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Testimony Before the District of Columbia Council
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Good morning Chairman Mendelson, Chairperson Grosso and members of the Committee on Education. My name is Judith Sandalow. I am the Executive Director of Children's Law Center 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 nearly 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.¹

Children's Law Center supports the Mayor's proposed 3% increase in the DC public school funding formula. This increase recognizes the importance of continuing to invest in education as the Mayor and Council face the difficult task of balancing the District's budget during the fiscal crisis resulting from the Covid-19 pandemic. The Mayor's proposed budget, however, fails to invest in school based mental health, which has only grown in importance as students deal with the stress and trauma caused by the pandemic. My testimony explains why we need to preserve and expand school based mental health. It also urges the Council and school leaders to develop school re-opening plans that will protect our children's health and education; take aggressive steps to address inequities in our schools that have only been exacerbated by Covid-19; provide more vigorous support for special education students; work to restore Head Start funding to DCPS as soon as possible; preserve child care services in the District; and pass the Students' Right to Home or Hospital Instruction Act of 2019.

Investing in Public Education Must Remain a Priority – Even During Economic Downturns

The proposed budget would increase the uniform-per-student-funding formula (UPSFF) by 3%. As a result, DCPS would see its operating budget increase from \$1.073 billion in FY20 to \$1.127 billion in FY21, while DC public charter schools would see their operating budgets increase from \$905 million in FY20 to \$941 million in FY21. The budget provides extra funds to support early literacy intervention as well as wraparound supports for schools participating in the Connected Schools program.² The budget also provides capital funding to modernize more than 40 schools and expand early childhood development centers.³

Children’s Law Center supports these important investments in DC students and the District’s future. Just a few months ago school leaders and advocates anticipated more ambitious investments to improve our schools, but the Covid-19 pandemic, and the resulting severe economic downturn, has created a very different budget picture. In the face of these challenges, the Mayor’s proposed budget appropriately maintains public education as a priority.

The proposed budget would thus avoid the serious mistakes other states made in cutting school budgets during prior economic downturns. Empirical studies have shown that reducing school budgets has a direct, negative impact on student outcomes. A 2018 study found “compelling evidence” that the school budget cuts in some states resulting from the 2009 Great Recession caused “lasting ill-effects on young

individuals,” including significantly reducing test scores and college-going rates.⁴ Another study similarly found that the “onset of the Great Recession significantly reduced student math and ELA achievement.”⁵ Even in the face of a recession, maintaining and even enhancing school budgets remain essential investments in our future. In some areas, however, the Mayor’s proposed budget falls short of this goal, such as with school based mental health.

The Council Should Preserve and Expand School Based Mental Health Services

This past February, we testified before this Committee during the DCPS and OSSE performance oversight hearings about the importance of providing mental health services to children at school.⁶ In the few short months that have passed since then, the world has been turned upside down for our city’s children.

DC children – especially those in our most disadvantaged and vulnerable communities – have been severely impacted by the pandemic crisis and the economic fallout. In addition to losing instruction and learning time, children have lost the sense of security that the structure and routine of school provides. They have also lost the critical social connections they have to friends and teachers. We still don't know what school will look like next year. All this uncertainty and loss has been compounded by the dire economic situation many families are facing. As a result, many of our children are experiencing high levels of emotional stress and trauma - making access to school based mental health services even more critical.⁷

Unfortunately, the Mayor's proposed budget makes no additional investments in the school based mental health expansion program (SBMH). Although the Mayor made a point of highlighting \$1.5 million in "new" federal funds for expanding school based mental health, this money simply supplanted local dollar spending – leaving the program's funding flat from FY20 to FY21.⁸ Further, information provided during the Department of Behavioral Health's (DBH's) budget briefings suggest that the administration may want to go ahead and expand services to more schools without providing any additional funding.

With funding for the program remaining flat, it seems likely that the only way to continue expansion is to cut funding to other aspects of the program as it exists. This could include cutting the grant amount per school, cutting funding for the Community of Practice or the evaluation program, reducing the number of DBH supervisor positions, or eliminating funding for the two staff positions at DCPS and OSSE that support the program. These two positions were funded by DBH via MOU this past year, and – as we testified in February – were critical to coordinating and supporting the school side of SBMH.⁹ Cuts to the program as it exists risk destabilizing the program and making it ineffective.

We understand that the financial constraints the District is under due to the pandemic require "shared sacrifice." Our children's mental health, however, cannot be part of what is sacrificed by our budget decisions. Rather, providing mental health

supports to our children is an essential part of our response to the pandemic crisis and must be prioritized in our budget accordingly. In addition to helping children overcome the stress and trauma caused by the pandemic, SBMH clinicians have played an important role in keeping vulnerable and at-risk children connected to their school communities during school closures by providing remote services to children and families and by simply reaching out to children and families that have otherwise had no contact with the school. SBMH clinicians will be a critical tool for keeping students engaged and school communities connected as we continue through the pandemic uncertainty that may require long stretches of distance learning again in the fall.

The amount of money at issue is relatively small. To fully fund the planned expansion to 60 schools would require approximately \$4 million total – which equals roughly \$70,000 per school. Given the unprecedented struggles our students are facing, we must do everything we can to give them the mental health supports they need.

Although SBMH is not funded primarily through the Public Education budget, it is inextricably tied to the successful return of DC's students to schools this fall and to their success in the long run. We urge the members of this Committee to take up this call to action and ensure that the school based mental health expansion is fully funded for FY21.

Decisions About Re-Opening Schools Should Be Based on Public Health Considerations

The Mayor has described the metrics she will use in determining when to start re-opening DC: a sustained decrease in the spread of the virus as well as sufficient testing, contact-tracing and health-care system capacity to continue fighting the virus.¹⁰ The Mayor and school leaders are also considering when, and how, to reopen DC schools. We urge the Council to use its budget oversight to probe school leaders to confirm that the proposed budget and school policies will be sufficient to keep DC students safe and learning during the pandemic.

The Mayor's ReOpen DC advisory committee recommends re-opening schools in phases, with partial re-openings at first followed by an expanded re-opening that blends in-school instruction with online learning at home.¹¹ On May 22, the Mayor announced that DCPS will hold virtual summer school from June 22 to July 24, followed by an in-person summer bridge program in the beginning of August that focuses on grades 3, 6, and 9. The DCPS school year will then begin August 31 either virtually or in-person.¹² Even as schools plan to re-open, uncertainties will remain about risks and tradeoffs raised by the return to in-school instruction, as well as for the potential for new significant Covid-19 outbreaks, which may require schools to close quickly and switch back to remote learning.

