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Committee of the Whole
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District of Columbia Public Schools
Office of the State Superintendent of Education
Office of the Deputy Mayor of Education
DC Public Charter School Board
State Board of Education
Office of the Student Advocate &
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Introduction

Thank you, Chairperson Mendelson and members of the Committee for the opportunity to testify. My name is Sharra E. Greer, and I am the Policy Director at Children's Law Center, a resident of the District, and a parent of two students who attend a District of Columbia Public School. I am testifying today on behalf of the Children's Law Center which fights so every DC child can grow up with a loving family, good health and a quality education.[1] With almost 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year.

I appreciate this opportunity to testify regarding the performance of DC's various education agencies over this past year. The public health crisis has posed unprecedented challenges for all of us. However, the challenges facing students have been particularly acute. Although I will note some areas where DC's education agencies have shown commendable adaptability during this difficult time, we cannot ignore the ways in which students have suffered in accessing their education over the last year. Learning loss is affecting almost every student in the District and, as a community, we must focus now on identifying the various losses students have faced over the past year and how we will address them going forward.

A success to highlight is the commitment across agencies and Local Education Agencies to ensuring that each and every DC student had a device and internet so that

they could access their virtual instruction. However, as we have testified throughout the pandemic, it is clear that distance learning is not working for all DC families. This problem has been compounded by an inadequate focus on transparency and equity. As we work to help students and families recover, building trust, and increasing transparency must be a central focus.

FY20 Education in the District of Columbia

2020 was, in so many ways, unprecedented. For this reason, oversight of this past year cannot meaningfully apply the usual metrics of success and growth. To do so would be disingenuous. However, this does not mean that there are no lessons to be learned from the events of the past year. In many ways, the pandemic highlighted existing inequities across the District. For example, the digital divide did not arise amid the pandemic. Rather, the transition to virtual instruction made the digital divide more widely intolerable. As noted above, we commend the District in the multi-faceted approach that was undertaken to provide devices and internet access to every DC public school student. However, we want to take this opportunity to encourage the public education agencies to acknowledge and focus on the many other inequities— achievement gaps suffered by students with disabilities, students in the care of the District of Columbia, Black and brown students, among others—that predate the

pandemic but have been exacerbated by the pandemic and need to be addressed with the same unified inter-agency commitment and cooperation.

A. Special Education Outcomes

Even prior to pandemic learning, outcomes for students with disabilities in the District were unacceptable. According the most recent Partnership for Assessment of Readiness for College and Careers (PARCC) data available, fewer than 10% of students with disabilities met or exceeded expectations in English Language Arts (ELA).[2] These numbers are only slightly better for Math – only 13.8% of 3rd graders with disabilities, 10.2% of 4th graders with disabilities, and 27.6% of students with disabilities in Algebra 1 met or exceeded expectations on PARCC.[3] All other subgroups of students with disabilities had less than 10% of students meeting or exceeding expectations in Math. Beyond the standardized testing data, myriad other metrics tell a similar story. Graduation rates continue to be low for students with disabilities, and we remain concerned about transition services for students with disabilities after graduation.[4] In FY19, 12% of students with disabilities dropped out of school.[5] These outcomes are not because students with disabilities cannot succeed — according to research from the National Center on Educational Outcomes, 85-90% of students with disabilities can perform at grade level when provided with appropriate supports.[6] These outcome metrics demonstrate that the DC public education sector has, across the board, failed to support students with disabilities in achieving their academic goals.

Moreover, the transition to virtual instruction has severely interrupted the provision of special education and related services to students with disabilities. Throughout the pandemic, our clients have struggled to get timely evaluations and have received little to no meaningful specialized instruction. More than half of our attorneys noted that they had at least one client with an overdue special education evaluation. Not only are untimely evaluations a violation of the student's IEP, but delayed evaluations also mean that the student's current services may not be adequately addressing their special education needs. The longer a student goes without an evaluation, the more at-risk they become of losing critical skills. Furthermore, research indicates that special education interventions are more effective in younger students and that deficits grow larger over time when students do not acquire foundational skills at a young age.[7] For these reasons, guidance for pandemic recovery specifically advises against "postponing evaluations that determine eligibility for special education services" because doing so "will likely lead to more severe student deficits in the future."[8]

Additionally, we have heard repeatedly from our clients that students with disabilities in the general education classroom are not receiving any meaningful inclusion (or "push-in") services. When attending school in-person, inclusion services generally comprise a special education teacher joining a general education classroom to support a specific student in accessing the instruction. Understandably, this model was not immediately transferrable to the digital classroom. However, after nearly a year of

distance learning, most local education agencies (LEAs) have not implemented any model by which these inclusion services can be offered to students for whom this service is necessary for them to access the general education curriculum.

In our work, we have seen schools argue that having a special education teacher logged into the same Teams classroom as the student with a disability satisfies the IEP requirement for inclusion services. It cannot possibly be the case that a student is receiving the specialized instruction required by their IEP simply by being logged into the same virtual space as, but having no meaningful interaction with, a special education teacher. We have seen a few examples of innovation to address this particular problem. For example, we have heard reports that Cesar Chavez Public Charter School has provided specialized instruction to small groups of students in breakout rooms. By including a student with an IEP in such a small group with non-disabled peers, the special education teacher is able to provide specialized instruction per the student's IEP without removing them from a general education environment. While this approach may not be a universal solution, this is the sort of reimagining of special education services that will be necessary as distance learning continues in the months to come.

Beyond the moral responsibility that LEAs have to educate students with disabilities, the IDEA imposes a legal mandate for schools to ensure that students with disabilities are served according to their IEPs. When a school fails to meet the requirements of a student's IEP, or they otherwise fail to provide a free appropriate public

education (FAPE), the parent has a private right of action to seek a remedy. Of the various remedies available to students who have been denied FAPE is compensatory education, or "comp ed," through which the LEA funds a program of study designed to put disabled children in the same position they would have occupied but for the school district's violation of IDEA.[9] As we have noted above, just among our client population, we have seen significant numbers of missed evaluations and poor-quality services over the course of the pandemic. We can only assume that this is true across the board for students with disabilities. As such, DC's education sector must begin planning for the significant comp ed bill that has been accumulating over the last year.

For DC students, comp ed often takes the form of one-on-one tutoring. However, even prior to the pandemic, there were insufficient comp ed providers in the District. Even if the District were prepared to pay for the massive amount of tutoring that would be necessary to make whole the students with disabilities who have been left behind this past year, there is not a sufficient workforce to meet the needs of DC's students. Moreover, in the past, comp ed awards have been time limited. Parents generally have two years to use up the comp ed award before it expires. Given the numerous limitations on the traditional comp ed system, we hope that all of the education agencies represented here today will work collaboratively to ensure that they are creating a variety of options for students with disabilities to make up for the months and months services missed or denied.

B. Continued Expansion of School-Based Behavioral Health (SBBH) Services

As we move closer to the end of the pandemic and this prolonged period of isolation for our children, there has been a great deal of focus on bringing children back into school buildings. Although this is an important goal, we must focus just as intensely on addressing the stress and trauma our children have suffered during this time.[10] Children in DC are feeling the full weight of the COVID-19 pandemic and the accompanying economic crisis. In addition to losing instruction and learning time, children have lost critical social connections to friends and teachers, as well as the sense of security that the structure and routine of school provides. Addressing the trauma our children have experienced and meeting their behavioral health needs have never been more relevant or more urgent for our city.

Although there are many challenges to connecting children with the behavioral health services they need, the potential consequences for the children who don't receive these supports and resources are grave. Data from the 2019 Youth Risk Behavior Survey (YRBS) bear this out. According to its findings on mental and emotional health, there is a strong correlation between high school students' feelings of depression and suicidality and their lack of a school-based supportive adult.[11] Among high school students that lacked a supportive adult at school, 1 in 4 students had attempted suicide, and 1 in 3 had seriously considered attempting suicide.[12]

DBH's school-based behavioral health expansion program is one important way to meet students' behavioral health needs. This program connects students to much-needed behavioral health services where they are – in school, whether they are attending classes virtually or in person. The goal of the expansion is for all public schools in DC to have Tier 1, Tier 2, and Tier 3 behavioral health supports, consisting of a variety of programs and services that individual schools can tailor to meet the needs of their students and community.[13] Many of our clients have benefited from this program and may not otherwise have been able to receive much-needed behavioral health services.

This program is implemented by the Coordinating Council on School-Based Behavioral Health. OSSE, DCPS, and PCSB are all critical members of the Coordinating Council and have been heavily involved in planning and executing the school-based mental health expansion program. We commend these agencies for their substantial efforts to support children and families through the school-based mental health expansion program and strongly encourage the Council to continue to invest in this vital program.

The SBBH Program Continued to Provide Services throughout the Pandemic

Even with school closures and the transition to distance learning over the past year as a result of the COVID-19 pandemic, school is still one of the best ways to connect with children throughout the District and meet their behavioral health needs. As schools begin returning to in-person instruction and transitioning to hybrid learning models, school is

likely to be a very different experience for kids (staggered schedules, socially distanced classrooms, small cohorts of students), which only underscores the urgency of supporting the expansion of the school-based behavioral health program.

This past year, CBO clinicians not only worked to help children overcome the stress and trauma associated with the pandemic, but they also played an important role in keeping vulnerable and at-risk children connected to their school communities by simply reaching out to children and families that have otherwise had no contact with the school. Clinicians have continued to offer virtual counseling services to students and their families throughout the pandemic. They are also working closely with school leaders to identify students in need of such services, as well as ways to promote the social and emotional health of students in a virtual setting. These clinicians are critical for keeping students engaged and school communities connected as we continue through the uncertainty of the pandemic.

As children and families have learned to navigate distance learning, CBO partners have continued to collaborate with schools, DCPS, and OSSE to provide effective prevention and intervention services in the context of remote learning. OSSE is continuing to add resources, tools, and trainings to guide LEAs and schools in implementing supports that address the social emotional and mental health needs of students in a virtual setting.[14] The Coordinating Council on School Behavioral Health[15] is also working to identify strategies for better communication and outreach with school

communities regarding the school-based mental health expansion program. Raising

awareness and improving engagement is essential to continuing the ongoing success of

the school-based mental health expansion program and addressing the unmet behavioral

health needs of children and families furthest from opportunity.

