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Testimony Before the District of Columbia Council  
Committee on Education  
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Public Roundtable:  
The State of Special Education Services in the DC traditional and public charter schools  
and the "OSSE Enhanced Special Education Services Act of 2014: Implementation  
Report to the Council of the District of Columbia" report

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## INTRODUCTION

Good morning Chairperson Grosso and members of the Committee on Education. My name is Renee Murphy. I am a Supervising Attorney in the Policy team at Children's Law Center<sup>1</sup> and a resident of the District. I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. We represent about half of DC's children in foster care, many of whom have special educational needs, but also represent children referred to us by health care providers because of special educational needs.

Thank you for holding this hearing about special education services in public schools across the District, and specifically for focusing on implementation of the reforms from the 2014 special education reform acts that need to be fully enacted. The children in our schools today will only be this age once. They do not get extra time or a do-over, so they need the District to make reforms now. We are aware of some progress in initiatives for children with disabilities including

- OSSE issued the first Special Education Enhancement Fund competitive grants, to fund new projects and collaborations.

- DCPS's Chancellor Wilson has stated that he asks his leadership regularly about how children with disabilities will be impacted.<sup>2</sup>
- DCPS's strategic plan goal that all children in kindergarten through second grade must be reading on grade level includes children with disabilities. We have heard from DCPS that they are making plans to include the intensive assessment of each particular child's reading needs in order to achieve this goal.

However, the focus of my testimony today is on the continuing dismal outcomes for children with disabilities, implementing the long-needed reforms from the 2014 special education reform laws, our request that the Council fund a comprehensive needs assessment and plan, and meeting the needs of several groups of very vulnerable children with disabilities. Before turning to those concerns, we must thank you for including a wide group in discussions about school discipline reform over the last several months. Out-of-school exclusions continue to disproportionately impact children with disabilities in DC, so that conversation cannot be untangled from discussions about special education. We appreciate Chairman Grosso and the Committee for your continuing work on reducing lost learning time that students, including students with disabilities, suffer when excluded from school.

## **Outcomes for Children with Disabilities Remain Heartbreaking**

Unfortunately, the situation for children and families is not much different than the last Public Roundtable on the State of Special Education Services a year ago, or even from the one in 2013. We know that improving the outcomes for children with disabilities is not easy, but we are not seeing the acceleration of progress needed. DC's children with special needs continue to have abysmal academic performance and graduation outcomes and slow progress in proficiency. The Partnership for Assessment of Readiness for College and Careers (PARCC) proficiency scores of students with disabilities are barely less bleak than a year ago, a scant one percent improvement. Six percent are proficient in English/Language Arts (ELA) and seven percent in Math, compared to 31% ELA and 27% Math for students not in special education.<sup>3</sup> There has been some progress in lifting children out of Level 1 on the PARCC, but 58% of children with disabilities are at still at that lowest score level in ELA, compared to only 25% of all students. Forty-seven percent (47%) of children with disabilities are still at that lowest level in math, compared to only 21% of all students.<sup>4</sup> At the current rate, it will be over 40 years before even half of DC's children with disabilities are proficient. Children in our schools will be grandparents by that time. Reported graduation rates have improved, but the dismal proficiency rates of eighth grade and high school students with disabilities raise questions about whether students are being passed along. Sadly, post-graduation outcomes got slightly worse, and only 33% of graduated DCPS

students with disabilities were enrolled in any post-secondary school or training or employed within one year.<sup>5</sup>

Behind the statistics are children and parents. At Children's Law Center, we receive calls every day from parents who are worried that their children are not learning to read, not learning math, being sent home instead of getting help with their emotional needs, and not going to be prepared for adulthood. For many of the children, the truth is that they are not making meaningful progress and are many years behind. Too many of the children we see in middle and high school are still only able to read and do math at early elementary levels, and their teachers and school leadership do not seem to know how to help. Some of them have never been diagnosed with a disability, despite how obvious the child's severe needs are and, at times, despite the parent asking for special education. Other children are in special education, just not receiving the services they need to make progress. Parents are upset and scared about the future as their child falls further and further behind.

### **DC Needs to Fund the 2014 Special Education Reforms**

Children with disabilities need DC to commit the resources that they need to succeed in the upcoming Fiscal Year 2019 Budget and fully fund the *Enhanced Special Education Services Act of 2014* and the *Special Education Quality Improvement Act of 2014*. Their needs have already been put to the side in the past two fiscal years. Every year that both branches of DC government delay, more children fall further behind.

