

Testimony of

The Hon. Kathy Patterson  
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Prepared for the

Council of the District of Columbia  
Committee of the Whole

Public Hearing on the  
FY 2022 Budget for the Office of the D.C. Auditor  
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The John A. Wilson Building  
1350 Pennsylvania Ave., N.W.  
Washington, DC 20004

Good afternoon, Chairman Mendelson and members of the Committee of the Whole. I am Kathy Patterson, the District of Columbia Auditor. I greatly appreciate the opportunity to discuss the budget for the Office of the D.C. Auditor (ODCA) for Fiscal Year 2022 and to share thoughts on specific proposals for your consideration in the FY 2021 supplemental and FY 2022 budget as we all look forward to a winding down of the COVID-19 health emergency.

My staff and I continue to work primarily remotely and are available via email or telephone to respond to any questions. I will begin with a discussion of our current year budget and what I am recommending for FY 2022.

### **ODCA FY 2021 Budget**

Mr. Chairman, as you noted during the ODCA performance hearing earlier this year we have experienced what I consider significant changes in staffing over the past year and a half. Since January 2020 we have had 10 staff departures in a staff that has numbered as many as 32, counting one graduate student intern in FY 2018. Those departures included one retirement and one colleague passing, two moving to other District agencies, and three moving to the federal government and two more to private sector positions. Taking positions closer to home was a factor for two of our colleagues who live outside the District. I initially held off hiring during the pandemic, based on wanting to be able to conduct in-person interviews. But we moved forward with candidates we interviewed virtually over the last few months and we have brought on five new staff since this past January. We have 27 FTEs today.

One concern I have from the staffing changes that I also identified in my earlier testimony is losing ODCA staff to higher-paying federal accountability agencies including the Department of Defense Office of the Inspector General. I do not plan to hire up to the full 31 FTE count we are permitted in the current budget because there simply aren't the funds to do so. I would like to see a general increase in compensation for a majority of the auditors and analysts on the ODCA teams as a staff retention strategy and I will speak more to that when I discuss the FY 2022 budget now before you. When I provided an initial recommendation for ODCA's FY 2022 budget late last year it was with the thought that we should hold steady at current spending levels until the economic results of the pandemic became clearer. They are clearer today.

### **New Office Space**

Working with a team from the Department of General Services (DGS) and their consultants, we made a decision in November to move to space directly across Freedom Plaza from the John A. Wilson Building, at 1331 Pennsylvania Avenue N.W. I am sorry to say, though, that beyond making that decision from among three options DGS presented to ODCA, we have seen little progress on a new lease or build-out and as a result we anticipate paying a premium to continue to lease space in our current location beyond the end of the current lease which expires this summer. We do not yet have an estimate on what this will cost ODCA, nor do we have a firm date for our actual move other than understanding that it will be sometime in calendar 2022 because of the delays. We also remain uncertain as to moving costs. The only

explanation we have received from DGS on the delay has been the effects of the pandemic. I flagged this issue for DGS Director Keith Anderson several months ago. I do not know if other District agencies are caught in the same sort of delays.

### **New Audit System**

A major expenditure of time this past year on the part of the deputy auditor and a small team, as well as a major expenditure of funds, has been for our new web-based audit management system about which I have been testifying for a couple of years now. Based on extensive staff research we are transitioning to a new software system, called eCase, with the 5-year estimated outlay of \$215,000, which includes a first-year total of \$85,000 in FY 2021 and \$31,000 in FY 2022 with slight increases each year thereafter throughout the 5-year contract. As you may recall, the Council provided funding for this transition and additional funding remains in the Council's IT fund, available should an additional reprogramming be needed for this or other IT purposes in the future.

### **Major Projects by Consultants**

We have several major projects underway on contract with consultants this year, one of which is the audit mandated by the Fair Elections Amendment Act of 2018. That statute requires that ODCA provide a report by December 31, 2021, that includes an evaluation of the Fair Elections Program's performance in meeting the law's requirements and recommendations for improving the program, plus a financial audit of the program spending during the 2020 election cycle. To meet this mandate we will be publishing three reports in a series on the 2020 elections:

- An evaluation of the Fair Elections Program performance on contract with the Fors Marsh Group, a research firm based in Arlington with an elections team led by Doug Chapin, former director of Elections Initiatives for the Pew Charitable Trusts and founder of [www.electionline.org](http://www.electionline.org).
- An in-house financial audit of the Fair Elections Program expenditures.
- An evaluation of overall election administration by The Fors Marsh Group.