As we confront these uncertainties, there is one clear bottom line: decisions regarding school re-openings should be driven by public health considerations. The

Centers for Disease Control has released a “decision-tree” tool to assist school administrators in making re-opening decisions.¹³ To reduce the risk of infection once schools re-open, it may be necessary for schools to promote social distancing (students and staff at least 6 feet apart), which may involve small class sizes and reduced intermingling. Current knowledge suggests that personal prevention practices (wearing a face mask, handwashing, staying home when sick) and environmental cleaning and disinfection are important. Schools may need to screen students and employees upon arrival for symptoms and history of exposure. Schools should also have plans in place to protect students and staff who are at high risk of serious illness.¹⁴ Parents should have the flexibility to determine when it is safe for their children to return to school; ReOpen DC recommends that families be allowed to decide on their preferred learning models in person or learning at home.¹⁵

At first, schools may consider taking a hybrid approach: divide students into groups that would alternate between in-person school attendance and distance learning from home. ReOpen DC’s recommendations envision such a hybrid approach for schools until an effective cure or vaccine is available. According to one media report, DC school leaders are considering three possible hybrid scheduling options:

“The first option would have students at school for one assigned day per week, with virtual learning for four days. The second option would have students at school for two assigned days per week, with virtual learning for three days. The third option would have students in schools for a full week every third week.”¹⁶

A hybrid approach would reduce the number of students at school at any given time and thus promote social distancing. There are significant benefits to this, but schools should also keep in mind the practical difficulties some options would raise. Limiting in-person school attendance to one day per week, for example, would impose burdens on families that would likely outweigh any benefits.

We can also learn lessons from states and countries that have already started re-opening schools. In Germany, for example, students and school staff are tested twice a week for the virus; class sizes have been cut in half; hallway traffic is one-way; breaks are staggered; teachers wear masks; and windows and doors are kept open for air circulation. In China, students have their temperature checked at the start of the day and school cafeteria tables have plastic dividers. Denmark opened primary schools and nursery schools first based on the assumption that young children are least at risk and most dependent on parents, who need to return to work. France similarly opened preschools first, followed by middle school a few weeks later, with high school students still distance learning at home.¹⁷ The wide range of approaches being taken elsewhere can shed light on what works and what doesn't.

Finally, it will be vital for schools to develop their plans for this coming summer and next school year in an open, transparent fashion. Parents must part of the process and be given a full opportunity to provide input. Schools will need to provide rigorous outreach and educational campaigns for staff, students, and families about what to

expect and the risks involved. Parents must feel comfortable sending their children back to school.

DC Must Address Inequities Exacerbated by School Closures

In his recent virtual commencement address to 2020 graduates of historically black colleges and universities, President Obama noted “the disproportionate impact of Covid-19 on our communities,” and said “a disease like this just spotlights the underlying inequities and extra burdens that black communities have historically had to deal with in this country.”¹⁸

These inequities are certainly present in the District, where Covid-19 has exacted the heaviest toll on low income Black and Latinx residents. In her letter transmitting her proposed budget to the Council, Mayor Bowser recognized the “distressing health disparities that exist across our nation and within our community.”¹⁹ Here are the stark facts: “Communities of color in the city continue to be disproportionately affected by the virus—black residents make up 80 percent of the people who have died from the disease here, despite being just 46 percent of the population. Latino residents, meanwhile, have the highest incidence of coronavirus infection per capita in the District, at 1,200 per 100,000. (The rate for black residents is 820 residents per 100,000, while it’s 175 per 100,000 white residents).”²⁰

We see the same inequities in DC schools. As one article stated, the “coronavirus has torn through neighborhoods in the nation’s capital with unequal ferocity, and the

city's schools reflect that. It has magnified existing disparities and educational outcomes and unearthed new challenges."²¹

The impact of school closures and the effectiveness of distance learning has varied greatly from school to school and from student to student. Low-income students of color and students with disabilities have faced the greatest barriers to learning. A very large number of such students have almost completely disconnected from school. According to a Washington Teacher's Union survey, 57% of DC teachers reported that less than half of their students are participating in distance learning.²² Other states are seeing the same problem, as "more students than ever are missing class – not logging on, not checking in or not completing assignments" – especially among low-income students.²³

The reasons for this alarmingly low participation rate vary. Many students with disabilities can't receive the specialized instruction and therapeutic services they need remotely. Too many students still don't have laptops and/or Internet access at home. Other contributing factors include language barriers, illness in the family, and the many other daily burdens low-income families face, especially when a pandemic is hitting their community the hardest.²⁴

The rate of serious illness from Covid-19 among children is very low, yet schools have been closed to help slow the spread of the virus across the broader community. In this way, children – especially low-income children – have effectively been asked to

sacrifice their educational and social development for the benefit of the rest of us. As so eloquently explained by Dr. Danielle Dooley of the Child Health Advocacy Institute at Children’s National Hospital, “[d]irectly and indirectly, low-income children have been forced to subordinate their own well-being for the greater good. To recognize and respect this sacrifice, the U.S. should make a commitment to provide them with the opportunities they have long deserved.”²⁵ Put simply, we owe these children.

Dr. Dooley describes a range of important steps the federal government should take, but there is much the District needs to do as well. As a start, Children’s Law Center recommends the following measures to fight the inequities in education during the pandemic:

1. *Give Priority to the Most Negatively Affected Students in Re-Opening Schools and Spending Federal Relief Funds*

ReOpen DC recommends that the initial phase in re-opening schools should be “focused on students who might benefit most from in-person instruction.”²⁶ At the April 22, 2020 DC Board of Education meeting, Deputy Mayor for Education Paul Kihn discussed the learning loss resulting from school closures. He recognized that schools will need to identify those students who suffered the greatest learning loss and are most in need of support to regain education progress. He expected that schools, as they re-open, may build in more school time – such as an early start to next school year, longer school days, or Saturday classes – to help these students catch up. As an example, he

described how schools could begin working with students who are most in need of supports early in August before the regular school year begins.²⁷

Children’s Law Center agrees that, in designing their re-opening plans, schools should set aside extra in-person instructional time for students who have been the most negatively affected by school closures.²⁸ Students who have missed specialized instruction and related services, for example, should receive in-person compensatory education instruction. Other students who have been unable to engage in distance learning due to digital divide or other issues also need to be identified and given priority in obtaining supports and extra school time to regain the resulting learning loss.

Meeting the needs of the most negatively affected students should also be a priority as the Mayor and schools decide how to spend federal relief funds. The District is entitled to more than \$47 million in federal grants aimed specifically at meeting the needs of students during the Covid-19 pandemic.²⁹ These funds can help provide much needed resources to low-income students of color and students with disabilities who have lost ground in their education since the beginning of the pandemic.

2. Close the Digital Divide

The Mayor’s ReOpen DC advisory group has recommended that we “[e]nsure all students have access to technology and the internet, including technical support.”³⁰

We agree. But DC still has a lot of work to do to reach this goal.