*Evaluate Children to get Special Education Services Faster*

Specifically, once funded, the *Enhanced Special Education Services Act of 2014* requires LEAs to evaluate and diagnose students within two months rather than more than a semester. Currently, schools have 120 days to complete the evaluation, the longest timeline in the nation.<sup>6</sup> The impact that faster diagnosis and thus faster services will have on students cannot be understated.

Fortunately, OSSE and schools have been getting ready. We know that DCPS evaluators are operating on a 45-day deadline for their evaluation reports to be done.<sup>7</sup> OSSE also released over \$3,500,000 as formula grants to LEAs to help them prepare for faster evaluations. Because of Federal law, that investment of local dollars must continue after this year,<sup>8</sup> so we believe that part of the cost of this reform is now committed.

We appreciate that OSSE continues to voice commitment to fully implementing the faster evaluation deadline in July 2018, but are concerned that the cost estimate is still inaccurate, and OSSE could not tell us an updated accurate cost as of last week. As we said last year, the amount of funding in the original Fiscal Impact Statement appears more than sufficient to cover the entire cost of every evaluation, not just a cost-differential to complete them faster.<sup>9</sup> All the education agencies have now had over three years since the passage of the Acts to better analyze need and cost. Confusion

about cost cannot be the reason that the proposed budget does not include full implementation for another year.

**Recommendation:** We urge the Committee to get the executive to give a firm answer about the fiscal impact now and firm commitment to fund the reform in a clear separate budget line in the Mayor's budget proposal.

*Plan Earlier for Life After High School*

The *Enhanced Special Education Services Act of 2014* also requires LEAs to start planning about the student's future, called transition plans, in eighth grade. Under federal special education law, schools are obligated to develop "transition plans" for special education students between ages 16 and 22 years old to help them prepare for life after high school.<sup>10</sup> Recognizing the importance of these transition activities, the *Enhanced Special Education Services Act of 2014* lowers the age at which transition planning must begin to age 14. This change was to be effective July 2016, but a small amount of funding was not included in OSSE's last budget.<sup>11</sup> For eighth graders, this will allow planning for high school opportunities suited to the child's interests and ensure that the child and parents learn about the options for diploma coursework.<sup>12</sup>

Again, fortunately, despite the lack of clearly appropriated funds, OSSE and the LEAs have been getting ready. OSSE began offering training to middle schools on transition planning in school year 2015-16 and the Secondary Transition Community of Practice included a Working Group and Focus Group of middle schools last year.<sup>13</sup>

DCPS began implementing last year and has a Middle School Transition Coordinator this year.<sup>14</sup> In addition, via the Special Education Enhancement Fund Formula grants issued this October 1, 2017 to help LEAs with both faster evaluations and earlier transition planning, OSSE released more than enough funding to LEAs for this reform.

**Recommendation:** The original Fiscal Impact Statement for this reform was only \$155,000, and given the effort already expended by OSSE and the release of the SEEF grant funds to LEAs, we believe that the agency and the CFO should be able to state that funding has already been adequate to satisfy the original FIS.

#### *Expand Strong Start/Early Intervention Services*

Funding the expansion of the Strong Start/DC Early Intervention Program from the Act will also assist schools with special education. In DC, too many babies and toddlers have unaddressed developmental delays and as a result start school behind. The good news is that 46 percent of children who get early intervention services completely catch up and several years later they are still doing as well as peers, according to national research.<sup>15</sup> Children who do not receive the specialized support they need as infants and toddlers have a much harder time making up lost ground later.<sup>16</sup>

Under the *Enhanced Special Education Services Act of 2014*, children who are 25% delayed in one area of development would have become eligible for DC EIP in July



2017, if expansion had been funded. This reform would finally bring DC's eligibility in line with most states.<sup>17</sup> Children with this milder 25% delay are likely to catch up to peers, if they receive early intervention services.<sup>18</sup> This is a truly effective way to start children strong.

We are very pleased that Elizabeth Groginsky and her team support accomplishing the expansion in July 2018. The Strong Start program has done a lot of work on best practices and has experienced leaders.<sup>19</sup> However, we have not been able to discover the current Fiscal Impact estimate.

**Recommendation:** We urge the Committee to get firm answers about the current cost estimates and how OSSE is calculating them, in order to ensure that funding will be included in the Mayor's proposed budget.