The SBBH Expansion Program Has Successfully Reached Over 160 Schools

Despite the pandemic and delays in the District's process for determining the

FY2021 budget, the program has continued to improve and remains strong in its third

year. As of February 2021, there are 161 Cohort schools participating in the expansion

program, and over 90% have CBO clinicians and DBH clinical specialists providing

services to students as part of the school-based mental health expansion program.[16] This

is a significant improvement from last year, wherein CBO and DBH clinicians had been

placed in 79% of schools from Cohorts 1 and 2 by January,[17] but there are still several

schools that do not have a clinician providing behavioral health services.

In addition to placing CBO clinicians in schools, significant interagency work has

been done to build additional supports for the program and ensure its success. At the

individual school level, each school identifies a current member of the school

administrative team to serve as its School Behavioral Health Coordinator (SBHC). The

SBHC is responsible for coordinating all of the behavioral health services offered at the

school, collaborating with the school mental health team to identify school-wide or

classroom trends, and developing appropriate student programming. Each SBHC is

supported by DBH clinical specialists, who provide schools and CBOs with consultative services and technical assistance and can help to identify and fill gaps in services.

With this infrastructure in place at the school level, schools have been able to complete the School Strengthening Tool and Work Plan, which guide the development and implementation of comprehensive behavioral health services at each school.[18] The School Strengthening Tool focuses on school counseling, psychological, and social services; employee wellness and health promotion; family engagement; and social and emotional climate. The Work Plan outlines school goals underlying the three tiers of support and identifies general trends, strengths, and areas of concern to be mindful of going forward. At this point, 89% of the schools participating in the expansion have completed both the School Strengthening Tool and Work Plan.[19] While we are glad that a vast majority of schools have already completed this vital process, there is still work to be done to reach full compliance. We urge DCPS, OSSE, and PCSB to identify the obstacles preventing schools from completing the School Strengthening Tool and Work Plan and provide the necessary support to ensure full implementation.

Significant Investments Have Facilitated Schools' Full Engagement in the Program

The school-based mental health expansion cannot be successful without the full participation and support of the individual schools. We commend DCPS, OSSE, and PCSB for their part in the significant progress that has been made over the past year in

the expansion of the school-based mental health program and the exciting new initiatives and investments supporting the expansion.

Further investment in the DC School Behavioral Health Community of Practice (CoP) has supported the success of the expansion program throughout the pandemic.[20] As a collaborative learning environment, the CoP helps increase school and provider capacity and solve persistent problems across schools. Many school administrators from DCPS and DCPCS, as well as CBO and DBH clinicians, have benefited greatly from the knowledge and learning strategies that have been shared through the CoP, ranging from effective teaming practices to family engagement tips.

This past year, DBH also began funding two full-time positions at OSSE and DCPS to support schools in implementing the school-based mental health expansion program. OSSE's School Behavioral Health Outreach Specialist focuses primarily on charter schools and supports the full integration of the expansion in accordance with individual school goals and plans. DCPS's School Mental Health Expansion Manager is responsible for vetting CBOs and matching them with schools, supporting SBHCs, and developing monthly reports on the expansion for DCPS leadership. Establishing these roles at OSSE and DCPS has already benefited the program and resulted in a much faster implementation process for Cohort 3 schools.

Evaluation Survey Responses Suggest a Need to Support School-Side Integration

This past September, Child Trends, a nonprofit research organization, was contracted to evaluate the expansion of the school-based mental health program and promote continuous quality improvement. The evaluation will focus on processes and outcomes at both the system- and the school-level. Ultimately, the evaluation will result in a series of brief reports that describe how the expansion is being implemented over time and the outcomes associated with implementation and provide actionable recommendations. This information can be used to guide policy decisions regarding how to strengthen and improve the program.[21]

As part of its initial evaluation process, Child Trends conducted a pilot survey with a sample of DBH and CBO clinicians from October to December 2020.[22] The survey asks clinicians about their experience working in schools; the activities they conducted with students, families, and staff; their preparation for supporting behavioral health; their perceptions of the engagement in and the outcomes of the activities conducted; and the quality of partnership and collaboration at their school.

Clinicians' responses to the survey generally indicate that schools may need greater investments and additional resources to support implementation and integration. More specifically, the survey suggests that significant work must be done to allow clinicians to feel more supported by school leadership and school staff. About one in every four clinicians reported that they did not feel supported by school leadership or

other school staff, including classroom teachers. Notably, the clinicians who reported

having smaller caseloads or who reported conducting fewer Tier 1 or Tier 2 activities

tended to be the same clinicians who also reported less support.[23] For school-based

mental health expansion to work, clinicians must be well-integrated, and there must be

meaningful engagement between the individual school administration, the school

wellness team, the school community, and the CBO clinician.

C. School Budget Transparency

Budget transparency is critical for a public education system, especially one that

is a mix of traditional and charter schools, as is the case in DC. Transparency helps

parents make smart choices in selecting the school that best fits their child's needs. It also

allows the Council, the public, and advocates to allocate scarce budget dollars, assess

school performance, and identify and remedy inequities.

For years, the District has lacked transparency into school budgets, frustrating

these objectives. In CLC's case, we look to the budget every year to determine what

supports are planned for the District's most vulnerable youth—youth with disabilities,

youth in foster care, parenting youth, and youth who are homeless. Robust funding,

staffing, and other supports are necessary for these students, who face the largest

academic achievement gaps and biggest challenges to school attendance and completion.

Every year we are stymied in our attempt to learn how DC is allocating its resources for

these students. Without this information, we often cannot determine whether a lack of

financial resources or programmatic failures lie at the root of poor student outcomes.

Fortunately, last August, the Council passed school financial transparency

legislation as part of the Fiscal Year 2021 Budget Support Act of 2020.[24] The legislation

includes the following provisions:

- By May 31, 2021, the Deputy Mayor of Education will be required to establish common financial reporting standards for DCPS and public charter schools that, among other things, permit meaningful and accurate budget and expenditure comparisons.
- Beginning in May 2024, OSSE will be required to annually publish the previous school year's expenditures for all public and public charter schools in a manner that permits the public to easily compare expenditures between individual schools and between local education agencies.
- DCPS will be required to review its school level funding model in conjunction with its strategic planning and goal setting.
- DCPS will be required to include in its annual budget submission detailed information for each school's funding, including a separate line-item for at-risk funding for each school.
- Beginning July 29, 2022, each public charter school will be required to annually provide OSSE and the Public Charter School Board (PCSB) the following data: actual expenditures for the prior school year, the current school year's budget, and a draft budget for the following school year; the PCSB will be required to electronically publish such data.
- Meetings of a charter school's board of trustees will be subject to the Open Meetings Act of 2010 in certain circumstances.

Although some of these provisions will not go into effect for quite some time, CLC

welcomes these new requirements. When implemented, they will shed light on how

DC's education money is spent and promote better, more equitable student outcomes.

Greater budget transparency is vitally important now more than ever. It will help the

District develop effective solutions to the learning loss students have suffered as the

result of COVID-19 and school closures. It will help us ensure at-risk funds are used for at-risk students.[25] It will also help build community trust in our schools.

COVID Recovery and Planning for the Future

A. Addressing Learning Loss

In December of 2020, EmpowerK12 published a report that found that, on average, DC students have lost four months of learning in math and one month in reading.[26] The impact of pandemic learning has been even greater for at-risk students who, as the data noted, have lost five months of learning in math and four months of reading.[27] Moreover, the report included evidence that this academic slide will continue in the months to come.[28] We highlight these data not to lay blame, but rather to be frank about the serious challenges that lie ahead. We must first examine where we fell short in supporting our students and their families and then confront the equity and transparency issues that compounded the learning loss suffered by our most vulnerable communities.

All students are suffering learning loss, but the impact has fallen disproportionately on those who were already the furthest behind – namely, students with disabilities, Black and brown students, and English language learners.[29] We know in-person instruction is more effective and could help close the learning gap. However, as the reopening has unfolded, it has become clear that many DC families are uncomfortable returning their children to classrooms. Reasonable fears about the

continued spread of the COVID-19 virus and further disruptions to their child's education persist across the District but are most prevalent in low-income neighborhoods.

Moreover, many education stakeholders have expressed concerns about transparency in planning for the return to in-person instruction.[30] Teachers and parents alike worry that LEAs are not providing meaningful opportunities for families to engage in the planning process for reopening schools. For example, DCPS has issued surveys that suffered from accessibility concerns, has held town halls that often do not provide meaningful opportunities for questions, and has issued plans that do not reflect the expressed interests of students and their families. Further, schools have struggled to keep basic supplies like soap available pre-pandemic, leading to skepticism that promised supplies will be available.

These issues of safety and trust will have to be addressed if we are going to successfully transition back to in-person learning. Hopefully, with vaccines becoming more available and safe experiences with in-person learning, families will become more comfortable sending their children back. Until then, the education agencies must continue to ensure that all children are learning and learning loss is minimized.

As the District plans for the months and years to come, we urge the Council and the entire education sector – DME, OSSE and all the LEAs, DCPS and Charter – to focus on recovery of the significant learning loss that has occurred during this public health

crisis. We hope that the Council and DCPS consider a number of other interventions. In particular, we would like to highlight the emerging work from the Annenberg Institute at Brown University. As part of their EdResearch for Recovery[31] project, they have issued a number of best practices to address learning loss.

<p align="center">*Broad-Based Supports for All Students*</p>

As noted by the EmpowerK12 report, learning loss has occurred for all students. As such, the education sector will need to create ways for all students to recover the losses suffered over the last year. To this end, the Annenberg Institute has published best practices for broad-based supports for all students.[32] Importantly, these suggestions were published in July 2020 and noted, "For children meeting academic benchmarks before the shutdown, slowdowns through September will not be catastrophic. However, delayed openings or shutdowns combined with weak remote learning offerings in the fall may set students' learning back significantly."[33] Given the necessary continuation of virtual instruction in the District, we can look to a number of best practices that can bolster engagement for students and families who continue learning from home. Specifically, their recommendations include "providing children in high-poverty schools with books for reading at home" and "engaging caregivers by sending text-messages that include tips and encouragement on home learning activities."[34]

Additionally, as LEAs develop their post-COVID recovery plans, the Annenberg Institute provides guidance on how to assess and address student learning loss. First,

they note that "having teachers teach grade-level material with 'just-in-time' review is preferable to beginning the year by repeating material from the end of the prior grade."[35] Additionally, their recommendations highlight the need for "systems to track and re-engage students who disengaged during the past spring" and "scheduled time for teachers to communicate across grade level teams and efforts to maximize instruction time."[36] Lastly, research from the Annenberg Institute specifically notes strategies to avoid when developing recovery plans. They warn against "large-scale standardized testing at the start of the school year" and "remediation programs that supplant regular instruction."[37] Their research shows that both of these strategies do not provide helpful data and are likely to hinder the acquisition of new, grade-level content.[38]

In addition to the below-outlined recommendations drawn from the Annenberg Institute, CLC attorneys recommended a number of interventions that would be particularly impactful for our client population. We encourage LEAs to consider significant investments in tutoring services, the broadening of eligibility for credit recovery and extended school year programs, and additional staff to support learning loss interventions.