We expect the first of the three reports to be completed in the next few weeks. The total contract with Fors Marsh is \$172,000.

In addition we contracted for an audit of the Office of Unified Communications 911 Operations Division following several requests and recommendations from D.C. Advisory Neighborhood Commissions. We issued a request for proposals and selected Federal Engineering, Inc., of Fairfax, VA., to evaluate 911 operations and make recommendations for improvement, including covering issues raised in a report by the National Transportation Safety Board and by recent incidents that have generated media coverage. The contract is for up to \$248,000.

In the wake of George Floyd's death in Minneapolis last year we decided to revisit earlier work on the Metropolitan Police Department's policy and practice on use of force and contracted with The Bromwich Group to review MPD's internal investigations of four officer-involved fatalities that occurred in 2018 and 2019. Following the death of Deon Kay on September 2,

2020, the Police Reform Commission asked ODCA to add that officer-involved shooting to the study, so we added that fifth case and, subsequently, a sixth case, that of Karon Hylton-Brown, who died in October from injuries sustained in a crash following what police said was an attempted traffic stop. As you know, we issued the report on the four 2018-19 deaths in March and recently published the case study of MPD's investigation of Deon Kay's death. The final report in this series will be completed after the U.S. Attorney's Office completes its consideration and MPD conducts its internal review. The Bromwich Group contract is for up to \$256,000. The firm partnered with Steptoe & Johnson, LLP, with the law firm providing its assistance pro bono.

It is possible that the final report in this series will not be completed until after the start of the new fiscal year October 1, which provides an opportunity to thank you, Mr. Chairman, and the Council, for giving your approval in the last budget cycle for ODCA to carry over unexpended funds into a new fiscal year. This project provides the rationale for that policy: the timing of the USAO's review and the MPD review that will follow it are beyond ODCA control so it is very helpful to have the flexibility to continue the work without concern for the fact that it might conclude in a new fiscal year. Thank you, Mr. Chairman.

Other contract work underway this fiscal year includes:

- The second phase of a contract evaluation by RSM US LLP reviewing the close out of construction of Eliot-Hine Middle School by Turner Construction, part of our ongoing statutory requirement to audit the District's school modernization program.
- We have contracted again with the Council for Court Excellence to develop, organize and host a series of public forums on urgent and timely criminal justice issues, and to produce reports on each based on edited transcripts. The first such forum was held last month on policing and the work of the Police Reform Commission.
- The District Economic Group is providing quarterly updates of the District revenue model they developed last year to serve as a basis for ODCA certifications of Office of the Chief Financial Officer revenue estimates.

### **FY 2022 Proposed Budget**

The budget proposed for ODCA in the budget and financial plan submitted by the Mayor totals \$5,652,793, identical to the budget approved for FY 2021, and including just under \$4 million for personal services, and \$1,655,000 in non-personal services. As mentioned earlier it was my thought at the end of last year that flat funding would be appropriate during the pandemic. At this point, having experienced the kind of staff changes I outlined, I would like to respectfully request an additional \$200,000 in personal services funding which would permit ODCA to raise the compensation for our mid-level auditors and analysts, and also initiate a new internship program. Additional compensation can enhance our efforts to retain staff members that my managers have spent time and energy training and mentoring. It would give us flexibility to develop an internship program as an entry-level hiring strategy so we can create a more reliable pipeline of talent to become our senior managers and reduce what has proven to be a burden

of recruiting supervisory personnel in the midst of the federal government with its robust and well-paid accountability community.

