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Introduction

Good morning, Chairman Mendelson, Chairman Grosso and members of the Committees. My name is Sharra E. Greer. I am the Policy Director at the Children's Law Center¹ 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 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. Nearly all the children we represent attend public schools in DC – whether traditional public schools or charter schools.

I appreciate this opportunity to testify regarding the performance of the Office of the State Superintendent of Education (OSSE). I am going to focus on the important progress that OSSE has made implementing the special education reforms from 2014 that were fully funded in the FY19 budget. I will also address some areas where there have been challenges. Unfortunately, while there has been important progress, we still have a significant way to go to meet the needs of our students with disabilities.

The 2014 Special Education Reforms

The really good news from last year is that the 2014 special education reforms were fully funded in the FY19 Budget and have gone into effect. OSSE has done a substantial amount of work to make sure these reforms were successfully implemented

this year.² We are hopeful that these reforms will have a significant impact on changing the outcomes for students with disabilities.

Expand Early Intervention Services (Part C of the IDEA)

One key provision of the special education reform laws now in effect is the expansion of DC's Strong Start/Early Intervention Program (DC EIP).³ Strong Start/DC EIP meets the needs of DC's infants and toddlers with developmental delays by conducting evaluations and providing individualized plans for services in the child's natural, inclusive environment. It provides family-focused early intervention services and much needed service coordination to ensure services from a variety of funding sources, including Medicaid, are delivered timely. Recognizing the critical importance of children's development at this age, Strong Start/DC EIP's deadlines are short under Part C of the IDEA.⁴

Expansion of eligibility for this program is great news. Children with a 25% delay in one domain are now eligible for services. This should lead to a substantial increase in the number of children getting services. When OSSE reviewed the 121 referrals for service denied between October 1, 2017 and June 30, 2018, 36 would be eligible under the new criteria.⁵

46% of children who get early intervention services completely catch up and several years later are still doing as well as peers, according to national research.⁶ For other, more severely delayed or disabled children, getting help early improves their

expected skills.⁷ Research on early intervention programs shows they produce long-lasting and substantial gains in outcomes, such as reducing the need for special education placement, preventing grade retention, increasing high school graduation rates, improving labor market outcomes, reducing social welfare program use, and reducing crime.⁸ Children who do not receive the specialized support they need as infants and toddlers have a much harder time making up lost ground later.⁹ Expanding Strong Start/DC EIP is a truly effective way to help children start strong.

Strong Start/DC EIP is also working to improve the number of referrals to the program and increase engagement with the process.¹⁰ We have seen the percentage of children who complete the evaluation process continue to increase.¹¹ Without completing the evaluation, children do not receive services. The evaluation rates for Wards 5, 7 and 8 significantly improved.¹² This is important because previously those wards had the lowest evaluation completion rate—around 25% lower than Wards 2 and 3.¹³ This improvement is worth noting because Wards 7 and 8 have the highest child poverty rates in the District¹⁴ and research shows a strong correlation between child poverty and increased developmental delays.¹⁵

Evaluate Children to get Special Education Services Faster

Another significant change that went into effect last year was a shortening of the time to evaluate and diagnose students to two months rather than more than a semester. The impact of faster diagnosis, and thus faster services, cannot be overstated.

OSSE and schools did a lot of work in FY18 to get ready for the change. OSSE released over \$3.7 million as formula grants to Local Education Agencies (LEAs) to help them prepare for faster evaluations, and as a way for OSSE to gather granular data about what schools needed in order to perform evaluations more quickly.