Supports for Students with Disabilities

As discussed above, students with disabilities were already significantly behind prior to the implementation of virtual instruction. Furthermore, many special education services have been slow to shift to virtual offerings or have simply not been offered at all

over the course of the past year. As a result, it will be crucial for LEAs to develop specialized strategies for how to address learning losses suffered by students with disabilities. Fortunately, the Annenberg Institute has published best practices specifically designed for this subgroup of students.[39]

Researchers with the Annenberg Institute predict that "students with disabilities are… likely to have regressed the most during COVID-related distance learning" due to pre-pandemic achievement gaps and "the reduction in quality of special education services as a result of COVID-19."[40] Research shows that a key strategy to address the unique needs of students with disabilities will be to implement "small-group or one-to-one intervention three to five times per week."[41] Moreover, this research notes that "special educators' times is best used for the delivery of interventions" and, thus, they ought to be provided administrative support for tasks such as administering and scoring assessments and attending to paperwork.[42]

It is clear from our clients' experiences as well as from education research that LEAs will need to invest heavily in supports for students with disabilities. Specifically, the lesson we have learned is that many students with disabilities need in-person instruction with small student-to-teacher ratios. This will require significant investments in more special educators and service providers. Given the existing workforce shortages for special education teachers, LEAs should also consider investments in training existing

personnel – general education teachers, paraprofessionals, and other aides – to provide more intensive supports to students with disabilities.

Supports for English Language Learners

Like students with disabilities, disparities between English language learners (ELL) and their non-ELL peers predated the pandemic. As such, this subgroup of students will also need intensive supports that are targeted to their unique needs if they are to recover the losses suffered during the pandemic. For guidance on this topic, we again look to the Annenberg Institute for their research into best practices to support English language learners.[43] Key among their recommendations was the need to improve trust and engagement with families.[44] Due to the limited trainings for educators on the design and implementation of instruction for ELLs, it will be necessary for schools to focus on the creation of "high-quality instructional resources designed specifically for [ELLs]."[45] Moreover, the Annenberg research notes that there is a "growing set of online learning resources [] readily available to families in multiple languages."[46] And, again, schools need to invest in "opportunities [for ELLs] to work one-on-one or in small groups with teachers, paraprofessionals or tutors"[47] to ensure that they are not only able to recover their COVID-related academic losses but also able to close the achievement gap with their non-ELL peers.

In the midst of a pandemic and the aftermath of a summer of hyper visual racial violence, young people are being asked to go back to schools with less access to essential social emotional support staff. Now is the time when we need to invest more into social emotional learning and support. It is not enough to maintain the status quo. The need is greater, and, thus, our response should be greater. Between the social isolation and fear that all youth have faced during this time, there will be numerous students who have faced the loss of a loved one to the virus. As such, we would also like to highlight the Annenberg Institute's guidance on the assessment of students' social and emotional well-being.[48] Nationally, we have seen that "greater numbers of students are experiencing anxiety, depression, and, for students with disabilities, developmental regression since the start of the pandemic."[49] As we learn more about the significant impact that the pandemic has had on the behavioral health on young people, a focus on student well-being is more important than ever. In order to assess the social and emotional needs of students, researchers suggest that schools develop "a comprehensive system for monitoring student well-being [] to help educators support students [] and allow for tiered referrals for special services." Moreover, the Annenberg Institute has created a repository of measurement tools that schools can use to assess student well-being.[50] However, it is important to note that these assessment tools are not helpful in isolation.

They must be tied to specific goals and must be part of a larger strategy to support the well-being of students.[51]

B. Closing the Digital Divide

Mayor Bowser and school leaders have made progress in promoting digital equity in DC public schools. Chancellor Ferebee has stated that "DCPS remains committed to providing technology resources and support for every student who needs a device or access to the internet."[52] To meet this commitment, District of Columbia Public Schools (DCPS) has invested millions of dollars in technology for learning at home and expanding its inventory to more than 45,000 devices for students in Pre-K through grade 12.[53] It is our understanding that public charter schools have also sought to ensure all their students have the technology they need to engage in distance learning.[54]

In addition, last September, Mayor Bowser instituted the "Internet for All" program,[55] which seeks to provide 12-months of free home internet service to up to 25,000 low-income families.[56] To be eligible for the program, a family must be receiving SNAP or TANF benefits and have a child enrolled in a DCPS school or DC public charter school.[57] The service is administered by the Office of the Chief Technology Officer (OCTO) in coordination with the Office of the State Superintendent of Education (OSSE). Children's Law Center has submitted testimony to the Committee on Government Operations and Facilities recommending steps OCTO could take to enhance its outreach and increase participation in the Internet for All program.

In spite of these important investments in closing the digital divide among DC's students, we have begun to see predictable issues arising with broken or lost devices. One client reported that DCPS would not be able to replace a student's lost device until a police report was submitted. While the parent was happy to pursue the necessary documentation, this prerequisite meant that the student missed weeks of virtual instruction while the family navigated the bureaucratic hurdles necessary to get a new device. While we understand that local education agencies (LEAs) need to responsibly manage their device inventory, we are concerned that students will lose significant amounts of instruction due to lost or broken devices and the red tape that must be cleared before the student receives a replacement.

While progress has been made, we need to do more to close the digital divide. The COVID-19 pandemic has disproportionately affected people of color and lower-income families, exacerbating structural inequities and racism that have long plagued the nation and the DC community.[58] The digital divide is an example of these inequities. According to one estimate, 25-30% of families of color in DC lack reliable high-speed internet at home, compared to 5% of white families.[59] These inequities create significant educational barriers for lower-income students and students of color.

The District needs to develop a long-term plan for closing the digital divide for DC students. Digital equity will remain important even after the COVID-19 public health crisis subsides and students return to school. As classrooms reopen, students will still

need access to devices and the internet. How do we ensure all students have access to a digital device both in school and at home? Can students bring their device back and forth from school, or should schools provide separate devices for home and school use, as KIPP is doing?[60] How do schools maintain a sufficient inventory of devices, and what are the costs involved? How do we promote reliable broadband internet access at home for low-income families?

Councilmembers Lewis-George, Silverman, Gray, Nadeau, Allen, Bonds, R. White, and Cheh recently introduced B24-0077 – the DCPS Technology Equity Act of 2021 – that would require DCPS to develop a comprehensive tech equity plan to answer these important questions.[61] Under the bill, DCPS would need to solicit parent and teacher input, assess the tech needs for each DCPS school, provide detailed cost estimates, and identify potential funding sources. Children's Law Center supports this bill and recommends that it be extended to apply to the charter sector. We also agree with Digital Equity in DC Education in that any tech equity plan should seek to achieve (1) a 1:1 student/teacher device ratio coupled with practical digital literacy training; (2) robust remote and in-school technology support;[62] and (3) improved technology infrastructure and sufficient internet access for all to support learning in school and at home.[63]

Reimagining a Positive School Climate

Over the past year, we have had to reimagine nearly every element of public schools. We have reimagined attendance and instruction and engagement and discipline.

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We believe that now is also the time to reimagine what a safe and positive school environment looks like. This reimagining must be focused on creating school environments that are welcoming to students. Despite improvements in recent years in the realms of truancy and school discipline, we continue to see a number of policies that push students out of schools rather than welcoming them. Below we recommend a number of policy changes regarding attendance, school discipline, and school security. In sum, we believe that these changes each contribute to the creation of a more positive school climate where students feel welcome, safe, and supported. Without establishing this foundation, we cannot expect students to be able to make the kind of academic growth that we hope for them.

A. Addressing Chronic Absenteeism and Truancy in the District

Generally, all children between ages five and 18 are required to attend school every day, and children with ten or more days of unexcused absences within a single school year are considered "chronically truant."[64] Students that go on to miss more than ten percent of school days within a single year are considered to suffer "chronic absenteeism," and may even be disenrolled from their schools. Chronic absenteeism and truancy are linked to poor academic outcomes and an increased risk of dropping out of school entirely. This, subsequently, limits those students' employment prospects and ability to be self-sufficient in the future.

Although attendance data for SY19-20 is incomplete, it is clear that chronic absenteeism and truancy continue to be a significant challenge for the District's public schools, families, and children. In response to the pandemic and the shift to virtual instruction, DCPS and OSSE introduced greater flexibility with respect to attendance policies. While these changes were made in light of the pandemic, they raise the question of whether permanent changes to DC's attendance policies are required in order to finally make progress on DC's long-standing goal of bringing down truancy and chronic absenteeism rates.

Pre-pandemic Rates of Chronic Absenteeism and Truancy in SY19-20 Likely Met or Exceeded Previous Years

OSSE did not collect student-level attendance data past March 13, 2020 due to the COVID-19 pandemic.[65] According to data collected during the first seven months of SY19-20, however, chronic absenteeism and truancy were on track to meet or exceed rates from previous years.[66] By mid-March 2020, OSSE reports that chronic absenteeism had increased to over 27 percent, more than one percentage point higher than was observed at that time the past two years.[67] This means that for the third year in a row, the District expected close to 23,000 students to miss 10 percent or more of school.[68] Similarly, by mid-March 2020, the truancy rate reached nearly 17 percent, which is comparable to the past two years.[69] Based on this data, OSSE concludes that truancy would have

approached 30 percent – approximately 22,916 students – by the end of the year, as it did in previous years.[70]

OSSE's Attendance Report for SY19-20 did not provide the same detailed reporting and thoughtful analysis that is typically included in their report.[71] This is disappointing, considering that OSSE had seven months of data to work with, and this report is a critical tool in identifying strategies and solutions for addressing truancy and chronic absenteeism crises facing the District, which have been on the rise since 2015.[72] There are, however, several important points from OSSE's analysis in the Attendance Report for SY19-20 that should be noted.