In response to the Covid-19 pandemic, DC public schools closed March 16.

DCPS and DC public charter schools shifted to distance learning in the form of online instruction as well as hard-copy instructional packets. The “digital divide” quickly became even more apparent, as many students lacked devices and/or Internet access to access online learning at home. DC schools have made the following efforts to address this problem:

- Since March 30, DCPS has been distributing up to 18,000 devices to students who lack them at home.³¹ The distribution has taken place in stages and is apparently still going on, with somewhat over half of the 18,000 devices distributed. Some schools apparently have yet to distribute devices to their students. Delays have been caused by initial uncertainty about how and when devices would be distributed and the limited number of technicians needed to prepare each device for student use (*e.g.*, install content filtering software).
- DCPS has acquired more than 10,000 WiFi hotspots to distribute to students who lack Internet connections at home.
- There’s less information about public charter schools, but a number of schools (*e.g.*, KIPP, Capital Cities, Eagle Academy) are reportedly providing devices to all students who need them. Some charters have also reportedly distributed WiFi spots to students.
- A group of non-profits and foundations has established the “DC Education Equity Fund” to assist DCPS and charter school students in bridging the digital divide. The fund has raised approximately \$2 million, with a substantial portion of that money going to schools to purchase devices and WiFi hotspots for students.
- In a May 19 email to parents, Chancellor Ferebee promised to continue increasing equity in technology access. He stated that the FY21 budget will include “a \$6.9 million investment to close the digital divide and help reach a 1:1 student-to-device ratio by 2022.”

These efforts are commendable, but more needs to be done to achieve digital equity for DC students. In the coming year schools will continue to rely on distance learning due to hybrid re-openings and the potential for renewed school closures in the event of resurgent outbreaks of the virus. Given this, and also to promote digital equity in the post-Covid-19 world, we urge the Council to get answers from school leaders to the following pressing questions:

- What is the current state of the problem? In March, Chancellor Ferebee estimated that 30% of DCPS students could not access online distance learning because they do not have a device or Internet access at home.³² But this estimate needs to be updated and also appears to have been based on an informal survey and does not cover public charter school students. The Council needs accurate data to assess the scope of the problem. How many students still lack digital access today? Are there families with an insufficient number of devices to meet the education needs of all the children in the home? How close are we to a 1:1 student-to-device ratio for DCPS and public charter school students?
- Does the proposed budget allocate sufficient funds to provide devices and Internet connections to students who still need them and to replace lost/damaged devices that were previously distributed? What role can federal funding as well as corporate and foundation support play in meeting these needs?
- Does the proposed budget allocate sufficient funds for IT support, teacher training, and student computer literacy training, all of which are key elements to achieving digital equity?

We need answers to these questions so that DC can build more sustainable long-term solutions for providing digital equity, as recommended by “Digital Equity in DC Education” (Digital Equity), a citywide coalition of parents and education advocates.³³ Digital Equity recommends adding \$11 million to the DCPS budget to ensure every K-

12 grade DCPS student begins next school year with the technology they need for in-school and at-home learning.³⁴ Children’s Law Center supports the goal of providing additional funding so that every student – whether they attend a DCPS or public charter school – has equitable access to the technology they need to learn, especially as schools continue to rely on distance learning.

The Office of the State Superintendent of Education (OSSE) should take a more active role in promoting this goal. There is a glaring lack of transparency about the digital divide in our schools, especially in the charter sector, which educates 45% of DC students. The public lacks basic information about school digital equity policies and efforts. OSSE should take the lead in collecting accurate data on this front from all schools, making that data available to the community, and advising the Mayor, the Council, and school leaders on how to improve digital equity efforts.

3. Make Sure At-Risk Funds Are Used for At-Risk Students

Under the Mayor’s proposed budget, the at-risk budget formula weight would remain the same: 0.225 (\$2545 per at-risk student). The budget estimates a total of 24,146 DCPS students fall in the “at risk” categories, with a total DCPS at-risk budget of \$61.4M. While various studies and expert working groups have for years recommended increasing the at-risk weight,³⁵ we recognize that doing so is difficult during the current budget crisis. But even if there’s no room for increasing the at-risk

weight now, the Council can still take steps to prevent the misallocation of the current level of at-risk funding.

A 2019 DC auditor report found that, contrary to DC law,³⁶ DC schools are often using funds set aside for at-risk students to fund core costs in a school's gross budget. This practice has turned the purpose behind at-risk funding on its head: "DCPS schools with high concentrations of at-risk students often received reduced base funding In contrast, schools with low concentrations of at-risk students often received base funds that either matched or exceeded their staffing formula requirements."³⁷ To prevent such misallocations, the DC auditor report made several recommendations, including making the budgeting process more transparent and amending the D.C. Code to strengthen at-risk provisions on "supplement not supplant" and apply these provisions to all public schools in D.C. to aid in its oversight of compliance with the at-risk funding requirements.³⁸ There are several pieces of pending legislation aimed to address the lack of transparency regarding how these funds are spent and we urge the Council to take action to address this matter.

Special Education Students Need Additional Resources to Compensate for the Learning Loss They Have Suffered During School Closures

Students with disabilities have been affected by the abrupt change to distance learning in a pronounced way. Whereas in the classroom students with disabilities were able to access specialized instruction and related services as per their

Individualized Education Plan (IEP), now teachers and parents have to work together to provide students with modified versions of services and instruction. As we work with individual students and families with disabilities, we are learning that schools are not providing services equally, and that there are great discrepancies between what some students are receiving compared to others. We are very concerned that despite our best efforts to transition students with disabilities to distance learning, these children are missing out on key hours of instruction and services which will lead them to fall further from proficiency.

In our FY20 oversight testimony, we highlighted that children with disabilities, who make up about 17% of students enrolled throughout the year, continue to have unacceptable outcomes.³⁹ OSSE's Landscape Analysis highlighted information we already knew about DC's children with special education needs: their academic performance and graduation outcomes are far below their peers without disabilities. Reviewing 2019 data, we know that 44% of DC students without disabilities scored proficient in the English language arts (ELA) statewide assessment, while only 8% of students with disabilities scored proficient.⁴⁰ Graduation rates continue to be low for students with disabilities.⁴¹ In FY19, 15% of students with disabilities dropped out of school.⁴² Further, we remain concerned about transition services for students with disabilities after graduation. The dramatic shift to distance learning brought on by the

pandemic may only be serving to widen this unacceptable achievement gap between students with disabilities and their general education peers.

In order to improve the educational outcomes of students with disabilities as we plan for recovery from this public health emergency, we recommend the Council and OSSE consider the following recommendations.