*Fund the Special Education Enhancement Fund Ongoing*

Lastly, the *Special Education Quality Improvement Act of 2014* established a Special Education Enhancement Fund (SEEF). The SEEF is to provide additional funding for capacity expansions, including partnerships, collaborations, satellite classrooms for specific high-needs students, joint training, and development of programs for overage youth with intensive special education needs. This summer, OSSE started a competitive grant with part of the accumulated SEEF funding. OSSE received over 40 statements of intent to apply, about 20 completed grant applications, but was only able to fund six projects.<sup>20</sup> Schools and partners clearly want and need additional SEEF money to

improve their work on behalf of students with disabilities. Schools and children need the District to commit ongoing funding so that schools can implement their innovative projects and partnerships.

**Recommendation:** We call on this Committee to commit ongoing funding if the Mayor's proposed budget does not.

**DC needs a Comprehensive Needs Assessment and Comprehensive Plan for Special Education in All Public Schools**

The great demand for the SEEF grant funding and the achievement gap highlight that capacity within our public schools to provide effective, appropriate education for students with disabilities remains a key issue. Students with disabilities have a great variety of different strengths and needs, so the IDEA requires that each LEA offer an array of services and settings, from fully-inclusive general education with necessary supports, to pull-out smaller groups in the school, all the way to specialized separate schools. Some children who would be considered "in inclusion" need fully co-taught classrooms providing specialized instruction in all areas. Some children need intensive evidence-based reading instruction focused on their specific weaknesses in very small groups in order to learn to read. Some children cannot function in the noise and bustle of a mainstream school building, even within a self-contained classroom.

It is not possible to provide a full accounting of the gaps in DC's programming for special education students because we do not have a comprehensive list of the programs (by programs, we mean both inclusive and more intensive, including details

about the staffing and interventions and practices utilized) currently available. Nor do we have comprehensive analysis of the needs of DC's special education students. Nor do we have comprehensive analysis about what has been tried and either worked or not worked for different sub-groups of children with disabilities. It is our understanding that DCPS has some internal data about the progress, or lack thereof, of students in different amounts of inclusion, pull-out specialized instruction, and their own full-time special education classrooms, and some PCS may also be analyzing such data.<sup>21</sup> That data is not available to the public, however, nor is it being analyzed in a comprehensive way across sectors, which would help inform and build effective services throughout DC schools.

However, our clients have over and over found that their public schools could not provide them with the services they needed to make meaningful progress. The great demand for the Special Education Enhancement Fund grants indicates that schools also recognize the need for additional services or new approaches. In addition, the recent Auditor's analysis of eight DCPS Elementary School budgets indicates unmet need for special education staff and related staff to help with social-emotional needs.<sup>22</sup> Eighteen DCPS schools funded one or more special education teachers (some as many as three or four teachers with the amount specified) with the increased *at-risk* funding that the District included in this year's budget.<sup>23</sup> All of these raise concern that part of the problem for the achievement of students with disabilities has and continues to be

that schools need more staff with the special education expertise. However, there has not been a comprehensive assessment of the spectrum of needs that our students have and what settings, services, personnel, and interventions would meet those needs.

Without a comprehensive needs assessment, it seems impossible to develop new programs and ensure appropriate staffing and resources, whether inclusive or in more specialized settings, in a targeted and effective way. We ask the Council to fund an intensive needs assessment and comprehensive plan for special education.

### **DC Needs to Ensure that Information about Special Education is Transparent and Easily Found**

Public reporting can be an important mechanism for accountability, for sharing of best (and worst) practices, and for change to happen. Currently, parents struggle to find out information about special education programming and about how schools are doing educating students with disabilities. Parents must rely on informal networks and individual conversations with school staff, if they want to try to find a good match for their child with a disability. It is not good for children, or for families or schools, in our landscape of school choice because often when the parent did not have good information to choose a school, the child will simply move schools.