At-risk students were approximately three times more likely to be chronically absent than students who were not considered at-risk.[73] Additionally, consistent with prior school years, Black students were seven times more likely to be truant than students who are not Black, and Hispanic or Latino students were nearly five times more likely to be truant than non-Hispanic students.[74] Finally, 37.8% of children in the care of Child Family Service Agency (CFSA) are chronically absent and truant as compared to the 21.6% of children not under care of CFSA.[75] These data points demonstrate that the District's struggles with chronic absenteeism and truancy are having a disproportionate impact on our most vulnerable students.

Pandemic Conditions Can Inform Permanent Changes to Attendance Policies

When the pandemic closed school buildings, DCPS and OSSE recognized that modifications to existing attendance policies were necessary. Acknowledging the extraordinary burdens families and students were struggling with due to the pandemic, OSSE and DCPS allowed more flexibility in attendance policies. In particular, schools generally suspended the "80/20 rule," which counted students as absent if they missed more than 20 percent of a school day, and schools were allowed to count students as present as long as they connected with the school (i.e., logged in to their virtual school platform) once during each school day.[76] Further, DCPS and OSSE worked with CFSA to update truancy referral processes, to ensure schools put in the time and effort to connect and engage with students who were missing school – and not just refer them to CFSA for educational neglect.

These policy adjustments reflect a departure from prior attendance policies in two important ways. First, these adjustments acknowledge the reality of the obstacles that families face in accessing remote learning during the pandemic – including lack of devices, lack of high-speed internet, problems navigating the technology platforms, parental/caregiver illness, the inability of parents/caregivers to provide educational support or supervision due to work schedules, or students themselves having to be responsible for their siblings' care and educational support. Second, these adjustments correctly place the emphasis on connecting and engaging with students and families and

drawing them into the school community in a welcoming manner – not on exclusionary or punitive consequences for students struggling to attend school. We commend OSSE and DCPS for recognizing the significant variability in the day-to-day lives of families during this pandemic and developing more flexible attendance policies that strive to accommodate a wide range of needs.

Looking ahead to the end of the pandemic and a time when all students return to school in-person, we urge OSSE and DCPS to continue to prioritize engaging students over punishing them and to recognize the obstacles that families face in getting students to school. We recommend that OSSE and the District reform attendance legislation, policy, and regulations so that they are more focused on finding disengaged students and connecting them to resources rather than creating unnecessary referrals to child welfare and pushing students out of school. Specifically, we recommend the following changes:

- The "80/20 rule" should be permanently eliminated. This can be done by revising the definitions of "present" and "absent" in 5-A DCMR §2199 as follows (changes noted in text):
  - "Present" – A single school day on which the student is physically in attendance at scheduled periods of actual instruction at the educational institution in which she or he was enrolled and registered for ~~at least eighty percent (80%)~~ **for any portion** of the full instructional day, or in attendance at a school-approved activity that constitutes part of the approved school program for that student.
  - "Absence" – A full **or partial** school day on which the student is not physically in attendance at scheduled periods of actual instruction at the educational institution in which s/he was enrolled or attended and is not in attendance at a school-approved activity that constitutes part of the approved school program.[77]
- DCPS should eliminate the policy requirement that students with more than 30 unexcused absences in a course within a full school year shall

receive a failing final grade in that course with a resulting loss of course credit."[78]

These recommendations reflect our overall view that the District needs to revise all of its legislation, policy, and regulation related to student attendance with a view to encouraging students to attend school and not disincentivizing them from attending school. If a student overcomes external or internal obstacles to getting to school for even a small part of the day, we should be affirming their efforts. We should not be telling them if they can't be there for 80% (or any specific percent) of the day, don't bother showing up. As we seek to create more positive school cultures, our policies need to consistently message to students that they are welcome and wanted at school.

Absence data should be used to track full-day absences – with the goal of identifying students who have completely disengaged from school and for whom we may have safety concerns. To the extent OSSE or schools want to track levels of engagement via metrics related to percentage of the day students are in class, such metrics should not be tied to attendance or truancy. Rather, they should be part of a full spectrum of metrics designed to comprehensively assess the extent to which students are engaged at school.

Similarly, failing a student after 30 days instantly removes any incentive for the student to return to school for the rest of the year. It also sends a message to students that they are not welcome or wanted at school – and that there is no point in trying to do better. This is the exact opposite of the message we should be sending students

struggling with attendance. There should be no threshold number of days that automatically result in failure because we want our students to be motivated to address whatever internal or external obstacles are preventing them from attending and engaging at school. We also want schools to be incentivized to do the work to figure out what specific obstacles are preventing individual students from engaging at school and providing students with the support and resources they need to get back on track. To the extent there is an evidence-based reason that 30 days of absence (or some other threshold) is significant to a student's ability to achieve competence – that threshold should trigger additional supports and resources from the school, not failure.

B. Implementation of School Discipline Reform

In May 2018, the Council passed the Student Fair Access to School Amendment Act (SFASAA), which limits the use out-of-school suspension as a means of discipline and protects students' right to an education in the event an out-of-school suspension has been determined to be necessary.[79] Beginning in SY19-20, SFASAA limited the use of out-of-school suspension, expulsion, or disciplinary unenrollment for students in kindergarten through eighth grade.[80] Starting this school year (SY20-21), SFASAA limited the use of these measures for high-school students (grades 9 through 12).[81] We commend the Council for passing this legislation and moving DC away from the excessive use of exclusionary discipline, which only serves to push students out of school and hinder their growth and learning.

Although OSSE's School Discipline Report for the SY19-20 school year only contains data through March 13, 2020 due to the pandemic, these data are still informative of school discipline trends.[82] Disappointingly, despite the implementation of SFASAA's limitations on the use of exclusionary punishment, school discipline trends remain largely consistent with those reported the prior year.[83]

Out-of-school suspension remains the most frequently reported disciplinary action in District public schools. [84] As of March 13, 2020, 3,605 students received a total of 5,213 out-of-school suspensions (approximately 3.6 percent of all students).[85] In SY18-19, 6,073 students received a total of 10,387 out-of-school suspensions (around six percent of the student population).[86] Considering the SY19-20 numbers only include data through March 2020, OSSE concluded the trends are largely the same.[87]

Even more concerning, the distribution of out-of-school suspensions show that the population experiencing the highest number of out-of-school suspensions remains students in 6th through 9th grade – again consistent with previous years.[88] Further, there was actually an increase in the percentage of students with out-of-school suspensions who were 7th graders.[89] This is particularly troubling, because SFASAA explicitly limited the use of exclusionary discipline for 7th graders during SY19-20. While only 22 percent of District public school students are in grades 6, 7, or 8,[90] this group makes up 40 percent of out-of-school suspensions[91] and 52 percent of in-school suspensions.[92] Again,

considering SFASAA limited the use of exclusionary discipline for students in 6th through 8th grade, it is startling that this population still accounts for most of the exclusionary discipline.

In addition, Black students, students identified as being "at-risk,"[93] and students with disabilities continue to experience disproportionately high rates of exclusionary discipline.[94] In SY19-20, Black students made up 65 percent of the District's student population, but accounted for 89 percent of students who received one out-of-school suspension, 94 percent of students who received at least two out-of-school suspensions, and 87 percent of expulsions.[95] Students identified as at-risk were 1.6 times more likely to receive at least one out-of-school suspension as students who were not at-risk, when controlling for other student demographics.[96] Further, at-risk students accounted for 62 percent of all expulsions, despite only constituting approximately 46 percent of the total student population.[97] Students with disabilities were nearly twice as likely to receive out-of-school suspensions compared with peers without disabilities, when controlling for all other student demographics.[98] In fact, students with disabilities were overrepresented across every disciplinary action – despite comprising only 17 percent of the total student population, they accounted for 34 percent of students who received an in-school suspension, 36 percent of students who received an out-of-school suspension, and 30 percent of students who were expelled.[99]

We are troubled to see these trends continue, even as SFASAA is being implemented more broadly throughout the District. Last year, we recommended several key actions OSSE could take to ensure SFASAA is successfully implemented in the years ahead, especially with respect to charter schools.[100] We commend OSSE for providing a more updated 2020-21 School Year LEA Discipline Data Collection Guidance, including the emphasis that LEAs "are still required to report all disciplinary incidents from the 2020-21 school year including disciplinary actions that occur in distance learning settings."[101] However, our other three recommendations, which we feel would still serve as means of effective implementation of SFASAA, have not been fulfilled. Therefore, we again ask that OSSE and DCPS:

- Issue guidance to LEAs for developing school discipline policies that are compliant with SFASAA and provide technical assistance to review and confirm policies are compliant.

- Revise Chapter 25 of the District of Columbia Municipal Regulations (DCMR) on School Discipline so that it fully conforms with and supports the full implementation of SFASAA.

- Ensure that parents and students are fully aware of the limited circumstances under which schools can impose exclusionary discipline under SFASAA and provide a means for parents and students to notify OSSE if SFASAA restrictions are being violated. A fully informed parent and student community can help hold schools accountable and ensure SFASAA is being correctly implemented.

Further, OSSE, DCPS, and all individual LEAs should also engage with their school leaders and teachers to find out whether additional resources or supports are needed for schools to implement SFASAA as intended.

Unfortunately, OSSE's discipline report only covers data collected prior to the transition to virtual instruction. While, theoretically, there should not have been any exclusionary discipline incidents to report while students were learning from home, we are learning that this has not, in fact, been the case. We have heard anecdotal evidence from clients that students are being locked out of virtual classrooms in response to behavior incidents. For example, one of our clients was locked out of their math class for several days for cursing in class. Because the definitions of in-school and out-of-school suspensions did not envision a virtual learning environment, it is unclear which category applies to our client. However, DC Code clearly defines exclusion as the "removal of a student from the students' daily class schedule for disciplinary reasons and includes a suspension or a disciplinary unenrollment."[102] Under the Code, our client was excluded from their math class – and effectively suspended – for several days, so the legal requirements of SFASAA should have applied.

Ultimately, we have little to no information on the state of school discipline in the virtual environment. We cannot assume that our client is the only DC student to have suffered this sort of *de facto* suspension without the due process entitled to them under SFASAA. Further, parents are unaware that such virtual lockouts are effectively suspensions and that their students should be receiving a plan for continuity of

education. For our client, the parent did not know that her student had been suspended, and we only found out through an off-handed comment made during a check-in call.