As proposed, the non-personal services budget for ODCA includes an estimated \$700,000 for contract audits to be performed by subject matter experts we hire for that work. I believe this will be adequate to fulfill our mandates, Mr. Chairman, assuming the Council does not add any significant new work requiring outside expertise. I would note that of the contract projects described above, the Fair Elections Program audit required by legislation was not funded but, rather, it was assumed that the ODCA budget would accommodate the additional project. Because the legislation was enacted in 2018, looking toward 2020, this provided ODCA ample time to plan for the audit. As I have done previously, I would ask that legislators who consider requiring audits in new statutes to provide ODCA with the courtesy of a consultation so that we may discuss how best to provide the kind of research and other information lawmakers are seeking, as well as the timeframe sought for the work and whether any additional funding would be required.

### **ODCA Recommendations with Budget Impact**

While a majority of the recommendations in ODCA reports revolve around stronger controls and better program performance, some clearly have budget implications and in our current report format we indicate when a recommendation has a budget impact, whether negative or positive. A major recommendation with significant budget impact derives from the education data audit.

### **Education Data System**

In the education data audit required by the District of Columbia Education Research Practice Partnership Establishment and Audit Act of 2018, [Measuring What Matters: More and Better Data Needed to Improve D.C. Public Schools](#), ODCA recommended purchase of a state-level student information system to help the District complete a statewide longitudinal data system, something to which the District committed repeatedly in testimony and successful federal grant applications from 2007 to date. Mr. Chairman, the research practice partnership was a priority for you in Council Period 23. I am hopeful that you will make completion of this critical supportive capacity a similar priority in the FY 2022 budget. As the data audit made clear, the RPP will not be able to fulfill its mission without an actual *statewide* data system that collects and uses data *longitudinally*.

The need for comprehensive, high-quality education data was reiterated by the expert witnesses you and your colleagues invited to testify before the Committee of the Whole/Special Committee on COVID-19 Pandemic Recovery joint hearing on May 26, 2021. Dr. Jack Buckley, former Commissioner of the National Center for Education Statistics and now an Institute Fellow at AIR, emphasized how important it is in addressing learning loss to “identify where each student is on key academic dimensions” to be able “to deliver evidence-based interventions tailored at the student level.” The District simply cannot do that effectively today.

As you'll recall, he described other state education agencies providing low-cost diagnostic tools to all LEAs and families in the state. Investments like this – at the state level – to provide “valid, reliable, effective, and efficient” diagnostics are critical to understanding the roadmap to learning recovery for all District students. He said, “There will be a lot of noise in this coming year... Some of these learning recovery strategies will work. Most will not.”

The District does not have the public education data infrastructure to know at the state level what is working and what is not. We risk allocating hundreds of millions of stimulus dollars in ineffective interventions without a mechanism for accountability. While other states will be closely monitoring both academic and non-academic outcomes, at the student level, over time, to validly diagnose and intervene, the District's state education agency does not have the tools to do this work.

Another invited witness, Maria Blauer, Director of Programs and Outreach at Advocates for Justice and Education (AJE), discussed the importance of data systems and transparency. She acknowledged that the District needs but does not have “a functional system for managing and sharing student data” and said that that “impacts the quality of instruction students receive.” She cited the recent media report on former National Collegiate Prep Student Aaliyah Jones's graduation challenges, noting that “while a functional system is important for policy planning, effective governance and greater transparency, it is also important for families and students.” She recommended to you, Mr. Chairman, that in the post-pandemic period “we can build back better.”

The proposed capital budget for the Office of the State Superintendent of Education in fact includes another \$4.3 million in the Data Infrastructure project, and the language of the project acknowledges that “existing data systems are old and obsolete.” It notes that as OSSE expands the scope of its current database to include more data “the need for enhancement in both [the database] and the source data systems has become a critical area for improvement for the District as a whole.” The continued capital spending, however, apparently does not include moving toward a Statewide Longitudinal Data System and, instead, appears to continue to focus on “application development work,” or – put another way – a piecemeal approach to data collection and retrieval.

The Council-mandated data audit recommended purchase of an Student Information System (SIS) and while I cannot give a precise dollar figure on what that would cost the District since that likely would be based on the level of customization sought, I can share some limited information. When the state of Wisconsin initially planned to purchase a statewide SIS between 2013 and 2015 they budgeted \$15 million, and the state has more than 400 local education agencies compared to the District's 60-some, and more than 800,000 students compared with 100,000 here. One of the expert witnesses who appeared in the joint COW-special committee hearing two weeks ago suggested such systems range from \$5 to \$10 million, and a state can expect to spend upwards of \$1 million a year in continuing to build data capability and access.