The type of information that DC schools should be transparent about includes staffing details, caseloads, details about specialized classrooms, types of supports in inclusion classrooms, and evidence-based programs and practices for both academics and social-emotional progress.<sup>24</sup> In the same place, DC should also have transparent

information about the LEA's performance on IDEA Federal compliance measures, and other accountability data such as percent of services in IEPs actually delivered and attrition of special education students. Lastly, public information about the performance, progress, and proficiency of children with disabilities in those different programs and at different levels of inclusion programming (mostly inclusion, some pull-out specialized instruction, self-contained special education, etc) will be key to fueling change. As stated by DC Appleaseed in their report over a year ago, "Without that data, the District cannot compare students' performance in general and specialized public and nonpublic settings, or determine where it needs additional internal or external capacity to serve students with certain kinds of disabilities." There is currently no centralized source of information on DC's special education programs, so we ask the Committee to require changes in the public reporting of special education information.

**Children with Serious Vulnerabilities Need Legal Reforms to Get the Services They Need**

We will not repeat all of the testimony that we recently gave in the Public Roundtable on Truancy or on the Education of Students Committed or Incarcerated, but we remain concerned that very vulnerable children and youth with disabilities need many policy and practice changes in order to receive the education they need. We look forward to working together with the Committee and the agencies in the upcoming Task Force that will create plans and legislation for children in the juvenile justice, child

welfare, and behavioral health systems, to improve records following students, achieve more generous credit accrual and credit transfer, and make changes about YSC “enrollment.” We also ask the Committee to work on legal reforms that will help youth with unidentified and identified disabilities who are unable to consistently attend school.

Our recommended legal reforms include:

1. DC law should set deadlines and clear procedures for Home or Hospital Instruction. Home and hospital instruction is a legally required option for students who cannot attend school because of qualifying medical reasons, although DC law currently has no deadlines or procedures.<sup>25</sup> Too often, students who need an instructor to come to the home are denied the service or the service is delayed for long periods, which then leads to truancy charges for children and youth with medical needs.
2. For a student in special education, not attending school or not attending classes should trigger a re-evaluation. A change in DC law to state that not attending school or class for five days must trigger a re-evaluation of the student and a meeting to revise the IEP with new strategies to meet the child’s needs would greatly help students get appropriate services.
3. DC law should clearly require DCPS to monitor the education of students placed in PRTFs and residential treatment centers, no matter which system

placed the youth.<sup>26</sup> Monitoring should include sending educational records to the facility, reviewing class offerings and schedules, ensuring students are in classes that will move the student towards graduation and offering an online solution if not, gathering data from teachers, evaluating students in need of initial evaluation or new assessments, ensuring that IEPs are implemented, ensuring that IEPs and Behavior Intervention Plans are updated, getting report cards, getting transcripts, and reviewing transcripts for DC credits.

4. DC law should state that psychiatric hospitalization or beginning the process of placement in a PRTF, no matter which system is placing the child, constitutes a referral for special education evaluation.<sup>27</sup> This will spur the LEAs to create the mechanisms needed to “Child Find” students who are in Psychiatric Institute of Washington or Children’s National Medical Center psychiatric wards or who are in the process of PRTF placement by CFSA, DYRS, DBH, or a Medicaid MCO.
5. DC law should require LEAs to evaluate and determine special education eligibility for students in CFSA custody, DYRS custody, in psychiatric hospitalization and in process or placed at PRTF within 30 days and provide special education services within 15 days of eligibility. These highly mobile students with severe needs require a shorter evaluation deadline.

6. DC law should require that the child's LEA must ensure that any necessary evaluations and determination of whether a child has a disability are completed while a child or youth is placed in PRTF, no matter what state the PRTF is in.<sup>28</sup>

**DC Needs to ensure that Practices that Support Students with Disabilities are Implemented**

*Ensure Special Education Supports are included in Summer School and Credit Recovery*

For older clients, the path to graduation seems almost impossible at times. Many of our older clients are many years behind in reading and math, and we have found that they often cannot get the intensive special education support they need in regular high school courses. After many of these students fail their ninth grade courses, they cannot get special education services in summer credit recovery in DCPS and some charter schools.

Unfortunately, DCPS continues its practice of not providing special education services from students' IEPs or special education teachers in its summer and evening credit recovery programs.<sup>29</sup> This means students with disabilities are denied a meaningful opportunity to make up classes they failed during the school year. Since falling behind contributes to students with disabilities dropping out of school, DCPS should always offer specialized instruction and related services in summer school and



credit recovery in order to help the most vulnerable students make progress toward graduation.