We have serious concerns that the transition to virtual instruction has resulted in significant academic disengagement. During this time, schools should be finding more ways to engage and encourage students. LEAs must provide schools and teachers with clear guidance about the applicability of SFASAA in the virtual classroom and must reinforce the need for a positive, welcoming school climate during this already difficult time. It makes no sense for the District to exclude children from school through its discipline policies and practices, especially during virtual instruction – and then wring our hands about the District's ongoing truancy problems. Rather, the District must take a comprehensive approach to making sure DC's children feel welcome and wanted at school. Further, we must ensure that this sentiment is reflected across all school policies and practices so that our schools can be places that meet our children's needs and enable them to succeed and thrive.

C. Police-Free Schools

In addition to the trauma of the pandemic, 2020 brought numerous reminders of the racial injustice upon which our country was founded. While these truths are far from new, the murder of George Floyd brought to the forefront a political will to address racial injustice in our communities. This moment calls for transformative, bold investments in students' behavioral health. Black and brown youth have been especially traumatized as

they have grappled with two pandemics simultaneously: the racially inequitable harms of coronavirus and the ongoing display of anti-Blackness and racial terror. In response to these truths, the need to invest in a positive school climate is more important than ever. Specifically, we believe that the creation of a positive school climate requires removing police officers from our public schools.

Schools should be a safe space where students can learn and grow in a trauma-informed environment that supports their educational and socio-emotional learning goals. Unfortunately, these goals are undercut when students experience negative, even traumatizing, interactions with MPD officers, School Resource Officers (SROs), and contract security guards during the school day. These are just a few examples of the types of problematic interactions with police at school that our young Black and Brown clients have shared with us:

- An 11-year-old client who refused to get on the school bus and the response was for the DCPS school to call the police.

- A five-year-old client visited by a uniformed MPD officer, not a social worker, and taken away alone to be interviewed about abuse allegations.

- A fifth-grade student who left the school building but remained on campus. The elementary school called MPD who responded by escalating the situation to the point of putting the child into restraints.

Moreover, our clients with disabilities have shared stories that illustrate the devastating consequences of what happens when police are called during an episode of emotional or

behavioral dysregulation. Our clients with disabilities who have interacted with police

at school have shared the following experiences with us:

- A nine-year-old client who was experiencing a mental health emergency was handcuffed and accompanied by uniformed officers to the Emergency Department

- A 12-year-old client was threatened by staff at their group home that the police would be called when he was having a mental health crisis.

- An 11-year-old student was handcuffed at a DCPS school for running through the halls and then was transported by an SRO in handcuffs to Children's National Hospital for a psychiatric evaluation when a parent could not be reached.

In addition to these sorts of specific incidents with police in schools, many children in DC

have negative reactions to police based on their experiences in the community. Many

have witnessed friends and family arrested or hassled by police. For some students, the

mere presence of police officers at school can be enough to trigger fear and past trauma.

For example, a CLC attorney witnessed a child client withdraw and recoil into their

sweatshirt after walking into a room at school with police present even though the police

officers were not interacting directly with the client. For many students the regular

presence of police in schools does not create a safe and secure learning environment. In

fact, due to their negative and traumatic experiences in their communities, the presence

of police in schools creates an environment of fear and hostility for many students.

The cumulative effect of these school and community interactions, repeatedly

highlighted by videos of police violence circulated on social media, is a sort of race-based

traumatic stress[103] that has no place in a public school. By redirecting local dollar allocations away MPD's School Safety Division and DCPS's security contract and shifting those funds to critical programs like school-based mental health, we have an opportunity to create an environment where students are supported and not criminalized.

To this point, we would like to commend DCPS for its recent efforts to collaborate with school leaders and community stakeholders in the work to reimagine school security. We recently learned that principals were recently given an opportunity rethink how they allocate dollars in their school budgets for security. However, school leaders were given less than ten days to completely reimagine security staffing and submit their proposal to Central Office. We hope, given the now-delayed budget calendar, that schools will be given another opportunity to draft and submit these proposals. Additionally, DCPS recently published a call for applications from community members to participate in their Revisioning Safe and Positive Schools Working Group. However, the application was open for less than two weeks. We hope that DCPS recognizes the ways in which this limits participation and that they continue to provide opportunities for families and educators to participate in the reimagining of school security.

In December 2020, CLC submitted a set of recommendations to the Police Reform Commission[104] (See Appendix). Our recommendations proposed a two-prong strategy, which first divests local dollars from the MPD School Safety Division and the DCPS school security contract and then invests those dollars in programs that create and

reinforce safety in our schools. Our divestment position is drawn from the often-harmful interactions our young clients have had with police in schools. Our investment recommendations include expanding and supporting successful programs and partnerships which are already in existence and currently operate to varying degrees within our schools and communities. Our recommendations offer concrete alternatives to police in schools and support a new vision of school safety that does not contribute to the criminalization of Black and Brown students, but instead enhances their educational experience in DC's public schools.

D. Implementation of the School Safety Act Omnibus Act

In December 2018, the Council passed the School Safety Omnibus Amendment Act of 2018 (SSOAA).[105]   This Act became effective on April 11, 2019,[106] and funds to implement the Act were appropriated in the Fiscal Year 2020 Local Budget Act of 2019.[107] SSOAA requires DCPS and public charter schools to establish and implement (1) a policy to prevent and address child sexual abuse by staff and (2) a policy to prevent and address student-on-student sexual harassment and dating violence. LEAs are required to publish these policies on their websites and to provide training and information regarding the policies. Although DCPS has published its policy to prevent child sexual abuse by staff, its "DCPS Policies" webpage currently does not include a policy to prevent student-on-student sexual harassment and dating violence.[108] The Council should examine DCPS

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and the public charter school sector compliance with SSOAA and demand that they rectify any non-compliance as soon as possible.

Agency-Specific Points of Interest

A. District of Columbia Public Schools (DCPS)

Transparency & Communication

As we have discussed in previous opportunities to testify about DCPS,[109] there is an inextricable tie between transparency and equity. When DCPS fails to be transparent in its return to school planning, parents from the communities hit hardest by the pandemic do not feel safe about sending their children into DCPS school buildings. Because Black residents and low-income neighborhoods have been hit hardest by the pandemic, families from these communities are justifiably more concerned about sending their children back to school. However, this means that at-risk students are not returning to classrooms and, thus, are falling further behind their white, affluent peers. This is an equity problem that has a direct tie back to the lack of trust that persists between DCPS and DC families. These issues of safety and trust will have to be addressed if we are going to successfully transition back to in-person learning. Hopefully, as vaccines become more widely available and we see safe experiences with in-person learning, families will become more comfortable sending their children back. We strongly urge DCPS to address head-on the lack of community trust that sullies even their best-laid

plans. There is evidence from DC families that when the schools reach out to address

their concerns, more students return to in-person instruction.

This is not to say none of this sort of trust-building work is going on in DCPS. The

Washington Post recently profiled the efforts of Victorie Thomas, principal at DCPS's

W.B. Patterson Elementary School.[110] Thomas "knew that many children at Patterson

were among the students in the District who needed in-person learning the most."[111] She

embarked on a multifaceted campaign to reach parents though social media, schoolwide

meetings, and virtual tours of the safety features at the school building. "In the end, 71

of the school's 315 children signed up to return to the Southwest Washington campus,

which has a predominantly Black student body. That's a far smaller number than most

schools in the city's wealthier neighborhoods, but far higher than almost any other school

in wards 7 and 8. These are wards where parents are the most reticent to return to school,

neighborhoods where trust in schools and government institutions is low and health

outcomes are poor."[112]

Patterson ES and Principal Thomas are a prime example of the sort of intensive

stakeholder engagement that can start to repair the harms suffered not only over the past

year but that have pervaded local government for decades. "The experiences at Patterson

show the power that individual schools have in building relationships and confidence

with families. But it also shows the significant hurdles that persist as the city attempts to

equitably reopen school buildings. A majority of families who were offered slots still

rejected them. Of the 71 families who signed up for the four days of in-person learning at

Patterson, so far only 35 or so are regularly entering the school building."[113] We applaud

Principal Thomas and hope that her work serves as a model for DCPS Central Office as

they work to gain the District's trust and reopen schools safely and transparently.

CARES Classrooms

We would like to commend DCPS for its work on the opening of CARES

classrooms for families who have struggled to implement virtual learning at home. For

too many DC families, work schedules and home environments are not flexible or

conducive enough for students to be successful in their digital classrooms. For these

families, the opportunity to send their students to a supervised location with reliable

internet was a great support. However, like other elements of the DCPS reopening plan,

a lack of transparency and community engagement hindered the rollout of and

participation in the program.

At CLC, we were excited to learn about the CARES classroom option and that at-

risk students were to be prioritized. However, due to the unique circumstances and

barriers facing foster youth, we were concerned that our clients would not be timely

contacted with an offer to take part in the CARES classrooms. Because the details of the

plan were withheld until the last minute, we were not able to timely contact our clients

and their schools to ensure that everyone had the most accurate contact information for

both the student's current guardian as well as the adult with educational decision-making rights for the student.

Ultimately, we were grateful that DC's Child and Family Services Agency (CFSA) stepped in to coordinate contact protocols for the elementary-aged students in further reopening plans. Like we have outlined above, increased transparency and stakeholder engagement would have allowed us to identify these potential issues earlier and partner with DCPS and CFSA to ensure that foster youth and other at-risk students did not miss their chance for a seat in a CARES classroom.

Loss of Head Start Funding

In April 2020, 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 five. 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."[114] The Chancellor predicted that the loss of Head Start funds would not reduce any pre-K seats for the 2020-21 school year.[115]

The loss of Head Start funding and the underlying safety issues in DCPS's program raise significant concerns about the quality of early childhood education in DCPS schools. In its written response to the Committee's oversight question 87, DCPS describes several steps it has taken on this front. According to its response, DCPS seeks to ensure Pre-K students are appropriately supervised at all times by providing more extensive staff training, implementing monitoring tools and procedures, and eliminating unnecessary transitions during the school day.

In addition, on January 4, 2021, DCPS applied for a new Head Start grant in the amount of $4.8M; it expects to learn whether it will receive this grant during late spring of 2021. If the grant is awarded, DCPS plans to implement the Head Start programming at the beginning of next school year. Even if the full $4.8M amount is awarded, however, it would still be significantly less than the previously awarded amount of $14.5M in Head Start funds. DCPS indicates that it is shifting towards relying more heavily on local funds to carry out its early childhood learning program and that no Pre-K classrooms closed as the result of its loss of Head Start funds in 2020. DCPS's response also describes how its early childhood learning program is designed to provide more intensive supports (including behavioral health supports) to schools that have the greatest number of at-risk students and Head Start-eligible students.