1. *Provide More Robust Technical Assistance to LEAs Providing Special Education Services*

We were pleased to learn in recent conversations with OSSE that they are planning on rolling out additional professional development tools for LEA's in the very near future.⁴³ While each LEA and school is implementing the OSSE and federal guidance on providing students with disabilities with a Free and Appropriate Public Education (FAPE) during these unique times, we believe that as the State Education Agency (SEA), OSSE should be taking the lead on providing clearer, publicly available technical assistance bulletins to frame expectations. We applaud OSSE's webpage resource which lists all of its updated policies but would welcome additional Technical Assistance Resources to also be listed on that page.

2. *Consider Extending Eligibility for Students with Disabilities in Their Final Year*

Apart from missing academic instructional opportunities, students with disabilities are also missing out on educational opportunities related to life skills and therapeutic intervention. Therefore, we recommend for students who are of graduation age, that OSSE consider extending eligibility so that these students can stay in school

longer to make up for these lost opportunities. These opportunities are key when combined with robust transition services, many of which have been cut short due the transition to online learning and telemedicine service delivery.

3. *Ensure Adequate Staffing During Summer Months to Ensure Special Education Evaluations Can Continue*

We understand some evaluations for special education services must be conducted in person in order to meet validity measures. However, summer months are usually a time where school cuts back on staffing. We urge OSSE, DCPS and other LEAs to encourage appropriate staffing levels so that children who have been waiting to receive special education services evaluations since before the pandemic can be accommodated during the summer months. Having sufficient staffing so that students can safely access school buildings and be evaluated should be a priority moving forward.

4. *Incorporate Parent Training into the Student's IEP As a Related Service*

The IDEA allows for parent training to be incorporated into a student's IEP as a related service.⁴⁴ We recognize that parents are now taking on more of a co-teacher role and helping to facilitate the provision of related services and individualized instruction within the home. Although we want to stress that it is not the responsibility of a parent to provide FAPE, we do recognize that some children would be best served by having their parents engage in some targeted parent training to help in the facilitation of education and services during the public health emergency and the subsequent

recovery period. We urge OSSE to continue to promote the option of parent training as a related service to be incorporated into students IEP, and also to provide guidance to LEAs on what good examples of parent training may look like.

Proposed Cuts to the Budget for OSSE Department of Transportation Risk Undermining Its Mission

Many of the students Children's Law Center represent rely on receiving transportation to and from school each day as provided by the OSSE Department of Transportation (OSSE DOT). Children's Law Center works with OSSE DOT and other advocates to troubleshoot and provide feedback through quarterly meetings. For many of the students who use OSSE DOT's services, getting to and from school smoothly is a rare occurrence. In the past year, our clients have reported late and early busses, missed pick-ups, missed days due to lack of school nurses available, and other issues. These issues can be even more complicated for kids in the care of CFSA as they move to new foster placements. For parents, the main point of contact with OSSE DOT is the Parent Resource Center. Part call center, part troubleshooting resource – the Parent Resource Center is how parents can communicate with OSSE DOT about late or missed busses, changes in schedules, sick days, or general questions about their route. We are concerned that the Mayors FY21 proposed budget shows a cut of \$283,000.00 and one full time employee (FTE) to the Parent Resource Center.⁴⁵ This department is critical to not only providing customer service to parents, but also relaying important information

to the drivers in order to plan for route logistics. We are concerned that a cut in the already lean Parent Resource Center may mean long wait times for responses from OSSE DOT or worsening communication between parents and drivers.

Another major challenge that families face when using OSSE DOT's service is dealing with route changes and scheduling. Children with disabilities often face very long bus ride times, within District rides averaging 75 minutes.⁴⁶ Many children who travel to schools outside the district face longer route times, sometimes even as long as 2 hours each way.⁴⁷ The department of Routing and Scheduling is especially critical at the beginning of the year, when students sometimes go weeks without transportation due to the new routes being set up and coordinated. Children's Law Center is concerned that a cut of \$283,000 and the loss of an FTE in Routing and Scheduling will lead to longer delays in getting routes set up or modified.⁴⁸ We recommend the Council ask questions to determine what the anticipated impact of this cut will mean for students and families at the beginning of the school year.

Having enough drivers and aides to smoothly run transportation for students with disabilities has always been a challenge locally, but is a trend reflected nationally.⁴⁹ OSSE DOT has piloted some innovative ways to attract, retain, and train talent and we applaud the Mayor's FY21 proposed budget increases FTE across each OSSE DOT terminal. We hope this additional funding will help to sustain OSSE DOT's efforts to attract, hire, and train talented professionals.

Finally, over the past year our OSSE DOT working group has identified that adapting the current technology used by LEA's and OSSE DOT is key to improving OSSE DOT's scheduling. Prior to the public health emergency, we had identified some key inefficiencies in how and when information is entered into TOTES and SEDS and were beginning to start conversations with OSSE DOT about how to resolve those issues. We are concerned that there is a \$717,000 decrease in the Data Analysis and Support unit, especially when we have identified that better coordination between the SEDS database, the TOTE forms, and the individual schools is key to improving the issues students with disabilities face at the beginning of the school year.⁵⁰

As we transition from COVID emergency planning to recovery planning, we urge the Council to consider if OSSE DOT may need additional financial support in order to safely transport children with disabilities to and from school. We ask the Council to ask questions to learn more about OSSE DOT's recovery plan and to specifically learn if the pandemic will limit the number of children per bus for safe social distancing and what the effect will be on increased staff and equipment. Will OSSE DOT's COVID plan create the need for additional bus routes? Since we know that some students with disabilities would benefit the most from returning to an in-school environment in order to receive the services they are entitled to, we want to be sure that OSSE DOT is as prepared as possible to facilitate that transition in a safe way.

DCPS Must Reform Its Early Education Program and Work to Restore Head Start Funding As Soon As Possible

In April, DCPS announced that it was relinquishing \$14.5 million in funding from the federal Head Start program, which promotes school readiness of children ages birth to five from low-income families. This grant helped provide early education to approximately 1,100 DC students under age 5. DCPS's decision was prompted by safety concerns in pre-schools. The U.S. Department of Health and Human Services, which oversees the Head Start program, reportedly had found multiple safety violations in recent years. Chancellor Ferebee stated in April that DCPS was working on "systematic changes to enhance student supervision and safety."⁵¹

The Mayor's proposed budget shows the dramatic impact of the loss of these funds. Based on the line item entries for early childhood education in DCPS elementary schools, we estimate that each of these schools will, on average, lose approximately 2.7 FTEs and 36% in funding in their early childhood programs.⁵² In April, the Chancellor stated that the loss of Head Start funds would not reduce any pre-K seats for the 2020-21 school year.⁵³ The proposed cut-backs, however, cast doubt on that projection and raise significant concerns about the quality of early childhood education in DCPS schools.