*OSSE Regulation Reforms Must Move the District towards Students as the Priority*

In June 2017, OSSE released an advanced round of a complete revision of the DC regulations governing special education. This regulation update started over four years ago with public roundtables and input from schools and parents. This is an opportunity for OSSE as the State Education Agency to be a national leader and set high standards for the expectations that we in the District have for student services and progress and for the meaningful participation of parents. We submitted extensive comments to OSSE about changes that would seize this opportunity. We ask the Council to continue to monitor this important process, to ensure that students are the priority as OSSE revises the regulations.

*Improve Special Education Transportation Policies and Procedures*

Although we must repeat the same concerns about OSSE transportation policies that we raised for the last two years, we have heard that OSSE's Division of Transportation is planning to release updated policies soon. This Committee should ensure that OSSE's Division of Transportation makes the following changes to their policies:

- Allow parents to designate different pick-up and drop-off addresses.

- Provide transportation for partial-day inclusion programs. We understand that the Division is piloting with at least one school this year.
- Provide transportation home after extracurricular activities
- Limit ride times to 60 minutes for students who live and attend school in DC, with a waiver for extenuating circumstances. While the *Petties* order was in effect, ride times for students who lived and attended school in DC were limited to 60 minutes each way. After *Petties* closed, OSSE extended the ride time limit to 75 minutes each way for students traveling to programs in the District of Columbia.<sup>30</sup> We have heard from some parents that their children are on the bus for over an hour each way even though they only live a few miles from school. These long rides are harmful to students – they keep them from homework, additional therapies, sports, and time with their families. Accordingly, we recommend that OSSE return to the previous limit. In the few cases where distance and traffic make it truly impossible to cross town in 60 minutes, OSSE should be allowed to waive the limit with appropriate documentation provided to the IEP team.

## CONCLUSION

Thank you for the opportunity to testify. Public schools in both sectors need to make major improvements to effectively educate children with disabilities. The tragic educational outcomes we see for students with disabilities, both achievement results

and graduation, and slow progress at improving schools' ability to do better will doom another generation of DC residents without major focus. As a first step this year, the Mayor and this Council need to prioritize fully funding the reforms in special education legislation unanimously passed two years ago for fiscal year 2018. In addition, children with disabilities need the Mayor and the Council to invest in a comprehensive needs assessment and plan to accelerate the progress of children with disabilities in all public schools in DC. Thank you for the opportunity to testify, and I look forward to answering any questions.

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<sup>1</sup> Children's Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to be the voice for children who are abused or neglected, who aren't learning in school, or who have health problems that can't be solved by medicine alone. With 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 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.

<sup>2</sup> Need to find this and better describe

<sup>3</sup> Calculated from OSSE's 2016-17 PARCC and MSAA Performance Results, for All grades and All ELA and Mathematics, data file accessed November 17, 2017 at [https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Detailed%202017%20PARCC%20and%20MSAA%20Performance\\_0.xlsx](https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Detailed%202017%20PARCC%20and%20MSAA%20Performance_0.xlsx). DC scores on the National Assessment of Educational Progress, administered in 2015, are very similar, with about 4-6% of students with disabilities "proficient" (compared to 25% of non-disabled students) and 73-83% Below Basic in Reading (compared to about 40% of non-disabled students.)

[https://www.nationsreportcard.gov/reading\\_math\\_2015/files/2015\\_Results\\_Appendix\\_Reading.pdf](https://www.nationsreportcard.gov/reading_math_2015/files/2015_Results_Appendix_Reading.pdf)

<sup>4</sup> *Id.*

<sup>5</sup> Indicator 14 from the 2015-16 school year, the most recent audited data that OSSE submitted to the Federal government. OSSE, IDEA Part B Annual Performance Report to the Public Federal Fiscal Year 2015, accessed November 17, 2017 at

<https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FFY%202015%20APR%20Report%20to%20the%20Public.pdf>

<sup>6</sup> "The District's 120-day timeframe still appears to be the longest period of time in the country. 2015 Dunst Direct ¶ 89. In only five states does the timeframe exceed 60 days. *Id.*" Corrected Memorandum of Opinion & Findings for Fact and Conclusions of Law, (June 21, 2016), *D.L. v. D.C.*, Civil Action 05-1437, at Finding of Fact 100.

<sup>7</sup> We know this from experiences in DCPS IEP meetings, as well as the fact that DCPS has included a 45-day deadline to complete evaluation reports in DCPS guidelines. See, e.g., DCPS, Speech and Language

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Program Guidebook School Year 2016-2017 (updated August 10, 2016), page 66 and 82 (copy on file with the Author from a FOIA request).