DCPS's oversight response suggests it has taken appropriate steps to address the problems in its early childhood program and to reinstate at least part of the Head Start

funding it lost last year. The Council should ask that DCPS explain in more detail why the grant amount it is now seeking is significantly lower than its prior grant, and whether there will be opportunities to increase the federal grant amount in the future. The Council should also exercise its oversight power to ensure that the steps DCPS has put in place to ensure Pre-K students are safe and supervised are sufficient and will be fully implemented.

B. Office of the State Superintendent of Education (OSSE)

Parent Participation in IEP Team Meetings

For parents to be equal and meaningful participants in IEP meetings as envisioned in the IDEA, LEAs must ensure a focus on scheduling meetings at a mutually convenient time and place. In past years, we have emphasized that schools must commit to meaningfully engaging with parents in IEP meetings. This engagement is not possible when schools refuse to hold IEP meetings at times that allow parents to attend. For many parents, work schedules are determined two weeks in advance, and they must ask for time off a week before schedules are posted, and so they need meetings scheduled several weeks out. We have also experienced challenges with schools who predetermine that they only hold meetings on one day each week or will not meet early in the morning, which makes scheduling at mutually convenient times very challenging when parents have existing commitments (e.g., work, standing medical appointments for their child with a disability).

Like with many things, the COVID-19 public health emergency has required that we reimagine how we meet and engage with students and their families. During virtual learning, schools have offered to hold IEP meetings virtually, either by videoconference or by phone. However, we have heard from clients that these meetings are rife with technological failures, and the school-based members of the IEP team are not equipped to provide the support that parents need to implement the virtual meeting technology. Some such challenges were to be expected with the quick transition to virtual life during the pandemic. However, after a year of pandemic operation, it is unacceptable that these basic barriers continue to impede parent participation. As we noted above, parent participation is always crucial to an IEP team. This participation is even more essential as parents have had to provide greater supports to their students learning from home.

IEP Certification of Completion

Many of the students we serve are eligible to receive IEP certificates of completion. The certificate of completion offers an alternative to students for whom a traditional diploma is not an appropriate goal. For these students, having the opportunity to earn an IEP certificate of completion is a significant motivator to continue with education or skills training. Additionally, an IEP certificate of completion is often tied to a student's ability to access services post-graduation. In fact, from our experience, some Rehabilitation Services Administration (RSA) service providers require that students provide an IEP certificate of completion in order to enroll. Moreover, although the

Developmental Disabilities Administration (DDA) does not require an IEP certificate of completion, we know that some DDA contractors do have such a requirement.

These inconsistencies have caused confusion for students and families when transitioning to post-secondary services. Many students find out far too late that the decision to transition from a diploma track to a certificate track, or vice versa, had long-term consequences for their ability to access post-secondary services or education. Our primary concern is that students and parents are not able to make an informed decision about whether to shift their goal to an IEP certificate of completion. From our case experience, we have found that often the schools are not well-informed as to these consequences. We hope that OSSE can provide better communication and training for schools so that educators can provide a full picture of the consequences and allow students and their families to make a fully informed decision on this matter.

Early Intervention Services under Part C of the IDEA

Strong Start/DC EIP conducts evaluations and provides individualized plans for infants and toddlers in the District with developmental delays. It provides family-focused early intervention services and much-needed service coordination to ensure services from a variety of funding sources, including Medicaid, are delivered timely. Recognizing the critical importance of children's development at this age, Strong Start/DC EIP's deadlines are short under Part C of the IDEA.[116]

We were pleased to see that the 2018 change in eligibility criteria allowing services to be expanded to 25% delay in one area of development has been successful and that a greater number of young children have been identified for services through the Strong Start program. In FY19, of the 1,311 children found eligible for services, 325 of those children were identified with a 25% delay in one area.[117] We also highlight that OSSE's change in eligibility also helped to increase the number of unduplicated referrals to the program by 10.6%.[118]

Research indicates that 46% of children who get early intervention services completely catch up and are still doing as well as their peers several years later, according to national research.[119] For other, more severely delayed or disabled children, getting help early improves their expected skills.[120] Research on early intervention programs shows they produce long-lasting and substantial gains in outcomes, such as reducing the need for special education placement, preventing grade retention, increasing high school graduation rates, improving labor market outcomes, reducing social welfare program use, and reducing crime.[121] Children who do not receive the specialized support they need as infants and toddlers have a much harder time making up lost ground later.[122] Expanding Strong Start/DC EIP is a truly effective way to help children start strong.

Implementation of the Students' Right to Home or Hospital Instruction Act of 2020

On December 17, 2020, Mayor Bowser signed into law the Students' Right to Home or Hospital Instruction Act of 2020 (DC Act 23-526). This new law, which was

unanimously approved by the Council, will provide important legal protections to the more than 150 DCPS and DC public charter school students who request home or hospital instruction (HHI) every year so they can continue receiving instruction while recovering from a health condition.[123] Beginning in the school year 2022-23, the law will require each LEA to establish an HHI program, process HHI requests in a timely manner, defer to a health professional's opinion about the student's need for HHI, and promote parent awareness of its HHI program. The law also allows a parent to appeal an LEA's denial of an HHI request.

We commend the Council for passing this important new law. To ensure it goes into effect, the Council should appropriate the necessary funds in its FY2022 budget to implement DC Act 23-526. According to the law's fiscal impact statement, it will cost $162,000 in FY2022 and $1.74 million for the financial plan through FY2024.[124] This minimal cost pales in comparison to the law's substantial educational benefits. OSSE will also need to promulgate regulations implementing the bill (including rules specifying the minimum number of HHI hours an LEA must provide to eligible students) within 120 days after the applicability date of the law. Until the law is funded and goes into effect, we call on LEAs, consistent with the spirit of the new law, to provide prompt, effective instruction to students who are unable to attend school due to a health condition.

Seclusion and Restraint

Despite recent proposals to limit the use of seclusion and restraint on students with disabilities, schools continue to operate with little to no guidance as to when these practices can or should be used. Although regulations currently exist for non-public schools, we have limited information about how these practices are being implemented in public schools in the District. Further, we are concerned that Local Education Agencies (LEAs) may be using seclusion and/or restraint to manage classroom behavior.[125]

Subjecting students to seclusion and/or restraint can create trauma for the student and lead to their injury and even death.[126] Along with our colleagues at the Juvenile and Special Education Law Clinic at UDC and Disability Rights DC, we urge that seclusion and restraint only be utilized as a last resort and only when there is imminent danger of serious physical harm to self or others.[127] We also recommend that these regulations eliminate seclusion and restraint as a planned intervention for any particular student. Finally, we urge OSSE to consider that not all students who are subject to restraint and seclusion techniques have special education needs. In fact, during the 2011-2012 school year, it was reported that 28% of students subject to physical restraint were not receiving Special Education services.[128]

Additionally, we commend OSSE for their undertaking of the extensive rewrite of the Chapter 30 regulations governing special education. We have appreciated how transparent and accessible the agency has been through the various drafts of the

proposed regulations. We look forward to continuing the dialogue with OSSE about how we can strengthen these regulations and ensure the best educational outcomes for students with disabilities.

Transportation for Students with Disabilities

In previous years, we have testified at length regarding the challenges that our clients face in arranging transportation to school for students with disabilities. Given the transition to virtual learning, transportation to school was not a problem for many students with disabilities. Our attorneys report that OSSE has been helpful in ensuring that students who attend nonpublic schools have been able to attend in-person as those schools have opened. We commend OSSE for their commitment to ensuring that these students have access to their education during this time.

However, from our experience, the worst transportation issues tend to cluster around the beginning of the year and often cause children to go without transportation for days and sometimes even weeks. We anticipate that these beginning-of-the-year challenges will be particularly widespread and prolonged as each LEA establishes its own reopening timeline. We look forward to working with OSSE to ensure that students with disabilities, who are often struggling the most with digital instruction, are able to safely return to in-person instruction when the time comes.

While we cannot meaningfully examine improvements or declines from a pandemic year, we would like to take this opportunity to repeat concerns about OSSE's transportation policies, which we have raised over the last several years.

- Allow parents to designate different pick-up and drop-off addresses.
- Provide transportation home after extracurricular activities.
- Limit ride times to 60 minutes for students who live and attend school in DC, with a waiver for extenuating circumstances.

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

C. Public Charter School Board (PCSB)

Over the course of the past year, we have heard a number of positive anecdotes regarding innovative approaches to digital instruction from clients attending public charter schools in the District. This has been particularly true for our students with disabilities. To the degree that these innovations have had positive impacts on the children served by those schools, we applaud those educators who have continued to work tirelessly for their students during this difficult time. It is this sort of innovation and flexibility that is lauded as the true benefit of charter schools. However, it cannot be assumed that such anecdotal evidence is representative of the charter sector as a whole. Because of a persistent lack of transparency, it is difficult to analyze the practices and programming being undertaken by charter schools.

In the past, we have testified in support of bills that would increase the transparency required of charter schools. Specifically, CLC believes that all public schools – whether traditional or charter – should be held to the same standard of transparency. Because the PCSB is not required to obtain information in the possession of individual charter schools, it is very difficult for stakeholders to find out information that is not voluntarily made public by a charter LEA. There is no reason why both traditional and charter schools should not be accountable to parents, students, and other stakeholders in the same way and, accordingly, be equally incentivized to do their best by students and families.

D. Deputy Mayor of Education (DME)

Over the past year, we have been excited to see the establishment and growth of the Office for the Students in the Care of the District of Columbia (SCDC) within the Deputy Mayor's office. Under Director Hill's leadership, various working groups have been doing important work to address the unique needs of students in care during the pandemic. While learning loss and academic recovery will be important for all students, we are encouraged that the DME and the SCDC have created a space for advocates to focus on the particular needs of students in the child welfare and juvenile justice systems.

Additionally, we were glad to see SCDC pick up the academic credit issues faced by students in care. This issue was before the Council last year when the Committee on Education held a hearing on B23-0921 – The Education and Credit Continuity

Amendment Act of 2020. We testified in support of this bill last year, and we look forward to working with SCDC and the Council to address the many ways in which credit issues negatively impact the academic success of students in care.

Unfortunately, SCDC's work has been hindered by prolonged delays in the Mayor's Office of Talent and Appointments (MOTA). Due to lengthy processing times at MOTA, many of the community appointments to the Students in the Care of DC Coordinating Committee have not been finalized. We want to emphasize that we do not see this a fault of the DME or of SCDC. However, these administrative delays have made the important work of this office all the more difficult. Regardless, we look forward to continuing to work with Director Hill in pursuit of bold solutions to improve educational outcomes for students in care.