Plan Earlier for Life After High School

The *Enhanced Special Education Services Act of 2014* also required LEAs to start planning about the student's future 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.¹⁶

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 went into effect July 2018. 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.¹⁷

In addition to beginning transition planning earlier, OSSE must continue to focus on improving the quality and quantity of services offered to students for successful post-secondary transition. The success of all students with disabilities depends on this effort, but especially the significant number who are not graduating on time and those who drop out.¹⁸

Special Education Enhancement Fund

One way OSSE helped implement the reforms was through Special Education Enhancement Fund (SEEF) grants.¹⁹ OSSE provided more than \$3.7 million in grants to schools for a variety of purposes to implement the reforms. While we are glad this money was able to help schools with the transition, the original purpose of the SEEF as established in the *Special Education Quality Improvement Act of 2014* was much broader.²⁰ The SEEF was to be used to support LEA collaborations and public-private partnerships needed to tap expertise, pool resources, and bring new programming into schools.²¹

We hope that in the future the fund will be used to work to build more capacity to meet student needs. One challenge is where future funding for the important capacity building mission of the SEEF will come from. The SEEF, in the law, captures “savings” from the nonpublic school tuition budget.²² That budget has been stable for several years, and likely will remain so because OSSE’s projections of students needing specialized school placements are close to reality. That means that there will be little “savings” every year. We urge the Committee to inquire of OSSE how it will continue to fund needed SEEF-eligible partnerships and collaborations in future years.

Children with Disabilities Continue to Struggle

While the reforms are significant, there is still a great deal more DCPS and Public Charter Schools, and therefore OSSE as the State Education Agency with oversight and enforcement responsibility over both, need to do to serve children with disabilities in special education, who make up about 15% of students enrolled throughout the year.²³

Special education, at its most fundamental level, is about the human rights of people with disabilities—to learn, be included, and participate in the life of our community. The purpose of the *Individuals with Disabilities Education Act* (IDEA) is to prepare students with disabilities for future education, employment, and independent community living.²⁴ Because that is the goal, students are given a right to an education appropriate to that student's unique needs, designed to allow the student to access the same curriculum as other students and make progress (a "free, appropriate public education" or FAPE).

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.²⁵ 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. Six percent are proficient in English/Language Arts (ELA) and seven percent in Math, compared to 33% ELA and 29% Math for students not in special education.²⁶ Graduation rates continue to be low for students with disabilities.²⁷

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 and are 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 the children 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 in special education are 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 Build Special Education Capacity in Schools

The achievement gap highlights that capacity within our public schools to provide effective, appropriate education for students with disabilities does not exist. 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.

Our clients have found over and over that their public schools could not provide them with the services they needed to make meaningful progress. This lack of progress is the reason that some children need to be placed in specialized classrooms or specialized schools. We have seen closures of specialized programs, both public and nonpublic, without investment in similar expertise and rigorous planning for how the needs of children with significant disabilities can be met.

DC needs to dedicate funding to strengthen special education programming options. Although OSSE describes a large number of training workshops offered to schools,²⁸ we know, through our work with families, that workshops do not always translate into practice without ongoing coaching and support. That ongoing support and work to improve outcomes for students with disabilities needs more investment. OSSE should also provide resources for schools to more easily purchase evidence-based programs to lift the fundamental reading and math skills of children with disabilities and train staff members to deliver them.

OSSE Should Ensure Parent Involvement with IEP Development

OSSE should lead efforts to ensure all public schools in DC follow the requirements from the *Special Education Students Rights Act of 2014* that ensure meaningful parental involvement. This law requires all schools to provide records to all parents in advance of IEP meetings, provide the finalized IEP in a timely fashion, and translate IEPs for parents with limited English proficiency in a timely fashion.

Unfortunately, even when my colleagues remind schools of these responsibilities, only a few parents in our cases have timely received the information they need to be engaged in their child's education.

To ensure compliance, OSSE should incorporate the requirements with reminders or warnings into SEDS, which it does with many other legal requirements. We understand that this would require contractor time to reprogram but urge this change so that schools take compliance with this law seriously.

