



Testimony before the District of Columbia Council
Committee of the Whole
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Public Hearing:
Proposed Fiscal Year 2013 Budget
District of Columbia Public Schools and the Office of the State Superintendent of Education

Judith Sandalow
Executive Director
Children's Law Center

Good morning Chairman Brown and members of the Council. My name is Judith Sandalow. I am the Executive 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 more than 1,200 low-income children and families, focusing on children who have been abused and neglected and children with special health and educational needs. The majority of the children we represent are enrolled in the District of Columbia Public Schools (DCPS) and a large percentage of them have disabilities that make them eligible for special education.

I appreciate this opportunity to testify regarding the proposed FY 2013 budgets for the District of Columbia Public Schools (DCPS) and Office of the State Superintendent of Education (OSSE). I will testify separately on my observations and concerns for each agency.

District of Columbia Public Schools (DCPS)

Regarding DCPS, I will focus my comments largely on the special education budget, which has been noticeably underfunded for FY 2013. Although the Mayor stated in his budget overview on March 23, 2012 that \$40 million in Non-Public Tuition savings was directly reinvested into inclusive public education,² we see no evidence that this has occurred. Looking at the special education budget as written, what has actually occurred is an overall cut of more than \$200,000 and 222.2 Full Time Equivalent (FTEs).³

Chairman Brown, during DCPS’ oversight hearing last month you raised the concern that money “saved” by moving children from non-public schools to public schools was not being reinvested in special education – or education at all. We raise that concern again here today because, unfortunately, as we read the current DCPS budget we do not see a reinvestment for our students with special education needs, we see a reduction.

These significant cuts are being proposed at a time when DCPS anticipates special education enrollment to increase by 13%, or 895 students, as a direct result of “continued efforts to transfer Non-Public Tuition students into the District’s public school system.”⁴ Of that total number of new special education students, the majority, 696, are among the very highest needs children.⁵

Exactly where the cuts have been made and the full impact on special education is difficult to determine because the budget has been restructured. For this reason, I will raise concerns which I hope, Mr. Brown, you will explore when the Chancellor and her staff testify.

One of the most significant and troubling cuts in the proposed budget is to Special Education Instruction. The DCPS budget proposes a \$13 million cut to instruction and a reduction of 309.3 full time equivalents (FTE’s).⁶ These are huge, undefined cuts, which have the potential to affect every special education program and every child with special needs in the District.

There are other areas of the budget which requires further explanation as well.

- (1) A new line item for \$16 million dollars in special education capacity building;⁷
- (2) the increase in the inclusive academic programs line item by \$7.8 million dollars; and⁸
- (3) the reduction in the related services line item by \$456,300.⁹

We would note, however, that no matter what the explanation for the shifts in funding, these are simply line items in the larger special education budget which reflects a cumulative cut.¹⁰

The 2013 forecast is bleak for students with special needs. Despite the projection that there will be 895 additional students in need of special education services, the total special education budget has been reduced. The District has an obligation to educate all of its students – those with and those without disabilities. This proposed budget fails to do so.

Office of the State Superintendent of Education (OSSE)

Turning now to the Office of the State Superintendent of Education (OSSE) - I want to first thank OSSE for hosting a budget briefing this past Monday, March 26. Especially considering the

short turnaround between release of the Mayor's budget and this hearing, OSSE's willingness to engage in public dialogue and answer questions was instrumental in helping advocates and the public at large understand the specifics of the proposed budget. The answers provided at the briefing addressed many of our concerns. Therefore, today I want to focus on just two issues: the expansion of early intervention and special education transportation.

As you know, OSSE is the Agency responsible for the Early Intervention Program (EIP), which administers Part C of the Individuals with Disabilities Education Improvement Act (IDEIA) for infants and toddlers ages 0-3. We have been encouraged by the steps OSSE has taken to improve the EIP and have been looking forward to continued growth in this area. In our oversight testimony, we addressed OSSE's progress in the EIP through the launch of Strong Start in the Summer of 2011 and the push toward expanding the criteria for eligibility for Part C services. I will not repeat that entire testimony here, but as you know these are initiatives that we strongly support. As the District contemplates ways to reduce special education costs, these investments are an effective way to do it. The earlier children are identified as having special needs, the more we can do to ensure their success and the less money we will spend in the long run.