<sup>8</sup> See OSSE's FAQs, about Federal Maintenance of Effort requirements in relation to the SEEF grants.

[https://osse.dc.gov/sites/default/files/dc/sites/osse/page\\_content/attachments/SEEF%20Formula%20Grant%20FAQs.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/SEEF%20Formula%20Grant%20FAQs.pdf), p.5

<sup>9</sup> OSSE's Special Conditions Reports from 2014-15 (latest available) state that all public schools had 2641 initial special education evaluations to complete that year. The Fiscal Impact Statement for this provision is a total of \$16M for both sectors, which would give schools over \$6000 per initial evaluation. Most initial evaluations consist of only a Psychoeducational Assessment and one or two other assessments. Using the OSSE Maximum Evaluation Costs under 5 DCMR § A-2853, and generously including four assessments, the cost adds up to a little over \$3500. Thus, \$6000 per evaluation is far more than schools should need to complete an evaluation on a quicker timeline. Although OSSE has stated that the context is different, the context for the OSSE Evaluation Rates is for children with significant disabilities attending nonpublic schools, for evaluation reports completed by contractors or employees of that school –the same context as a public school paying either a contractor or an employee to complete an evaluation report of an attending student.

<sup>10</sup> 34 C.F.R. § 300.320(b)(2).

<sup>11</sup> See, *Enhanced Special Education Services Act of 2014– DC Act 20-487*.

<sup>12</sup> Once funds are appropriated and the law is in effect, the Department of Disability Services (DDS) will also be able to start using currently-available Federal funding under the *Workforce Innovation and Opportunity Act* for services in middle schools and to students age fourteen and up during summer work opportunities. The WIOA requires DDS to use 15% of the Federal WIOA funding on students prior to graduation (Pre-Employment Transition Services), and allows it to use funds at the transition age set in IDEA (which is 16) or local law. See,

[http://ruralinstitute.umt.edu/transition/handouts/VRBS\\_and\\_WIOA-28apr15.pdf](http://ruralinstitute.umt.edu/transition/handouts/VRBS_and_WIOA-28apr15.pdf)

<sup>13</sup> OSSE, *Enhanced Special Education Services Act of 2014 Implementation Report to the Council of the District of Columbia*, October 1, 2017. Accessed November 17, 2017 at

<http://lims.dccouncil.us/Download/38971/RC22-0094-Introduction.pdf>.

<sup>14</sup> DCPS FY16 Oversight Responses, Q78, and DCPS SY 2016-17 Transition Services Manual, found at <http://dcpstransition.com/wp-content/uploads/2016/10/2016-FINAL-TRANSITION-MANUAL.pdf>. Also, conversation between the author and Kerri Larkin, DCPS Deputy Chief for Specialized Instruction, November 13, 2017.

<sup>15</sup> Hebbeler, K., Spiker, D., Bailey, D., Scarborough, A., Mallik, S., Simeonsson, R., & Singer, M. (2007). *Early intervention for infants & toddlers with disabilities and their families: Participants, services, and outcomes. Final report of the National Early Intervention Longitudinal Study (NEILS)*,

[https://www.sri.com/sites/default/files/publications/neils\\_finalreport\\_200702.pdf](https://www.sri.com/sites/default/files/publications/neils_finalreport_200702.pdf)

<sup>16</sup> See, Zero to Three Policy Center, "Improving Part C Early Intervention: Using What We Know about Infants and Toddlers with Disabilities to Reauthorize Part C of IDEA," available at:

<http://main.zerotothree.org/site/DocServer/PartC.pdf?docID=567>; "Early Childhood Experiences: Laying the Foundation for Health Across a Lifetime," available at:

<https://folio.iupui.edu/bitstream/handle/10244/613/commissionearlychildhood062008.pdf?sequence=2>.

<sup>16</sup> 34 C.F.R. § 303.321(c).

<sup>17</sup> 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.

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<sup>18</sup> See, Hebbeler, K., Spiker, D., Bailey, D., Scarborough, A., Mallik, S., Simeonsson, R., & Singer, M. (2007). *Early intervention for infants & toddlers with disabilities and their families: Participants, services, and outcomes. Final report of the National Early Intervention Longitudinal Study (NEELS)*, at page 2-9

<sup>19</sup> OSSE, Report on Implementation of Strong Start Quarter 4, October 1, 2017. LINK

<sup>20</sup> Conversation with Dr. Amy Maisterra, Assistant Superintendent at OSSE, and her team on November 15, 2017.