OSSE Should Ensure that Schools Evaluate when Parents Request Evaluations and When Children Show Signs of Need

Our experience, over twenty years, is that many children who need special education and the individualized educational approaches and therapies it brings, are not identified.²⁹ Many parents struggle to get their children evaluated. The *Enhanced Special Education Services Act of 2014* required DCPS and PCS schools to evaluate a child for special education on the verbal request of a parent, so this should not be a struggle.³⁰ As highlighted last year by the DC Ombudsman for Public Education, DCPS and PCS schools seem to be diverting children to the Response to Intervention (RtI) Process rather than evaluating children for special education.³¹ In theory, RtI is a good idea, but in practice, schools have often not implemented RtI properly,³² and illegally delayed and denied special education services to children. Failing to evaluate children who may need special education, especially after a parent requested special education help, is a violation of local and federal law.

We hope that OSSE will more aggressively monitor and provide guidance to schools on the issues of identifying all children with disabilities.

OSSE Should Ensure Transparent and Accessible Information about Special Education

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 information about special education programming and how schools are doing educating students with disabilities. If information were centralized publicly and easily accessible, on LearnDC or MySchoolDC, about what schools are doing and about whether that was working, students, parents, and other schools would benefit. 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.³³ In the same place, DC should also have information about the LEA's performance on measures about how the school serves students, such as the 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.

There is currently no centralized source of information on DC's special education

programs. I recommend that OSSE, as the State Education Agency with oversight of special education and as the entity owning the *Every Student Succeeds Act* Report Cards, work to catalog all of the information, including which schools have specialized classrooms or programs, and make that information available to assist parent choice, working with all the education agencies.

Special Education Transportation

We look forward to continuing to work with OSSE's Division of Student Transportation to bring innovative and effective ideas to DC's special education transportation. We were pleased this year about the positive steps OSSE is taking to ensure better improve services, including campaigns to hire and retain staff, professional development and steps to improve student data accuracy.³⁴

OSSE's reported top three complaints match our clients' experiences: early/late bus, unprofessional conduct and students not picked up.³⁵ Many of these issues relate to high turnover of bus staff and inadequate training of bus staff working with children with disabilities, as well as inaccurate student data. These problems have persisted for several years. Unfortunately, the failure to successful address these problems results in students with disabilities missing school and not having access to their education. We hope the steps outlined by OSSE in their oversight responses will begin to bear fruit in the coming year, and that OSSE will closely monitor the effectiveness of these changes.

In addition, we must repeat the same concerns about several OSSE transportation policies, which we raised the last several years.

- Allow parents to designate different pick-up and drop-off addresses. OSSE's transportation policy limits students to one address for pick-up and drop-off.³⁶ That address must be their address of District residency.³⁷ The policy indicates OSSE will make exceptions to this requirement on a case-by-case basis for children in foster care or living in group homes.³⁸ However, children with divorced parents, children who need to be dropped off at after-school therapy appointments, and children who need to attend before- or after-care nonetheless bear the burden of this policy.
- Provide transportation home after extracurricular activities. OSSE's current policy is not to provide transportation from extracurricular activities, unless the activity is identified as necessary by the students' IEP team. This prevents many students with disabilities from participating in extracurricular activities. Students placed at schools far from home because their local schools don't have the services they need and students who have disabilities that prevent them from using public transportation cannot participate in extracurricular activities unless the school system provides transportation. DC's failure to do so is arguably a violation of Section 504 of the Rehabilitation Act, the federal law that requires schools to provide students

with disabilities equal access to school activities.³⁹ We urge OSSE to develop a plan to provide this transportation.

- 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.⁴⁰ We understand, in a few cases, children's homes and schools may be so far apart that there is no way for them to have a shorter ride time; however, we are concerned that children who live near their schools may also have long ride times. These long rides are harmful to students—they keep them from homework, sports, and time with their families. Accordingly, we recommend OSSE return a 60-minute 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.

We recognize implementing these recommendations would require additional funding. We urge OSSE and the Committee to ensure OSSE's Division of Student Transportation is provided the necessary funds in the FY19 budget to maintain and improve its current level of services and make these important expansions.