The Council should ask DCPS leadership to explain in detail the impact the cut-backs will have on early childhood learning, the reasons behind the loss of Head Start funds, and the steps DCPS is taking to ensure student safety in its pre-school program.

DCPS needs to make the necessary reforms to the program and work to restore the much-needed Head Start funds as soon as possible.

**OSSE's Child Care Subsidy Program Should Be
Held Harmless to Preserve Essential Child Care Services in the District**

There is an urgent need to provide funding to stabilize and preserve child care services in the District. Although OSSE has continued payments to providers under its child care subsidy program during the current public health crisis,⁵⁴ the child care sector is facing dire financial shortfalls in privately paid tuition, threatening the viability of many child care centers. Without dedicated public funding support, D.C. may lose more than 6,500 early learning seats (20% of the current total).⁵⁵ This would greatly impede our recovery from the economic crisis caused by the pandemic. Workers with young children, especially low-income families, won't be able to return to work without safe and affordable child care.

Children's Law Center agrees with the Under 3 DC Coalition that, to ensure a safe and inclusive recovery, the Council needs to make child care a priority so parents can get back to work. In particular, we urge the Council to hold OSSE's child care subsidy program harmless by allocating at least \$90 million in local FY21 funds for the program. This represents a \$10 million increase from last year to account for pandemic-related needs such as more staffing and reduced class sizes to meet safety and social distancing guidelines. The Council should also supplement the FY20 budget with

additional funds to provide immediate relief to child care providers struggling to avoid permanent closures. We must also protect funding for health programs that serve young children and caregivers including Healthy Start, Healthy Futures, Help Me Grow, and Home Visiting programs.

The Council Should Pass the Students' Right to Home or Hospital Instruction Act of 2019

More than 150 DCPS and DC public charter school students request home or hospital instruction every year so they can continue receiving instruction while recovering from a serious health condition.⁵⁶ The need for "HHI" will only increase in the coming year as more D.C. students and families are infected by the COVID-19 virus. Many students, however, currently face serious obstacles in seeking HHI.

First, there's a lack of transparency. Parents often don't have sufficient information – and sometimes any information – about the right to request home or hospital instruction and the process for requesting it. We're aware of cases in which schools repeatedly raised truancy concerns about a sick child who had been absent from school for more than 10 days, yet never informed the parents about the option of requesting HHI. While some public charter schools have published written HHI policies, others have not, and some charter schools may have no HHI policy, written or otherwise.

Second, DCPS and other LEAs often deny or delay HHI without justification. In recent years, DCPS has denied HHI to approximately *one out of every three families* who have requested it, asserting that the request was either incomplete or failed to establish eligibility.⁵⁷ In other cases, students ultimately were found eligible, but only weeks, sometimes months, after submitting the initial HHI request. We have seen too many cases in which DCPS and some charter schools override the doctor's opinion that a student has a medical need for HHI or put up other roadblocks to the prompt delivery of HHI. A student's need for HHI is primarily a medical issue. Schools consequently should defer to the medical professional caring for the student.

Third, even when students are found eligible, there are no legally enforceable minimum standards governing the quantity and quality of HHI. Too often students receive too little HHI and end up falling far behind their peers.

Fortunately, the Council is considering legislation that would remedy these problems. B23-0392, the Students' Right to Home or Hospital Instruction Act of 2019, was introduced last year by Councilmembers Grosso, Todd, Trayon White, Nadeau, Cheh, and Robert White, and co-sponsored by Councilmember Allen. It received strong support in public testimony at an October 21, 2019 hearing on the bill.⁵⁸ On February 11, 2020, the Committee on Education unanimously approved the bill.

Children's Law Center strongly supports this bill and commends the strong leadership Councilmember Grosso and other members of the Committee on Education

have shown on this issue. The bill would require all LEAs to adopt and implement HHI policies, create timelines for determining eligibility and delivering services, create appeal rights, and promote transparency. To further strengthen the bill, we recommend that the Council amend the bill to establish more rigorous appeals rights when an LEA violates its HHI obligations.⁵⁹ We also recommend that the bill set forth a minimum number of required HHI hours eligible students should receive, rather than having OSSE establish these minimums through a rulemaking proceeding.⁶⁰

The Council Should Consider Revenue-Raising Opportunities to Help Meet the District's Educational Needs

As the District plans to recover from this recession, we recognize that the Council needs solutions and not just demands for more funding. The Mayor's proposed FY21 budget used some smart tactics to bridge our revenue gaps and we support the Mayor's proposed solutions to increase revenue. However, we need to do more to ensure an equitable recovery for all DC residents and students. Towards this end, we also support proposals that include repealing tax cuts that benefited our highest earners and look to other opportunities to raise revenue. We urge the Council to consider incorporating the revenue opportunities presented next to ensure we are able to provide children and families with the resources they will need to succeed during and after the pandemic.

1. *Eliminate Ineffective Tax Expenditures*

Eliminating ineffective tax expenditures is an efficient way to address the District's budget shortfall for FY21 and will avoid the short- and long-term harm to the city of cutting program budgets. The District currently offers a number of tax incentive programs that are purportedly designed to encourage business development in DC. These programs cost the District tens of millions of dollars every year but have not yielded any demonstrable economic benefits to the city.⁶¹ In particular, the Council should consider eliminating both the Qualified High Technology Company (QHTC) tax expenditure program and the Qualified Supermarket tax expenditure program.

The QHTC tax expenditure program cost the District over \$45 million in FY2017. During its most recent statutorily-required review of DC's tax expenditures, the Office of Revenue Analysis (part of the Office of the Chief Financial Officer) concluded that gains in DC's high tech sector cannot be attributed to the QHTC tax expenditure program, even though the program will continue to cost at least \$40 million per year in foregone revenue.⁶² The report also found that a small number of large companies are "taking disproportionately large amounts of QHTC credits without evidence of commensurate economic benefit to the District" and noted that "it is not clear whether they engaged in any new economic activities because of the incentives."⁶³ For almost the entire lifetime of this program, more QHTC credits have been claimed by companies headquartered in Virginia than companies headquartered in D.C.⁶⁴

The Qualified Supermarket tax expenditure program cost the District over \$5 million in FY2017. The laudable goal of this program is to incentivize the opening of new grocery stores in low-income parts of the city that suffer from limited access to affordable and nutritious food. Despite costing nearly \$30 million dollars in foregone revenue between 2010 and 2017, the Office of Revenue Analysis report concluded that the program “cannot be shown to have affected supermarkets’ location decisions, generally, or produced economic or other benefits that would not have happened but for the incentives.”⁶⁵

These tax expenditure programs are costing the District tens of millions of dollars in foregone revenue every year and providing nothing in return.⁶⁶ There are many difficult decisions to be made during this budget cycle – but this is not one of them. The Council should redirect these funds to support essential services to families suffering through the pandemic crisis.