Conclusion

Thank you for the opportunity to testify, and I welcome any questions.

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[1] Children's Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to advocate for children who are abused or neglected, who aren't learning in school, or who have health problems that can't be solved by medicine alone. With almost 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

[2] OSSE FY2019 Performance Oversight Responses, response to Q13 attachment, *available at:* https://dccouncil.us/wp-content/uploads/2020/02/osse.pdf; *see also*, attachment Q13 link, *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/Q13%20Attachment%20-%20PARCC%20And%20MSAA%20Achievement%20Results.xlsx.

[3] *Id*.

[4] OSSE FY2019 Performance Oversight Responses, response to Q39 attachment, *available at:* https://dccouncil.us/wp-content/uploads/2020/02/osse.pdf; *see also,* attachment Q39 link, *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/Q39%20Attachment%20-%20SPED%20Graduation.xlsx.

[5] *Id.* (Percentage calculated by taking the total number of students with disabilities in FY2019, which was 4,294, and the total number of students who dropped out, which was 534).

[6] Students with Disabilities in Educational Policy, Practice, and Professional Judgment: What Should We Expect? (NCEO Report# 413).

[7] Jones, Nathan, et. al., *Academic Supports for Students with Disabilities*, Brief No. 2, EdResearch for Recovery, Annenberg Institute for School Reform at Brown University, at 5, (June 2020), *available at:* https://annenberg.brown.edu/sites/default/files/EdResearch_for_Recovery_Brief_2.pdf

[8] *Id*.

[9] *Reid v. DC*, 401 F.3d 516 (D.C. Cir. 2005).

[10] Stein, Perry, *Low Attendance and Covid-19 Have Ravaged D.C.'s Poorest Schools – Fall Will Be About Reconnecting*, Washington Post, (May 10, 2020), *retrieved from:* 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. ("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…Students have experienced trauma and stress,' Ferebee said in an interview").

[11] OSSE, *"District of Columbia, Youth Risk Behavior Survey 2019,"* 2019 DC Youth Risk Behavior Survey, 27, *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2019%20DC%20YRBS%20Report.pdf.

[12] *Id.* Among middle school students, over 29% reported that they had seriously considered suicide, while over 14% reported having actually attempted suicide. *See also* Office of the State Superintendent of Education. *See also,* OSSE, "2019 DC Middle School Summary Graphs", 2019 DC Youth Risk Behavior Survey, slides 9-14, *available at:* https://osse.dc.gov/page/2019-dc-yrbs-data-files.

[13] The goal of the program is for all public schools to provide a full array of behavioral health supports at three tiers. Tier 1 refers to mental health promotion and prevention for all students, including increased parent awareness of mental health resources, student-centered learning and wellness events, and teacher-centered professional development. Tier 2 refers to focused interventions for students at-risk of developing a mental health problem and includes student group sessions, and trauma-related professional development for staff, and improving referral processes and support structures for referred students. Tier 3 is intensive support/treatment for individual students who already have a mental health problem, including evidence-based individual, group, or family treatment services and crisis intervention.

[14] Minutes of the Coordinating Council on School Behavioral Health (July 27, 2020), *retrieved from*: https://dbh.dc.gov/sites/default/files/dc/sites/dmh/page_content/attachments/Coordinating%20Council%20on%20School%20Behavioral%20Health%20Minutes_7.27.2020.pdf.

[15] The Coordinating Council on School Behavioral Health is comprised of representatives from government agencies, members of the DC Council, mental health providers, parents, and organization leaders. This diverse group of stakeholders is tasked with guiding implementation of the expansion in an effective manner. Children's Law Center is a member of the Coordinating Council.

[16] Data provided by the Coordinating Council on School Behavioral Health. CBO clinicians have been placed in 149 of the 161 Cohort schools. Ten additional schools that are not yet part of an expansion Cohort have received clinicians through DBH (though, this number is subject to change based on adding a partnership school for a DBH clinician placement). Of these 171 schools, 159 have clinicians providing services (85 are DCPS and 74 are DCPCS), and there are 14 vacancies.

[17] Data provided by the Coordinating Council on School Behavioral Health. 119 schools were initially identified to be included in Cohorts 1 and 2 of the school-based mental health expansion program expansion. Of these, five schools did not participate, and six schools received clinicians through DBH. For the remaining 108 schools, 106 had matched with a CBO, and CBO clinicians had been placed in 85 of these 106 schools as of January 24, 2020.

[18] The School Strengthening Tool and Work Plan were adapted from the Center for Disease Control's (CDC) School Health Index and embrace the Whole School, Whole Community, Whole Child (WSCC) framework. The WSCC framework is student-centered and emphasizes the role of the community in supporting the school, the connections between health and academic achievement and the importance of evidence-based school policies and practices. DBH, *Guide to Comprehensive School Behavioral Health*, 5, (June 12, 2019), *retrieved from*:
https://dbh.dc.gov/sites/default/files/dc/sites/dmh/page_content/attachments/
PRIMARY%20GUIDE_SCHOOL%20BEHAVIORAL%20HEALTH_JUNE%202019.pdf.

[19] Data provided by the Coordinating Council. 1 of the 161 participating Cohort schools has declined expansion resources. A draft policy is under review in regard to addressing this type of situation. Of the remaining 160 Cohort schools, 143 have completed both the School Strengthening Tool and Work Plan.

[20] The CoP was launched in September 2019 to facilitate strategic collaboration between school personnel, community leaders, and CBO clinicians. The CoP is an important addition to the program in terms of offering support, training, and technical assistance to school-based providers. School-based clinicians meet regularly with support from the CoP technical assistance managers and Program Coordinator to solve problems, discuss insights, share information, and develop tools and frameworks to make their programs more successful.

[21] Memo Describing Draft Process and Outcome Evaluation Plan, September 18, 2020, on file with Children's Law Center.

[22] We are currently in the Base Year of the formal evaluation process. The Base Year is largely a planning and piloting year, but primary data collection will span Year 1, beginning in March 2021 and ending in Spring 2022.

[23] Child Trends Evaluation Slides for February 2021, presented at the Coordinating Council on School Behavioral Health meeting on February 17, 2021.

[24] Title IV, Subtitle F of the Fiscal Year 2021 Budget Support Act of 2020, B23-760, L23-149 (July 27, 2020).

[25] A 2019 DC auditor report found that DC schools are often using funds set aside for at-risk students to fund core costs in a school's gross budget Office of the District of Columbia Auditor. DC Auditor, *DC Schools Shortchange At-Risk Students*, Executive Summary, (June 25, 2019), *available at* http://dcauditor.org/report/d-c-schools-shortchange-at-risk-students/.

[26] EmpowerK12, *COVID-19's Impact on Student Achievement and Academic Growth in DC*, 1, (Dec. 20, 2020), *available at*:
https://static1.squarespace.com/static/5f9857f027d55d2170cd92ac/t/5fdb6d5dc70d2641e55ff244/1608215913
800/COVID-19%27s+Impact+on+DC+Student+Achievement+-
+EmpowerK12+Initial+Findings+Dec+2020.pdf. Note: There is evidence that some students with

disabilities are not being adversely impact in their reading growth, but this varies greatly and depends on the disability.

[27] *Id*.

[28] *Id*.

[29] Dorn, Emma, Bryan Hancock, et. al., *COVID-19 and learning loss – disparities grow and students need help,* McKinsey&Company, (Dec. 8, 2020), *available at:* https://www.mckinsey.com/industries/public-and-social-sector/our-insights/covid-19-and-learning-loss-disparities-grow-and-students-need-help; Meckler, Laura, and Hannah Natanson, *'A lost generation': Surge of research reveals students sliding backward, most vulnerable worst affect,* Washington Post, (Dec. 6, 2020), *available at:* https://www.washingtonpost.com/education/students-falling-behind/2020/12/06/88d7157a-3665-11eb-8d38-6aea1adb3839_story.html.

[30] *See, e.g.*, Zeke Hartner, *DC teachers' union refuses to sign agreement reopening schools, cites lack of transparency,* WTOP NEWS, (Nov. 18, 2020), *available at* https://wtop.com/dc/2020/11/dc-teachers-union-refuses-to-sign-agreement-reopening-schools-cites-lack-of-transparency/; *see also*, Stein, Perry, Lauren Lumpkin, et al., *After months of planning, protests and false starts, D.C. students and teachers head to classes for first time in nearly a year*, Washington Post, (Feb. 2, 2021), *available at* https://www.washingtonpost.com/local/education/dc-schools-reopening/2021/02/02/29bfe1c4-6514-11eb-8468-21bc48f07fe5_story.html.

[31] EdResearch for Recovery Project, Annenberg Institute for School Reform at Brown University, *available at:* https://annenberg.brown.edu/recovery.

[32] Lynch, Kathleen, and Heather Hill, *Broad-Based Academic Supports for All Students,* Brief No. 6, EdResearch for Recovery, Annenberg Institute for School Reform at Brown University, (July 2020), *available at:* https://annenberg.brown.edu/sites/default/files/EdResearch_for_Recovery_Brief_6.pdf.

[33] *Id*, at 1.

[34] *Id*., at 3.

[35] *Id*., at 4.

[36] *Id*.

[37] *Id*., at 5.

[38] *Id*.

[39] Jones, Nathan, et. al., *Academic Supports for Students with Disabilities,* Brief No. 2, EdResearch for Recovery, Annenberg Institute for School Reform at Brown University, (June 2020), *available at:* https://annenberg.brown.edu/sites/default/files/EdResearch_for_Recovery_Brief_2.pdf

[40] *Id*., at 2.

[41] *Id*., at 3.

[42] *Id*., at 4.

[43] Mavrogordato, Madeline, et. al., *Supports for Students Who Are English Learners,* Brief No. 15, EdResearch for Recovery, Annenberg Institute for School Reform at Brown University, (February 2021), *available at:* https://annenberg.brown.edu/sites/default/files/EdResearch_for_Recovery_Brief_15.pdf.

[44] *Id*., at 3.

[45] *Id*., at 4.

[46] *Id*.

[47] *Id*., at 5.

[48] Hough, Heather, Joe Witte, et. al., *Evidence-Based Practices for Assessing Students' Social and Emotional Well-Being,* Brief No. 13, EdResearch for Recovery, Annenberg Institute for School Reform at Brown

University, (Ferbruary 2021), *available at:*
https://annenberg.brown.edu/sites/default/files/EdResearch_for_Recovery_Brief_13.pdf.

