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Testimony before the District of Columbia Council
Committee on Education
January 30, 2018
For the Public Hearing on:
B22-0594 - Student Fair Access to School Act of 2017, and
B22-0179 - D.C. Public Schools Alternatives to Suspension Amendment Act of 2017

Good afternoon. My name is Lauren Onkeles-Klein. I am a Ward 5 resident, a DCPS parent, and the current Director of the Juvenile and Special Education Law Clinic at the University of the District of Columbia's David A. Clarke School of Law. I want to thank Committee Chair Grosso and Councilmembers Allen, Bonds, White, and White for holding a public hearing on both of these important pieces of legislation. Because of the devastating impact over-reliance on school exclusions, I strongly support passage of the Student Fair Access to School Act of 2017.

I have worked on issues related to the social determinants of health and wellbeing for DC children and families for almost fifteen years and have seen how devastating suspensions can be. I have seen parents lose their jobs and children lose years of academic achievement due to over-reliance on suspensions and a failure to meet the needs of some of our most vulnerable students. I have seen students suspended for being "wiggly," and "silly," or for wearing the wrong hoodie. Conversely, I have worked with schools dedicated to providing appropriate supports, where it was clear that school was a safe place for the child, even where that child was misbehaving.

However, a child's right to be welcome and supported in his or her public school should not depend on which school they are attending.

Over reliance on suspensions has been linked to a number of negative outcomes including heightened risk of dropping out and school failure,¹ higher rates of truancy,² and increased risk of involvement in the juvenile law system.³

Unfortunately, despite the drawbacks, suspensions are often used as a classroom management tool rather than to protect the health and safety of students and staff. Data collected by OSSE makes clear that at least one third of suspensions in DC public schools are related to subjective standards like insubordination, disrespect, or disruption.⁴ Because we know that students of color, students with disabilities, homeless students, and students considered "at risk"

are disproportionately suspended, our most marginalized students are bearing the brunt of school policies and practices that further exclude them. For example, 9% of students suspended last school year were homeless.⁵

Suspensions feed into a cycle of trauma and school disengagement, placing children in more danger as they are pushed out into the streets. This bill refocuses the rights of students toward a more trauma-informed, education-focused model of discipline and intervention. Children who physically or emotionally harm others are still subject to out of school suspensions, but by providing students the right to timely and proactive interventions, we give them a chance at academic success while laying the groundwork for a calmer learning environment that works for all students.

Students with disabilities face disproportionate suspensions. These students were 28% of all students suspended in DC's public schools even though they are only around 14% of the school population.⁶ School success starts by ensuring children are in school each day with proper services and supports – something particularly critical for children with disabilities who not only receive educational support in schools, but receive services like counseling, speech-language therapy, and physical or occupational therapy.

Currently, schools may suspend a child with a disability for ten full days without providing any additional services or supports, even if the behavior in question is directly related to or caused by the student's disability.⁷ What that means in practice is that students with disabilities are often excluded from their services and supports for up to two weeks before interventions are put into place. The proposed legislation ensures that students with disabilities are not denied access to their education simply for having a disability. It provides the right to interventions and protections after just five days of exclusion - shifting the dynamic toward a child-focused approach.⁸

This legislation will also break the particularly pernicious intersection suspensions, race, and disability. For the 2016-17 school year, Black students were 7.7 times more likely to be suspended than their White counterparts, an increase from the year before.⁹ Although OSSE did not choose to look at students with intersecting identities for the 2016-17 school year, in the 2015-16 school year, 17.7% of Black students with a disability were suspended, compared to just 2.1% of White students with a disability and just 0.5% of White students without disabilities.¹⁰

If we combine that data with the over-representation of children of color in the juvenile law system and the fact that up to 85% of children in detention have disabilities even though less than 40% were provided appropriate services while in school,¹¹ it is clear that we are failing our kids.

That said, no one should argue that this law, or any law for that matter, is a silver bullet. It is one tool in our toolbox, but it cannot be evaluated in a vacuum. Luckily, this law would not stand alone, as this Council and our public school systems have stated a desire and started to commit resources toward substantially reducing reliance on suspension as a classroom management tool.¹² However, despite the deep public commitment that OSSE and both DCPS and the Charter School Board have for curtailing the use of suspensions, recent reductions in reported suspensions that seemed miraculous, have shown us just how illusive claims of progress can be without oversight. In DCPS schools, we learned that in at least seven high schools, calls to reduce suspensions simply pushed the suspensions underground through “do not admit lists.”¹³ In some Charter schools, suspensions are redefined so as to be excluded from suspension reports.¹⁴ And, both Charter and DCPS schools have unnecessarily extended students’ suspensions by requiring that a parent take off work to meet with school administrators after a child’s suspension has ended, or that child will not be allowed back into school.¹⁵

With the council’s cooperation, this legislative push would not go without funding to support schools’ efforts. Laws are not a guarantee of progress, but they provide a critical layer of accountability and oversight for the children and families of D.C.