2. Repurpose “Special Purpose” Funds

The Council should also carefully examine opportunities for repurposing special purpose funds rather than cutting much-needed housing, public health and education services. There are more than 250 active special purpose funds, which are funds established by statute to fund a particular government program using fees and assessments imposed on licensees and users of government services.⁶⁷ The total

revenue in all these funds made up 5% (about \$800 million) of DC's total gross budget revenues in the previously approved FY20 budget.⁶⁸

Many special purpose funds spend less than the revenues they raise in any given year and carry large and increasing fund balances. In 2017, for example, the total revenue collected by all DC special purpose funds exceeded their total expenditures by \$52 million.⁶⁹ The DC Auditor found that 37% of special purpose funds spent less than 50% of their total FY2013 through FY2017 revenues.⁷⁰ For "non-lapsing" special purpose funds,⁷¹ this unspent money remains in the fund and is carried over to the next fiscal year. On a number of occasions in the past, the Council has transferred unspent special purpose funds to the General Fund so that the funds can be repurposed for other programs.⁷²

Now, more than ever, is the time for the Council to repurpose any available special purpose funds to help plug budget gaps created by the economic fallout from the COVID-19 pandemic. This certainly includes transferring unspent funds in non-lapsing funds to the General Fund unless the funds are contractually committed to expenditures in future fiscal years or otherwise restricted or earmarked for vital government programs. It should also include a review of agency current fiscal year expenditures of special purpose funds to determine whether any savings or efficiencies can be identified to free up funds that could be transferred to the General Fund.

Repurposing special purpose funds wherever possible would help promote a more just and equitable budget.

Conclusion

The Mayor's proposed budget will increase investment in our schools and thus help maintain public education as a priority as DC residents struggle with the unprecedented challenges caused by the Covid-19 pandemic. Children's Law Center recommends the following additional steps to help ensure all DC children can learn and thrive as we meet these challenges:

- The Council should ensure that the expansion of the school based mental health program is fully funded for FY21.
- To help address inequities exacerbated by school closures, the Council and school leaders should (1) close the digital divide by ensuring all DC students have equitable access to the technology they need to learn; (2) give priority to the most negatively affected students in re-opening schools and spending federal relief funds; and (3) ensure at-risk funds are spent on at-risk students.
- The Council and OSSE should (1) provide more robust technical assistance to LEAs providing special education services; (2) consider extending eligibility for students with disabilities in their final year; (3) ensure adequate staffing during summer months to ensure special education evaluations can continue; and (4) incorporate parent training into student IEPs as a related service.
- The Council should examine a number of proposed cuts to OSSE DOT's budget as well as OSSE DOT's plans as schools re-open to ensure students with disabilities receive safe and timely transportation services.
- DCPS should take steps to ensure the safe supervision of pre-K students and restore the \$14.5 million in lost Head Start funds as soon as possible.

- The Council should hold OSSE’s child care subsidy program harmless by allocating at least \$90 million in local FY21 funds for the program.
- The Council should pass the Student’s Right to Home or Hospital Instruction Act of 2019, which was approved by the Committee on Education in February.
- To meet additional funding needs, the Council should consider revenue-raised opportunities, including eliminating the Qualified High Technology Company and Qualified Supermarket tax expenditure programs. The Council should also consider tapping into unspent Special Purpose funds to the maximum extent possible.

We appreciate the opportunity to testify today and welcome any questions the Committee may have.

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 nearly 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 In a May 19, 2020 email to parents, Chancellor Ferebee stated that the FY21 budget includes \$450,000 to support early literacy intervention, allowing DCPS to serve an additional 600 students across the city. His email also described a budget allocation of \$2.1 million to Connected Schools to provide wraparound services, including wellness and behavioral health supports, housing, child care, and financial assistance referrals.

³ See Mayor’s Presentation of Proposed FY21 Budget at 21 (April 18, 2020) (Mayor’s April 18 Presentation), available at <https://mayor.dc.gov/page/fy2021-budget-dchope--mayor-bowser's-commitment-give-every-washingtonian-fair-shot>.

⁴ C.K. Jackson, *et al.*, “Do School Spending Cuts Matter? Evidence from the Great Recession,” National Bureau of Economic Research Working Paper 24203, at 4, 21 (Jan. 2018) (Jackson Study), available at <https://www.nber.org/papers/w24203.pdf>. See also “What Budget Cuts During the Great Recession Did to Pupils’ Test Scores,” *The Economist* (June 6, 2019), available at <https://www.economist.com/united-states/2019/06/06/what-budget-cuts-during-the-great-recession-did-to-pupils-test-scores>.

⁵ K. Shores, *et al.*, “The Impact of the Great Recession on Student Achievement: Evidence from Population Data, at (Aug. 2017) (Shores Study), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3026151.

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- ⁶ Testimony Sharra Greer, Children’s Law Center, Before Committee on Education & Committee of the Whole at 2-5 (Feb. 19, 2020) (CLC Feb. 19 Testimony), *available at* <https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/DCPS%20CLC%20Testimony%20Final%20.pdf>; <https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20OSSE%20Oversight%20Testimony%202020%20FINAL.pdf>
- ⁷ See Perry Stein, “Low Attendance and Covid Have Ravaged D.C.’s Poorest Schools – Fall Will Be About Reconnecting, Washington Post (May 10, 2020) (May 10 Washington Post Article) (“And when students do finally return to the classrooms, [DCPS Chancellor] Ferebee said the immediate focus will be on students’ mental health, addressing the trauma that many students have experienced during the health emergency. . . . ‘It’s traumatic. . . . Kids have experienced trauma and stress,’ Ferebee said in an interview.:”), *available at* https://www.washingtonpost.com/local/education/in-dc-schools-spring-was-ravaged-by-covid-and-disconnection-fall-will-be-about-catching-up/2020/05/10/60ad1774-8b3f-11ea-8ac1-bfb250876b7a_story.html .
- ⁸ See Mayor’s April 18 Presentation at 21; DBH, Budget Briefing for the Coordinating Council on School Behavioral Health (May 28, 2020).
- ⁹ CLC Feb. 19 Testimony at 5.
- ¹⁰ Coronavirus Situational Update (May 15, 2020), *available at* https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Situational-Update-Presentation_051520.pdf .
- ¹¹ ReOpen DC Education and Childcare Committee Recommendations (ReOpen DC Recommendations), *available at* https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/01.%20Education%20and%20Childcare%20Summary.pdf .
- ¹² See Coronavirus Situational Update at 12, 15 (May 22, 2020), *available at* https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/COVID19-Situational-Update-Presentation_052220.pdf .
- ¹³ <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/Schools-Decision-Tree.pdf> . ReOpen DC also describes a number of safeguards schools should follow when they re-open. ReOpen DC Recommendations at 34-36.
- ¹⁴ <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html> .
- ¹⁵ ReOpen DC Recommendations at 33.
- ¹⁶ Mark Segraves, “DC Students Could Be In Classrooms Just 1 or 2 Days Per Week This Fall,” NBCWashington (May 19, 2020), *available at* <https://www.nbcwashington.com/news/local/dc-students-could-be-in-classrooms-just-1-or-2-days-per-week-in-fall/2307232/> .
- ¹⁷ Katrin Benhold, “As Europe Reopens Schools, Relief Combines with Risk,” The New York Times (May 10, 2020), *available at* <https://www.nytimes.com/2020/05/10/world/europe/reopen-schools-germany.html> .