<sup>21</sup> Comments of Kerri Larkin, DCPS Deputy Chief, Specialized Instruction, at Special Education Attorney Roundtable meeting, October 19, 2016.

<sup>22</sup> Office of the District of Columbia Auditor (October 30, 2017), Budgeting and Staffing at Eight DCPS Elementary Schools, p. 20, 35, 49, 52. Accessed on November 17, 2017 at [http://www.dcauditor.org/sites/default/files/DCPS.Staffing.Report.Final\\_.10.30.17.pdf](http://www.dcauditor.org/sites/default/files/DCPS.Staffing.Report.Final_.10.30.17.pdf)

<sup>23</sup> DCPS Report for the 2018 Budget Support Act of 2017 (August 2017). Accessed November 17, 2017 at <http://www.davidgrosso.org/grosso-analysis/2017/9/19/dc-public-schools-report-for-the-fy2018-budget-support-act-of-2017>

<sup>24</sup> DCPS has made improvements in describing its self-contained special education classrooms. But after at least four years of telling the public where those special classrooms are located, DCPS has no information out publically this school year and says it will not release that information. In addition, information at the school level about staffing and about how inclusion classes are supported (e.g., co-teaching all day or for certain subjects, what evidence-based/research-based programs should be used in the pull-out classes) is either not available or disbursed.

<sup>25</sup> Section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, and Title IX are sources of law that give students rights to home and hospital instruction.

<sup>26</sup> For students with existing IEPs, DCPS does not ensure that the PRTF has the youth's evaluation and IEP records for students with already-identified disabilities, nor does it monitor the education of youth with IEPs when placed by the other systems. When a youth's education is closely monitored, the youth can get services in the PRTF and have an appropriate IEP is tailored to the student's current needs ready to go for the child's return, but that does not happen now. Students instead return with outdated and inappropriate IEPs that do not provide the services needed for re-integration after PRTF. Returning from the structure of a PRTF out of state, back home to the community—or for many youth in DYRS or CFSA care to new foster home or group home placements—is a difficult adjustment. Youth need to have supports in place in the community, including in school. Without those wrap-around services from their first day home, many children and youth destabilize.

<sup>27</sup> Shockingly, many youth who are acutely and chronically psychosocially ill, needing hospitalization or residential care, do not already have IEPs to help them get treatment in school. For youth who are sent to psychiatric hospitals or Psychiatric Residential Treatment Facilities (PRTF) by the court, DYRS, or CFSA, it indicates an extreme medical necessity. Both CFSA and DYRS look at PRTF as a last resort. DCPS could easily track and evaluate these youth while in high needs placements, specifically in psychiatric hospitalization or while in placement in psychiatric residential treatment. Each LEA, especially DCPS, should be notified when a youth needs high level psychiatric care, as part of the system to find and evaluate all children who may have disabilities (called Child Find) that the *Individuals with Disabilities Education Act* (IDEA) requires. Yet DCPS has no procedure to always start a special education evaluation for these children and youth.

<sup>28</sup> DC's education agencies do not ensure that children with disabilities in PRTFs through other systems are receiving appropriate services. For PRTFs through CFSA, DBH, and HSCSN, DCPS has refused to evaluate while the youth is in that placement. Thus, when the student without an existing IEP returns from hospitalization or PRTF, the student goes to a regular high school with no plan of supports. DCPS

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waits to do the evaluation until the child is attending a DCPS school, often taking the full 120 days allowed in current DC special education law. When a youth is ready to leave a PRTF and transition back to DC, DCPS's lack of engagement causes tremendous problems for services and for credit accrual.

<sup>29</sup> DCPS FY16 Oversight Responses, Q77. General education teachers being informed about needed accommodations (e.g., more time on a test, preferential seating, movement breaks) is not the same as being provided all the special education services in a student's IEP, which IEP is designed to provide what is needed for the child to access the curriculum. Each school making a "decision" to hire or not hire a special education teacher for credit recovery, which might be based on budget or easy availability, does not ensure that students who need the special education teacher to succeed will have that. Providing a paraprofessional for summer school, while an improvement over what DCPS has committed to provide in past summers, is not providing special education services.

<sup>30</sup> OSSE FY15 Oversight Questions, Q61(f).