An analysis of Illinois' Early Intervention Program illustrates this point. A 2011 study of the Illinois investments in school readiness and early intervention for children ages 3-5 found significant savings and revenue.¹¹ Over the course of their 23-year-program, estimates range from savings of \$353 to \$530 million dollars. Among many other savings, they highlight a specific savings of \$21.9 million to \$32.9 million directly related to early intervention for children with disabilities.¹²

As we mentioned during our oversight testimony, OSSE acknowledges this potential and is trying to move in this direction. The Strong Start program aims to increase the number of children with disabilities who are identified early in the District, by raising awareness of the EIP program and getting parents to consider the possibility of early childhood disabilities.¹³ Further, we have been

encouraged by OSSE's desire to move DC's eligibility requirements more in line with definitions seen nation-wide.¹⁴ Recognizing that there are long-term cost savings and tangible benefits to children when they are identified as having special needs at the earliest possible time, this investment would benefit children, families and the city.¹⁵ Currently, in order to qualify as a child with a disability under Part C in the District of Columbia, a child must have a 50% delay in one or more domains of development.¹⁶ While new regulations have not been released, it is our understanding that this definition would be broadened significantly.

Both of these initiatives require funding to succeed. The Strong Start program has already begun, which means that enrollment is likely to increase. This, coupled with the proposed change in the eligibility requirements, would involve considerable front end investment. Although we acknowledge that the proposed FY 2013 budget calls for Idea Part C Early Intervention Program EIP to receive an increase in funding of \$258,000 and two additional FTEs,¹⁷ this increase will be completely inadequate to meet the increased demands of the expanding EIP program. Unfortunately, we only received the budget numbers on Friday March 23rd and are just starting to look closely to identify possible solutions for the funding shortage. We intend to continue to do so in the coming weeks and hope the Council will join us in this effort.

Lastly, I will address the Department of Student Transportation. OSSE has proposed to significantly restructure the Special Education Transportation Program. While we are still waiting to learn additional details about the program, we are optimistic that the redesign will help to more effectively address problems and streamline solutions. The proposal will move the Department from four (4) divisions with the bulk of the budget concentrated in the central office, to seven (7) divisions with a more even distribution of funds, and the most significant portion going toward Terminal Operations. We also understand that OSSE intends to purchase several multi-use vans that can be substituted for the current school buses.¹⁸ These vans will be far more cost efficient than the

old busses, carry less of a stigma of riding on special education transportation and may be available for uses in addition to morning and afternoon bus routes.¹⁹

We are encouraged at the progress that has been made in special education transportation, but concerns do remain about efficient operation. Our clients are still seeing delayed pickups and drop offs resulting in considerable challenges for parents and students. As this redesign moves forward we urge OSSE to get stakeholder feedback, continue to be transparent in their implementation of the plan and roll out the new initiative in advance of the 2012-2013 school year, so there is ample opportunity to test its efficacy before the most challenging time of the year for the Transportation Department. We see this as promising and look forward to partnering with OSSE on this new development.

Conclusion

I urge the Council to ensure that the investments in special education and early intervention match the demonstrated need in this city. The Mayor's proposed budget reduces funding for children with special needs while simultaneously predicting a significant increase in enrollment. While we acknowledge the District's fiscal constraints, underfunding special education will ultimately cost taxpayers more money and will rob the District of the potential of the next generation.

Thank you and I look forward to answering your questions.

¹ Children'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 over 80-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.

² Mayor Vincent Gray, Mayor's Press Briefing on Proposed FY2013 Budget March 23, 2012. *See also* FY 2013 Budget Overview pg 5.

³ District of Columbia Public Schools FY 2013 Proposed Budget and Financial Plan, FY 2013 Proposed Operating Budget and FTEs, by Division and Activity, Subtotal (3000) Special Education Local.

⁴ District of Columbia Public Schools FY 2013 Proposed Budget and Financial Plan, Initial Adjusted Budget pg D-13.