Another recommendation the Committee should consider in this budget cycle is to require OSSE to move forward on something Interim Superintendent Shana Young expressed great

interest in during testimony on March 19, 2021. She described the importance of having a course collection, one of the data elements outlined in our report and one of the most critical, as student courses, credits, and grades are proven to be better predictors of academic success than test scores. Not collecting these data leaves us without one of the most important pieces of information needed to validly and effectively diagnose and intervene. This work had already been completed by three-quarters of the states as of 2018 guided by existing course alignment and definitions available for free to any state or local education agency interested in using them. Another 8% of states had a course enrollment collection system in progress and another 6% were in the planning stages three years ago. The District is among the small minority of states who neither have this work implemented, in progress, or planned. Budget Support Act language could require OSSE to produce a proposal for a course collection including costs, and, potentially, advocating for a statewide SIS as a framework for such a critical collection.

An important element in budget season is the potential for cost savings from doing a better job in collecting and using education data. We know from meetings we have had with charter leaders that many of the District's local education agencies are spending significant public funds doing the course equivalency work that is routinely done by state education agencies elsewhere. This is an inefficient use of public money and a burden on schools in a time of crisis. The audit provided the Council and this Committee with evidence of multiple burdensome and inefficient data collections that would be ameliorated with a robust, centralized system like other states have. A state level SIS would provide an off-the-shelf, high-quality mechanism for collecting data in the District. Investing in a statewide SIS, with a student course collection, and optimally, teacher-student links included, will save the District money overall and give LEAs and schools back needed time and capacity to focus on better serving students.

Another factor in budget decisions: without a statewide longitudinal data system, not only does the District continue to put itself at risk of being out of compliance with federal and local reporting requirements, without the capacity to understand what works in learning recovery, we are also at risk of not being eligible for future grant opportunities as more and more federal and nonprofit funding opportunities are tied to robust evidence-gathering and use.

As we reported when releasing the education data audit in March, the District of Columbia has spent \$25 million in District capital funds and more than \$10 million in federal SLDS grant funds without completing a statewide longitudinal data system in spite of commitments to do so. At this juncture it might be possible to use some of the federal American Rescue Plan funding – either the education or the capital funds – on capacity to measure learning loss and I urge you to consider this among your options for funding what we have proven is needed to move education forward.

Mr. Chairman, when the Fenty Administration created the current Office of the State Superintendent of Education in the Public Education Reform Amendment Act and charged OSSE with building comprehensive data capacity, the language specified that the development would be “in coordination with the Office of the Chief Technology Officer.” Because of the continuing turnover on the OSSE teams tasked with data collection and management, I recommend that the Committee secure the assistance of OCTO in moving forward with the needed statewide

longitudinal system. My team and I would be happy to work with your staff on specifics for the Budget Support Act, the Local Budget Act and the Committee's budget report and I include drafts as attachments for your consideration.

**Police Reform Commission Recommendation: Deputy Auditor for Public Safety**

In their April 1, 2021, report, [Decentering Police to Improve Public Safety](#), the Police Reform Commission's leading recommendation in the accountability chapter was the creation of a deputy auditor for public safety within the Office of the District of Columbia Auditor. The Commission outlines specifics as to the deputy auditor's recruitment, tenure, basis for removal, subpoena authority, access to employees and records, all of which are "intended to ensure that the deputy auditor possesses the power and resources needed to conduct mandatory and discretionary audits independently, while being insulated, to the extent possible, from politics."

My staff and I are fully prepared to take on the additional challenge represented by the Commission's recommendation. What is envisioned, however, would be a significant operation, requiring significant funding, at least an additional \$2 million annually for the number and caliber of staff that would be required to meet the mandates outlined in the Commission report.

During the May 20, 2021, joint hearing on the Commission's recommendations Office of Police Complaints Executive Director Michael Tobin indicated he would support having the kind of accountability role envisioned in a deputy auditor for public safety housed within the Office of Police Complaints. He emphasized that the OPC staff, unlike the current ODCA staff, has explicit subject matter expertise on policing issues. This is, of course, true. Should the Council adopt the Commission's recommendation it would be incumbent on me as D.C. Auditor to recruit and secure the most capable candidate possible to serve as deputy auditor for public safety. I would also presume to be engaged, with that newly-hired official, in recruiting and hiring the kind of team that could undertake the level of comprehensive external oversight the Commission has recommended.