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- 18 Transcript of Obama’s H.B.C.U. Commencement Speech (May 16, 2020), *available at* <https://www.nytimes.com/2020/05/16/us/obama-hbcu-speech-transcript.html?action=click&module=RelatedLinks&pgtype=Article> .
- 19 Letter from Mayor Bowser to Honorable Phil Mendelson, at 1 (May 18, 2020), *available at* <https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC-GOVT-FY-2021-PROPOSED-BUDGET-VOLUME-1.pdf> (page 21).
- 20 Natalie Delgadillo, “Why Do Latinos Have The Highest Rate Of Coronavirus Infection In D.C.?” *dc1st* (May 11, 2020), *available at* <https://dcist.com/story/20/05/11/why-do-latinos-have-the-highest-rate-of-coronavirus-infection-in-d-c/> .
- 21 May 10 Washington Post Article
- 22 *Id.*
- 23 Dana Goldstein, “As School Moves Online, Many Students Stay Logged Out,” *The New York Times* (April 6, 2020), *available at* <https://www.nytimes.com/2020/04/06/us/coronavirus-schools-attendance-absent.html?auth=login-email&login=email&referringSource=articleShare> .
- 24 A Washington Post article describes some of the barriers facing families:
- The attendance records look bleak. At an elementary school in Northeast Washington, just 50 percent of fourth- and fifth-graders are logging on to watch the PowerPoints that their teacher spends hours building each weekend. A special-education teacher in Northwest Washington said she’s struggling to schedule individualized virtual meetings with her students, many of whom have working parents who do not speak English and have never before used the school system’s Microsoft platform.
- Sean Perin’s fifth-grade students at Garfield Elementary in Southeast Washington have parents who report to work each day at restaurants, stores and medical facilities, leaving their children with older siblings or relatives during the day. He said he has heard that at least two of his students have lost relatives to the virus.
- Each day, fewer than half of his 38 students log on to his live online course. He said some students watch a recorded version of his class on their own time. He is in contact with others who are not fully participating in academics.
- May 10 Washington Post Article.
- 25 Dr. Danielle Dooley, Child Health Advocacy Institute, Children’s National Hospital, “Low-Income Children and Coronavirus Disease 2019 (COVID-19) in the US,” *JAMA Pediatrics* (May 13, 2020), *available at* <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2766115> .
- 26 ReOpen DC Recommendations at 32.
- 27 *See* School Board of Education Public Meeting Livestream (April 22, 2020) (relevant discussion begins around 1:23:40), *available at* <https://www.youtube.com/watch?v=2AjiPzhVU90&list=PLc9Yooaf1xFROBf1O-6dvWvSleaVGZUO8&index=3&t=0s>

²⁸ Of course, some students, particularly students with disabilities, may be unable to attend school for health reasons, including a heightened risk for Covid-19 infection. Schools should provide strong outreach to meet of these students as best as possible.

²⁹ The Mayor is entitled to a \$5.8 million grant under the Governor’s Emergency Education Relief Fund. *See* Section 18002 of Title VIII of Division B of the CARES Act, Pub. Law 116-136 (enacted March 27, 2020). OSSE is entitled to a \$42 million grant under the Elementary and Secondary School Emergency Relief Fund; OSSE is required to distribute 90% of these funds to DC LEAs. *See* Section 18003 of Title VIII of Division B of the CARES Act, Pub. Law 116-136 (enacted March 27, 2020).

³⁰ ReOpen DC Recommendations at 34.

³¹ The devices were originally intended for in-classroom use under the Empowered Learners Initiative, but have been repurposed for student use at home as well as at school. *See* <https://dcps.dc.gov/page/empowered-learners-initiative-eli-0> .

³² Rick Massimo, “\$1M Fund to Help Close DC’s ‘Digital Divide’ As Distance Learning Begins,” WTOP News (March 24, 2020), *available at* <https://wtop.com/dc/2020/03/1m-fund-to-help-close-dcs-digital-divide-as-distance-learning-begins/> .

³³ *See* <https://w6pspo.org/digital-equity/> .

³⁴ Digital Equity’s testimony provides a detailed explanation of the assumptions behind this budget request.

³⁵ The 2013 “Adequacy Study,” sponsored by the Deputy Mayor for Education, recommended that DC establish a 0.37 at-risk weight in the DC school funding formula. Cost of Student Achievement: Report of the DC Education Adequacy Study, at ES18 (Dec. 20, 2013) (sponsored by the DC Deputy Mayor for Education), *available at* https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/DC%20ADEQUACY%20STUDY_FULL%20REPORT.pdf.

The January 2019 UPSFF Working Group report reiterated that “the needs of at-risk students remain significant, and that current performance measures justify increasing the at-risk weight.” . Report of the Uniform Per Student Funding Formula (UPSFF) Working Group, OSSE, at 13 (Jan. 2019) (UPSFF Working Group Report), *available at* https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/UPSFF%20Working%20Group%20Report.pdf .

³⁶ Under DC law, DCPS must use at-risk funds “for the purpose of improving student achievement among at-risk students.” DCPS’s at-risk funds “shall be supplemental to the school’s gross budget and shall not supplant” any UPSFF, federal, or other funds to which the school is otherwise entitled. DC Code § 38-2907.01(b)(1) & (b)(3).

³⁷ Office of the District of Columbia Auditor, “DC Schools Shortchange At-Risk Students,” at ii (June 25, 2019) (2019 DC Auditor Report), *available at* <http://dcauditor.org/report/d-c-schools-shortchange-at-risk-students/>.

³⁸ *Id.* at 24.

39 The District of Columbia Report (2019), *available at* <https://dcschoolreportcard.org/state/99999-0000>.

40 *Id.* at 9.