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- ⁵ *See id.* Noting that Of the 895 projected new students, 394 of them are Level 4 and 302 are Level 3
- ⁶ District of Columbia Public Schools FY 2013 Proposed Budget and Financial Plan, FY 2013 Proposed Operating Budget and FTEs, by Division and Activity, Subtotal (3000) Special Education Local, Line Item 3030 Special Education Instruction.
- ⁷ District of Columbia Public Schools FY 2013 Proposed Budget and Financial Plan, FY 2013 Proposed Operating Budget and FTEs, by Division and Activity, Subtotal (3000) Special Education Local, Line Item 3510 Special Education Capacity Building.
- ⁸ District of Columbia Public Schools FY 2013 Proposed Budget and Financial Plan, FY 2013 Proposed Operating Budget and FTEs, by Division and Activity, Subtotal (3000) Special Education Local, Line Item 3340 OSE Inclusive Academic Programs.
- ⁹ District of Columbia Public Schools FY 2013 Proposed Budget and Financial Plan, FY 2013 Proposed Operating Budget and FTEs, by Division and Activity, Subtotal (3000) Special Education Local, Line Item 3330 OSE Related Services.
- ¹⁰ District of Columbia Public Schools FY 2013 Proposed Budget and Financial Plan, FY 2013 Proposed Operating Budget and FTEs, by Division and Activity, Subtotal (3000) Special Education Local.
- ¹¹ *Cost savings analysis of school readiness in Illinois*, prepared by Wilder Research for Ounce of Prevention Fund, Illinois Action for Children, and Voices for Illinois Children, May 2011.
<http://voices4kids.org/issues/files/IllinoisEarlyChildhoodROI511.pdf>
- ¹² *See id* at page 5.
- ¹³ Strong Start Campaign <http://osse.dc.gov/service/strong-start-campaign>.
- ¹⁴ Shackelford, J. (2006). State and Jurisdictional Eligibility Definitions for Infants and Toddlers with Disabilities Under IDEA. *NECTAC Notes*, 21. <http://www.nectac.org/~pdfs/pubs/nnotes21.pdf>. Noting that most states have a broader definition for eligibility criteria than DC.
- ¹⁵ *See Cost savings analysis of school readiness in Illinois*, prepared by Wilder Research for Ounce of Prevention Fund, Illinois Action for Children, and Voices for Illinois Children, May 2011.
<http://voices4kids.org/issues/files/IllinoisEarlyChildhoodROI511.pdf> *See also* Infant Development Association of California, Benefits of Early Intervention on the cross state survey of financial benefits for early intervention <http://www.idaofcal.org/doc.asp?id=277>.
- ¹⁶ *See* Notice of Proposed Rulemaking District of Columbia Register Vol.56-No.38, A3208.3(a-c), September 18, 2009. *See also*, OSSE Memo on Comprehensive Child Find System, from former State Superintendent of Education Kerri L. Briggs. A child will be determined eligible for Early Intervention Services if that child “1. Has a diagnosed medical conditions with a high probability of developmental delay, including but not limited to, Down’s Syndrome, cerebral palsy, autism, visual impairment/blindness, or hearing impaired/deafness; or 2. Shows a 50 percent delay in one or more areas of development, including cognition, communication, adaptive social-emotional, or physical (including motor and sensory), or 3. Demonstrates a need for early intervention services through informed Clinical Opinion. Informed Clinical Opinion makes use of qualitative and quantitative information to assist in forming a determination of a child’s abilities and needs within their natural environment. Natural environment means the settings that are natural or normal for the child’s age and their non-disabled peers; for example, home, neighborhood, or community settings.”
<http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Comprehensive%20Child%20Find%20System%20%E2%80%93%20FINAL%20March%202022%2C%202010.pdf>.
- ¹⁷ Office of the State Superintendent of Education, FY 2013 Proposed Budget and Financial Plan, FY 2013 Proposed Operating Budget and FTEs, by Division and Activity, Subtotal (D900) Special Education, Line Item D903Idea Part C Early Intervention Prgm Eip. D-36.
- ¹⁸ Hosanna Mahaley, State Superintendent of Education at the Budget Briefing for the FY2013 proposed budget with the Office of the State Superintendent of Education 3/26/2012.
- ¹⁹ *See id.*