CONCLUSION

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 aren't learning in school, or who have health problems that can't 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 See OSSE FY18 Performance Oversight Responses Q 54.

³ This expansion was funded in the FY19 budget and went into effect July 1, 2018. See 5-A DCMR sec. 3108.4.

⁴ Federal requirement is that evaluation, eligibility determination, and development of the individualized plan occur within 45 days of referral and services begin within 30 days of plan development. 34 CFR § 303.310. For seminal research on the importance of early childhood on brain and other development, see National Research Council and Institute of Medicine, Shonkoff, J. & Phillips, D. A. (Eds.). (2000). *From neurons to neighborhoods: The science of early childhood development*. Washington, DC: National Academy Press.

⁵ OSSE FY18 Performance Oversight Responses Q29(d).

⁶ https://www.sri.com/sites/default/files/publications/neils_finalreport_200702.pdf

⁷ <http://ectacenter.org/eco/assets/pdfs/childoutcomeshighlights.pdf>

⁸ Karoly, L. A., Kilburn, R. M., & Cannon, J. S. (2005). *Proven benefits of early childhood interventions*. Santa Monica, CA: RAND Corporation. http://www.rand.org/pubs/research_briefs/RB9145.html. See also, Law, J., Todd, L., Clark, J., Mroz, M. & Carr, J. (2013). High quality early intervention services to young children who have or are at risk for developmental delays have been shown to positively impact outcomes across developmental domains, including health, language and communication, cognitive development, and social/emotional development. See, Center on the Developing Child at Harvard University. (2010). *The foundations of lifelong health are built in early childhood*. <http://developingchild.harvard.edu/resources/the-foundations-of-lifelong-health-are-built-in-early-childhood/>; American Speech-Language-Hearing Association. (2008). *Role and responsibilities of speech-language pathologists in early intervention: Technical report*. <http://www.asha.org/policy/TR2008-00290.htm>; and Landa, R. J., Holman, K. C., O'Neill, A. H., & Stuart, E. A. (2010). Intervention targeting development of socially synchronous engagement in toddlers with autism spectrum disorder: A randomized controlled trial. *Journal of Child Psychology and Psychiatry*, 52(1), 13-21.

⁹ 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>.

⁹ 34 C.F.R. § 303.321(c).

¹⁰ See OSSE FY18 Performance Oversight Responses Q29 compared to OSSE FY17 Performance Oversight Responses Q29.

¹¹ See OSSE FY17 Performance Oversight Responses, Q29(e) compared to OSSE FY18 Performance Oversight Responses Q29(e). In FY17 OSSE reported 61% completion rate. For FY18 the rate was 71%.

¹² See OSSE FY18 Performance Oversight Responses Q29 compared to OSSE FY17 Oversight Responses Q29 – Ward 8 improved from 45% to 62%, Ward 7 from 54% to 59%.

¹³ See OSSE FY17 Performance Oversight Responses, Q29(e) chart, showing that around 80% of Ward 2 and 3 referrals were evaluated, versus 54%, 54%, and 58% of those in Wards 7, 8, and 5, respectively. We are pleased that the Committee asked for repeat referral data, and OSSE should do deeper analyses about which children are being referred more than one time and what OSSE could do to help lessen the need for children to be referred again: 26% were from Ward 8, 16% Ward 7, 15% Ward 5 (equaling 57% from Wards 5, 7, 8). OSSE FY17 Performance Oversight Responses, Q29(b). We note that for 13% of the 499 re-referred children, it was the families who had to re-contact the program to re-refer their child, which warrants some examination and reflection.

¹⁴ In 2015, the child poverty rates for Wards 7 and 8 were 39.9% and 49.6% respectively, compared to Ward 3 which had the lowest poverty rate at 2.9%. See, Kids Count Data Center. *Child Poverty by Ward*, (2015). Retrieved from <http://datacenter.kidscount.org/data/tables/6748-child-poverty-by-ward?loc=10&loc=3#detailed/21/1852-1859/false/573,869,36,868,867/any/13834>

¹⁵ Farah, M.J. & Hackman, D.A. (2012). The Oxford Handbook of Poverty and Child Development. In V. Maholmes & R. B. King (Eds.), *SES, Childhood Experience, and the Neural Bases of Cognition* (pp. 307-318). New York, NY: Oxford University Press.

