully to see whether it is a barrier to children receiving services. In addition, Medicaid funding may not be being maximized. OSSE needs to ensure that the EIP is working with the Department of Health Care Finance to resolve these funding issues.

³ Office of the State Superintendent of Education, DC Early Intervention Program, FFY09 State Performance Plan Annual Performance Report Submissions, SPP/APR Indicator 5 & 6.

⁴ See 34 CFR § 303.321(e)(2)

Policy-making

One of the primary reasons OSSE has been able to make the significant progress is the strong work of the Special Education policy staff. Currently, OSSE has three vacancies on this team. It is simply not possible for the one person currently assigned to draft all of the regulations, policies, and guidance necessary to bring the District into compliance with federal requirements and to ensure that the state and local education agencies operate smoothly. We are aware of the significant budget crisis in the District and the current hiring freeze, however we urge that OSSE be allowed to fill these positions. Slowing or delaying the work of bringing the schools into compliance with federal and local law will cost more in the short and long run.

Conclusion

Despite the above concerns, I want to again applaud OSSE for the positive steps the agency continues to take to improve the District's education system.

Thank you again for the opportunity to testify. I am happy to answer any questions.