Mr. Chairman, that concludes my testimony and I would be happy to answer any questions. Thanks very much.



## **Attachment: Draft Amendments**

### **1. Amendment to Title IV of the FY2022 Budget Support Act Emergency Act of 2021**

#### SUBTITLE I. Course Collection Initiative

Section 4061. Short Title. This subtitle may be cited as the “State Education Agency Course Collection Plan Initiative of 2021”

Section 4062. DC Official Code § 38-2609 is amended to add a new paragraph (f) as follows:

(f) The Office of the State Superintendent of Education is required to develop in collaboration with the Office of the Chief Technology Officer and submit to the Council of the District of Columbia by December 31, 2021, a written plan to institute an ongoing collection from all D.C. Local Education Agencies of all course codes and descriptions, and course enrollment, including dual enrollment, completion grades, and credit hours using the School Courses for the Exchange of Data (SCED) Classification System as provided in National Forum on Education Statistics guidance.

#### COW Committee Report Language:

The proposed provision to require OSSE to develop a plan for course collections derives from not only the text of the Council-mandated Education Data Audit performed by the Office of the D.C. Auditor but also from discussion by Interim State Superintendent Shana Young during the Committee’s March 19, 2021, hearing on the data audit. Ms. Young shared her strong support for development of such a collection, and the importance and usefulness of the information, and also acknowledged the difficulty of such an initiative. She indicated OSSE intended to pursue a course collection but did not provide a clear timetable for that development. The provision assists in this effort by providing a timeframe for OSSE to develop a plan for implementing a course collection.

#### Fiscal Impact:

Staff time would be required and the modest fiscal impact can be accommodated in the agency’s FY21 budget underspending and salary lapse and the FY22 budget based on the proposed 15% increase in total operating budget.

### **2. Amendment to Title IV of the FY2022 Budget Support Act Emergency Act of 2021**

#### SUBTITLE J. Early Warning System Demonstration Program

Section 4071. Short Title. This subtitle may be cited as the “State Education Agency Early Warning System Demonstration Program Initiative of 2021”

Section 4072. DC Official Code § 38-2609 is amended to add a new paragraph (g) as follows:

(g) The Office of the State Superintendent of Education (OSSE) shall develop a basic Early Warning System to identify students at risk of high school disengagement and drop out and develop a plan to implement a robust system of supports including recommended targeted learning and socio-emotional supports, school and LEA staff training, and stakeholder engagement. The Early Warning System shall utilize at least the following statewide data, scale scores on prior standardized tests in English Language Arts and math, chronic absenteeism and truancy in eighth grade, current special education, English Language Learner, and at-risk status, any out-of-school suspensions, and mid-year school transfers. By December 31, 2021, OSSE shall invite Local Education Agencies (LEAs) to participate in use of the Early Warning System in a 3-year demonstration program.

COW Committee Report Language:

Addendum testimony provided by the Office of the D.C. Auditor (ODCA) following the Committee’s March 19, 2021, public hearing on the Council-mandated Education Data Audit provided a description and template for an Early Warning System (EWS) using data collections currently available in OSSE. The template should serve as a model for the EWS that OSSE develops and provides for use by D.C. LEAs.

Fiscal Impact:

Staff time would be required and the modest fiscal impact can be accommodated in the agency’s FY21 budget underspending and salary lapse and the FY22 budget based on the proposed 15% increase in total operating budget.

**3. Amendment to Bill 24-275 The Fiscal Year 2022 Local Budget Act of 2021**

1) Capital Improvement Plan

- (a) Add \$15,000,000 to Owner Agency Code (GDO (State Superintendent of Education)) and Project No (GD001) Data Infrastructure in FY22

Rationale:

This amendment increases the funding for the data infrastructure project to allow for the purchase/customization of a state-level Student Information System, as recommended in the Council-mandated audit performed by the Office of the D.C. Auditor.