41 *See* OSSE FY19 Performance Oversight Responses Q39 Attachment, *available at* <https://osse.dc.gov/page/fy19-performance-oversight-questions>

42 The total number of students with disabilities in FY19 was 4,295. The total number of students who dropped out was 655. This calculation was done using data from the FY19 OSSE Oversight Performance Responses, Q39. *Id.*

43 Children’s Law Center participated with in a robust conversation as a part of the Special Education Advocates Coalition on May 27, 2020.

44 *See* 34 C.F.R §300.34(a). §300.34(c)(8)(i)(ii)(iii) provides definitions to parent training and counseling.

45 Mayor’s Proposed FY 2021 Budget and Financial Plan, Volume 3 Agency Budget Chapters - Part II, Public Education System, p. 587.

46 OSSE Division of Student Transportation, Transportation Handbook for Parents and Guardians of Special Education Students, p. 6, *available at* [https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Parent%20HandBook Interactive 03.11.14 10AM.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Parent%20HandBook%20Interactive%2003.11.14%2010AM.pdf)

47 *Id.*

48 Mayor’s Proposed FY 2021 Budget and Financial Plan, Volume 3 Agency Budget Chapters - Part II, Public Education System, p. 587.

49 OSSE explains in detail in their FY20 budget testimony some of the historical challenges they have been dealing to attract and retain personnel, *available at* https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/OSSE%20FY20%20Budget%20Questions%20-%20Responses%20vF%20as%20submitted.pdf.

50 Mayor’s Proposed FY 2021 Budget and Financial Plan, Volume 3 Agency Budget Chapters - Part II, Public Education System, p. 587.

51 Debbie Truong, “D.C. Public Schools Lose Millions In Federal Money For Head Start,” NPR (April 16, 2020) (April NPR Article), *available at* <https://www.npr.org/local/305/2020/04/16/835924020/d-c-public-schools-lose-millions-in-federal-money-for-head-start> .

52 We examined the early education lines items in the budget profiles for each DCPS with a preK program to calculate the average loss of funds and FTEs DCPS’s early childhood education program.

53 *See* April NPR Article.

54 OSSE Guidance Related to COVID-19: Subsidized Child Care Provider Attendance and Payment (April 17, 2020), *available at* <https://www.dcaeyc.org/post/osse-guidance-related-to-covid-19-subsidized-child-care-provider-attendance-and-payment> .

55 DC Action for Children, “DC Can’t Have Economic Recovery Without Child Care Investments,” *available at*

https://www.dactionforchildren.org/sites/default/files/DC%20Child%20Care%20Investments_May2020.pdf .

⁵⁶ See DCPS Responses to Fiscal Year 2018 Performance Oversight Questions at 140-141, *available at* https://www.dropbox.com/sh/ontbjkp1y9c5cz2/A.AAuHwo5FGiLniA5nVlvNU6Va/Performance%20Responses/D.C.%20Public%20Schools?dl=0&preview=POH+-+DCPS+FY18+Response_final.pdf&subfolder_nav_tracking=1 .

⁵⁷ This estimate is based on DCPS data regarding the number of HHI referrals and denials for school year 2018-19 and 2017-2018, as set forth in its responses to Fiscal Year 2018 Performance Oversight Questions from the DC Council’s Committee on Education. *Id.*

⁵⁸ Testifying in support of the bill were Buck Logan of Children’s Law Center, Maria Blaeuer of Advocates for Justice & Education, Molly Whelan of DC Association for Special Education, Attorney Margaret Kohn, and a number of parents who have faced obstacles in obtaining HHI for their children.

⁵⁹ In particular, CLC recommends that the bill (1) allow parents to appeal any violation of the proposed legislation, not just adverse eligibility decisions; (2) allow parents to appeal to the Office of Administrative Hearings rather than an OSSE panel; and (3) when a parent appeals the denial of eligibility, require that the student receive HHI pending the outcome of the appeal and place the burden of proof in the proceeding on the LEA.

⁶⁰ CLC recommends that the bill require LEAs to provide at least 5 hours per week of direct home or hospital instruction for students in K through 5th grade, and at least 2½ hours per week per core subject for students in grades 6 through 12. These minimums are consistent with the HHI policies in neighboring jurisdictions.

⁶¹ DC Office of Revenue Analysis, *Review of Economic Development Tax Expenditures* pg 8-18 (Nov. 2018) (“Overall, the District’s economic development tax incentives support the District’s broad economic development goals as designed, however various issues with each of the incentives prevent an assessment of their effectiveness in meeting the respective incentive goals.”).

⁶² *Id.* at 11-12.

⁶³ *Id.* at 12.

⁶⁴ *Id.*

⁶⁵ *Id.* at 14.

⁶⁶ *Id.* at 18 (“This report found that QHTC and Supermarket tax incentives are not well targeted, meaning many companies may be receiving benefits—sometimes very large sums, in the case of several large QHTCs—to do what they may have done without the incentive.”).

⁶⁷ For example, the Department of Consumer and Regulatory Affairs administers the “Basic Business License Fund,” which collects millions of dollars each year from business license fees; these funds are intended to defray the cost of operating DCRA’s basic business licensing system. See DC Office of Revenue Analysis, *DC Special Purpose Revenue Funds Report*, February 2015, p. 55 (OFA Report), *available at* <https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/Special-Purpose%20Report%202015.pdf>.

⁶⁸ Office of the Budget Director. *Budget 201*, January 2020, *available at*: <https://static1.squarespace.com/static/5bbd09f3d74562c7f0e4bb10/t/5e1f336250c19021ca91c618/1579103075310/DC+Budget+201+FINAL+-+1.10.20.pdf>; Government of the District of Columbia, *FY2020 Approved Budget and Financial Plan*, July 2019, p. 1-8, *available at* https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC_OCFO_Budget_Vol_1_1_0.pdf. *See also* <https://districtmeasured.com/2020/02/>.

⁶⁹ Office of the DC Auditor. *Elected Officials Create Special Funds But ‘Sweep’ Dollars for Other Purposes at 2* (April 2019) (2019 DC Auditor Report), *available at* <http://dcauditor.org/report/elected-officials-create-special-funds-but-sweep-dollars-for-other-purposes/>.

⁷⁰ *Id.* at 10.

⁷¹ A non-lapsing fund’s unspent revenue is continuously available for use in subsequent fiscal years for the particular program in question. In contrast, any unspent revenue in a lapsing fund is automatically transferred to the General Fund at the end of the fiscal year.

⁷² The DC Auditor found 72 instances of such repurposing, amounting to more than \$142 million in FY2013 through FY2017. *Id.* at 12. Although the DC Auditor’s report criticized this practice, transferring and repurposing unused or underutilized special purpose funds nonetheless offers an essential tool in the current budget emergency.