¹⁶ 34 C.F.R. § 300.320(b)(2). Transition plans can include a wide range of activities to prepare students for independent living, employment, and further education.

¹⁷ Now that funds are appropriated and the law is in effect, the Department of Disability Services (DDS) can 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.umd.edu/transition/handouts/VRBS_and_WIOA-28apr15.pdf.

¹⁸ See OSSE FY18 Performance Oversight Responses Q44 Attachment.

¹⁹ See OSSE FY18 Performance Oversight Responses Q54.

²⁰ See, *Special Education Quality Improvement Act of 2014*, DC Act 20-0488.

²¹ *Id.*

²² *Id.*

²³ This statistic comes from a look at all students who were enrolled at any point in school year 2015-16. See, OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 15. Retrieved from http://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2015-16%20School%20Year%20OSSE%20Discipline%20Report.pdf.

²⁴ 34 CFR § 300.1

²⁵ See

https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2018%20PARCC%20Results%20Release%20%28Aug.%2016%2C%202018%29.pdf

²⁶

https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2018%20PARCC%20Results%20Release%20%28Aug.%2016%2C%202018%29.pdf

²⁷ See OSSE FY18 Performance Oversight Responses Q44 Attachment.

²⁸ See OSSE (October 1, 2017). *Enhanced Special Education Services Act of 2014 Implementation Report to the Council of the District of Columbia*, accessed at <http://lims.dccouncil.us/Download/38971/RC22-0094-Introduction.pdf>

²⁹ We acknowledge that there is an important debate about whether children of color are over-identified as having disabilities, in particular emotional disturbances or ADHD. Many children with dyslexia and other learning disabilities develop problems with behavior because of their frustration, and then get misdiagnosed. There is also important research that shows that Black children are likely to be identified with Autism, for example, later than White children, despite the evidence that early intervention with Autism is so effective. We also know that trauma responses and responses of the brain to chronic stress often look like ADHD in children, and that those children need specialized services too. An appropriate response to these nuances would not be an overall quota, but examination of particular IDEA eligibility classifications. For example, see Nora Gordon. *Race, Poverty, and Interpreting Overrepresentation in Special Education*, Sept. 20, 2017. <https://www.brookings.edu/research/race-poverty-and-interpreting-overrepresentation-in-special-education/>.

³⁰ See, *Enhanced Special Education Services Act of 2014*, DC Act 20-487.

³¹ DC Office of the Ombudsman for Public Education 2017 Annual Report, p. 13-15. Retrieved from https://sboe.dc.gov/sites/default/files/dc/sites/sboe/publication/attachments/Office%20of%20the%20Ombudsman%20for%20Public%20Education%20Annual%20Report%20for%20SY%202016-17_FINAL-web.pdf

³² The process is supposed to have check ins every few weeks to see if the chosen intervention is working, to update the plan for the student with different interventions, and try again for a few weeks. Then, if the student is still not progressing, the RtI team should move on to special education evaluation. In our experience, many children do not receive the regular re-assessments of whether the interventions are working and never get the special education evaluations that they need.

³³ However, 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, for DCPS and PCS schools.

³⁴ OSSE FY18 Performance Oversight Responses, Q57-8.

³⁵ OSSE FY18 Performance Oversight Responses, Q58.

³⁶ Special Education Transportation Policy, p. 9, at <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Transportation%20PolicyV07292014.pdf>

³⁷ *Id.*

³⁸ *Id.*

³⁹ 29 U.S.C. § 794.

⁴⁰ OSSE FY15 Performance Oversight Responses, Q61(f).