This legislation is good. It moves us closer to a place where schools are safe for all of our children and where teachers are both encouraged and supported in addressing the needs of their students creatively.

We want engaged students – but to get that, we must ensure that students are allowed into their schools and, once inside, are provided appropriate and legally required services, supports, and protections.

Thank you.

¹ Children who have been suspended just three times before reaching ninth grade have a 49% likelihood of dropping out of high school. See, Robert Balfanz, et. al, *Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the Ninth Grade*, p. 8 (December 21, 2012). This study followed a cohort of 181,879 students in Florida for eight years, starting when those students began 9th grade and found links between suspensions, absenteeism, and school failure along with disparities related to race, socioeconomic status, and disability.

² Children in DC's public schools who were suspended had higher rates of truancy after being suspended than beforehand. See, D.C. Office of the State Superintendent of Education, *State of Discipline: 2016-17 School Year*, p. 49.

³ See, Tony Fabelo, Dottie Carmichael, et. al, *Breaking School's Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement* (July 2011). Available at

https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf.

⁴ OSSE, *State of Discipline: 2016-17 School Year*, at 50-52.

⁵ Id. at p.43.

⁶ Id. at p.34.

⁷ High rates of exclusion may help explain at least a part of DC's 49% graduation rate for students with a disability (a percentage that excludes students who are on track for getting an IEP Certificate rather than a diploma). See, DC Office of the State Superintendent of Education, "DC 2016 four-year Adjusted Cohort Graduation Rates, by Subgroup," available at

<https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Adjusted%20Cohort%20Graduation%20Rate%20by%20Subgroup%202015-16.pdf>.

⁸ Although OSSE failed to look at the correlation between a student with a disability's level of need and rate of suspension for the 2016-17 school year, the agency did disaggregate the information for their report on the 2015-16 school year. In that year, OSSE found that students who received higher levels of special education support in their public school tended to be suspended more than students receiving the lowest level of support. See, DC OSSE, *State of Discipline: 2015-16 School Year*, at pp.34-35. Available at

https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2015-16%20OSSE%20Discipline%20Report%20Updated%20Jan%206%202017.pdf.

⁹ In the 2015-16 school year, Black students were 6.8% more likely to be suspended. Compare OSSE State of Discipline: 2016-17 School year, at p.25 with OSSE State of Discipline: 2015-16 School year, at p.10.

¹⁰ See, OSSE, *State of Discipline: 2015-16 School Year* at p.37.

¹¹ National Council on Disabilities, *Breaking the School to Prison Pipeline for Students with Disabilities*, June 18, 2015, p.5 (citing to National Council on Disability. —National Disability Policy: A Progress Report. | 2011, http://www.ncd.gov/progress_reports/Oct312011#_edn92).

¹² For example, the DC Council required OSSE to create a report to aid public schools in eliminating out-of-school suspensions under The Attendance Accountability Amendment Act of 2013, D.C. Official Code § 38-231 *et seq.*, and both DCPS and Charter schools have indicated support for restorative practices as an alternative to suspension, see, e.g., <http://www.schooltalkdc.org/restorative-dc/current-partnerships/>.

¹³ See, Alejandra Matos & Emma Brown, "Some D.C. High Schools are Reporting Only a Fraction of Suspensions," Washington Post, July 17, 2017 at, https://www.washingtonpost.com/local/education/some-dc-high-schools-reported-only-a-small-fraction-of-suspensions/2017/07/17/045c387e-5762-11e7-ba90-f5875b7d1876_story.html?utm_term=.edb105d2899f (last visited, October 22, 2017); Alejandra Matos & Emma Brown, "How the Washington Post Examined Suspensions in D.C. Schools," Washington Post, July 18, 2017. at, https://www.washingtonpost.com/news/education/wp/2017/07/18/how-the-washington-post-examined-suspensions-in-d-c-schools/?utm_term=.fbccfd62bc3c (last visited, October 22, 2017); Emma Brown & Alejandra Matos, "Undocumented Suspensions Persisted in D.C. Schools Despite Repeated Alerts," Washington Post, July 24, 2017, at https://www.washingtonpost.com/local/education/undocumented-suspensions-persisted-in-dc-schools-despite-repeated-alerts/2017/07/24/4a88ebc2-707f-11e7-8839-ec48ec4cae25_story.html?utm_term=.ca77bb5d2f1e (last visited, October 22, 2017).

¹⁴ See, e.g., KIPP Student & Parent Handbook 2017 – 2018 School Year, p.30 (indicating that school exclusions for a behavioral infraction is only considered a suspension if the exclusion begins before noon). Available at <http://www.dcpsb.org/sites/default/files/2017-2018%20Student%20Handbook%20%28RSZK%29%28KIPPDC%28LEA%29%29.pdf>.

¹⁵ See, e.g., Center City Public Charter School’s School Policies includes the statement, “Capital City requires that a parent attend a meeting with a school administrator and the student's teacher or advisor before a suspended student may return to school,” p.11. Available at https://www.ccpcs.org/application/files/7215/0419/8943/School_Policies_FINAL_081417_FINAL.pdf.