[49] *Id.,* at 2.

[50] *See* EdInstruments, Annenberg Institute at Brown, *available at:*
https://edinstruments.com/instruments/domains/2

[51] *See supra* note 48, at 4.

[52] *Technology Tips for Learning at Home*, Email from Chancellor Ferebee to DCPS community (Aug. 14, 2020), *available at* https://dcpsreopenstrong.com/updates/technology-tips-for-learning-at-home/.

[53]*Id.*

[54] *See, e.g., Wifi & Internet Connectivity Tips*, Kipp DC News, *available at:* https://www.kippdc.org/wifi-tips/. ("KIPP DC is committed to supporting students' connectivity to promote remote learning success").

[55] DC Gov Press Release, Mayor Bowser Announces $3.3 Million Investment to Provide Home Internet to Low-Income DC Students, (Sept. 8, 2020), *available at:* https://dc.gov/release/mayor-bowser-announces-33-million-investment-provide-home-internet-low-income-dc-students#:~:text=Washington%2C%20DC-,Mayor%20Bowser%20Announces%20%243.3%20Million%20Investment%20to%20Provide,to%20Low%2DIncome%20DC%20Students&text=OCTO%20is%20reaching%20out%20to,schools%20to%20the%20internet%20providers.

[56] The program is funded by a $3.3 million grant from the Governor's Emergency Education Relief Fund established by the 2020 federal Coronavirus Aid, Relief and Economic Security (CARES) Act.

[57] The service is provided by Comcast or RCN, with the DC government paying 100% of the monthly bills for 12 months. *See* Tech Together, *Internet for All*, *available at:*
https://www.techtogetherdc.com/internetforall.

[58] *See* Letter from Mayor Bowser to Honorable Phil Mendelson, Fiscal Year 2021 Budget Support Act of 2020, B23-760, Volume 1 Executive Summary, 21,(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.(recognizing the "distressing health disparities that exist across our nation and within our community"); Natalie Delgadillo, *Why Do Latinos Have The Highest Rate Of Coronavirus Infection In D.C.?,* DCist, (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/. ("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.)").

[59] *Students of Color Caught in the Homework Gap,* Future Ready Schools, *available at:*
https://futureready.org/homework-gap/#map.

[60] Dane Anderson, [@daneandersondc] (Feb. 11, 2021), Tweet: So. Many. Chromebooks. We @KIPP_DC just purchased another 5,000 in prep for next school year. One for home, one for school means these get a lot of use. @dcpcsb @DMEforDC @OSSEDC @DC_Charters", *available at:*
https://twitter.com/daneandersondc/status/1359995201272610817?s=20.

[61] A similar bill, the District of Columbia Public Schools Student Technology Equity Act of 2019 (B23-196), was introduced in Council Period 23 by Councilmembers Grosso, R. White, Cheh, Gray, Allen, Silverman, Nadeau, and Bonds.

[62] Robust tech support is essential in maintaining the digital devices that have been provided to students. Approximately 60,000 DCPS technology users (both families and teachers) need help in addressing

malfunctions, updating software, and generally maintaining their devices. DCPS needs to increase tech support staffing (currently it has only 70 technicians) to meet this need. Tech support also needs to be accessible via phone, email, and online and mobile app chat. Tech support should also be available in-person at central locations without appointment.

[63] Digital Equity in DC, *A Comprehensive, Funded Tech Plan, available at:*
https://www.digitalequitydced.com/advocacy.

[64] Sharra E. Greer, Children's Law Center, *Testimony Before the District of Columbia Council Committee of the Whole and Education,* (February 26, 2020), *available at:*
https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20OSSE%20Oversight%20Testimony%202020%20FINAL.pdf.

[65] OSSE, *District of Columbia Attendance Report School Year 2019-2020*, Executive Summary, (Nov. 30, 2020), *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2019-20%20Attendance%20Report.pdf.

[66] *Id. See also* OSSE, *District of Columbia Attendance Report School Year 2018-2019,* 8, (November 30, 2019), *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2018-19%20School%20Year%20Attendance%20Report.pdf (The rate of chronic absenteeism for School Year 2016-2017 was at 29.5%, School Year 2017-2018 it was at 29.3%, and for School Year 2018-2019 the rate was at 30.2%. As for Truancy in School Year 2016-2017 the rate was at 25.5%, in School Year 2017-2018 the truancy rate reached 27.4%, and in School Year 2018-2019 truancy rates reached 29.9%).

[67] March of 2017-2018 school year chronic absenteeism was at 26.3 percent and in March of 2018-2019 school year it was 26.4 percent. *See* OSSE, *District of Columbia Attendance Report School Year 2019-2020*, 11, (Nov. 30, 2020), *available at:*
https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2019-20%20Attendance%20Report.pdf.

[68] OSSE, *District of Columbia Attendance Report School Year 2018-2019,* Executive Summary, (November 30, 2019), *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2018-19%20School%20Year%20Attendance%20Report.pdf (Chronic absenteeism among students in grades K-12 surpassed 30 percent in the 2018-19 school year with 23,376 students missing 10 percent or more of school); *see also* OOSE, *2019-20 School Year Enrolment Audit Report Data, available at:*
https://osse.dc.gov/page/2019-20-school-year-enrollment-audit-report-and-data. (total enrollment for School Year 2019-2020 for grades K-12 was 76,387 students, 30% of which is 22,916 thus coming close to last year's total of 23,376 students who were chronically absent).

[69] OSSE, *District of Columbia Attendance Report School Year 2019-2020*, 11, (Nov. 30, 2020), *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2019-20%20Attendance%20Report.pdf.

[70] *Id. See also,* OOSE, *2019-20 School Year Enrolment Audit Report Data, available at:*
https://osse.dc.gov/page/2019-20-school-year-enrollment-audit-report-and-data (total enrollment for School Year 2019-2020 for grades K-12 was 76, 387 students, 30% of which is 22,916).

[71] Last year (School Year 2018-2019) they provided 31 pages of analysis, this year they provided only half that even though they had 7 months' worth of data they could have looked to and analyzed. They excluded some key student groups from their 2019-2020 analysis including students with disabilities. All in all, it does not provide the same insight into the groups of students who experience truancy and chronic absenteeism the most. *See* OSSE, *District of Columbia Attendance Report School Year 2018-2019*, (Nov. 30, 2019), *available at*:
https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2018-

19%20School%20Year%20Attendance%20Report.pdf; OSSE, *District of Columbia Attendance Report School Year 2019-2020*, 11 (Nov. 30, 2020), *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2019-20%20Attendance%20Report.pdf. *See also* Sharra Greer, Children's Law Center, *Testimony Before the District of Columbia Council Committee of the Whole and Education*, (February 26, 2020), *available at:* https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20OSSE%20Oversight%20Testimony%202020%20FINAL.pdf.

[72] From the school year 2015-2016 to the school year 2018-2019, truancy increased by 8.5 percent to nearly 30 percent in the school year 2018-2019 with 22,460 truant students. Additionally, school-level rates of chronic absenteeism have risen in high schools. In the school year 2015-2016, six high schools reported rates of chronic absenteeism above 75 percent – by school year 2018-2019, this number more than doubled, with 13 high schools reporting more chronic absenteeism rates above 75 percent. *See* OSSE, *District of Columbia Attendance Report School Year 2018-2019*, Executive Summary, (Nov. 30, 2019), *available at*: https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2018-19%20School%20Year%20Attendance%20Report.pdf.

[73] OSSE, *District of Columbia Attendance Report*, Executive Summary, (Nov. 30, 2020), *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2019-20%20Attendance%20Report.pdf.

[74] *Id.*

[75] *Id.* at 27.

[76] OSSE, *Guidance Collecting Attendance for the 2020-2021 School Year*, (Oct. 13, 2020*), available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2020-21%20School%20Year%20Attendance%20Guidance%2010.13.20.pdf.

[77] 5-A DCMR §2199.

[78] DCPS, *Attendance and Truancy Policy*, (August 13, 2018), *available at:* https://dcps.dc.gov/sites/default/files/dc/sites/dcps/page_content/attachments/FINAL%20DCPS%20Attendance%20and%20Truancy%20Policy%2008-21-18.pdf.

[79] *Student Fair Access to School Amendment Act*, D.C. Law 22-157.

[80] *Id*. at § 204.

[81] *Id*.

[82] OSSE is statutorily required to report on the state of suspensions and expulsions on the District by December 15th each year. *Pre-K Student Discipline Amendment Act of 2015*, D.C. Code § 38- 236.09(d). This report is extremely helpful to understanding school discipline trends and pinpointing areas requiring additional focus and reform. Comprehensive and detailed data is necessary to understand the extent SFSAA is working, identify barriers to implementation, and determine whether changes are needed. Unfortunately, OSSE routinely fails to issue the report on time or even before performance oversight. OSSE's School Year 2017-2018 Annual Discipline Report was published in March 2019. The School Year 2018-2019 school year report was not released in time for performance oversight last year on February 14, 2020. Finally, the 2019-2020 Annual Discipline Report was released just one week before the Education Performance Oversight Hearing. *See* OSSE, *State of Discipline: 2017-218,* (March 2019), *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2017-18%20School%20Year%20Discipline%20Report.pdf; *see also* OSSE FY2019 Performance Oversight Responses, response to Q11, *available at:* https://dccouncil.us/wp-content/uploads/2020/02/osse.pdf; and OSSE, *State of Discipline: 2019-2020,* (February 2021), *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2019-

20%20School%20Year%20Discipline%20Report.pdf. Since the data already lags by one year, long delays in issuing the report ultimately limits the usefulness of the data from an oversight and accountability perspective and makes it challenging to analyze how the new law is impacting students. We ask the Council to hold OSSE accountable for issuing this report in a timely manner in the future.

[83] OSSE, *State of Discipline: 2019-2020,* (February 2021), at 33, *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2019-20%20School%20Year%20Discipline%20Report.pdf.

[84] *Id*., at 7

[85] *Id*.

[86] *Id*., at 9.

[87] *Id*., at 7.

[88] *Id*., at 14.

[89] *Compare id., with* OSSE, *State of Discipline: 2018-2019,* (March 2020), at 18, *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/Discipline%20Report%20OSSE%202018-19%20School%20Year.pdf.

[90] OSSE, 2019-20 School Year Enrollment Audit Report Data, *available at:* https://osse.dc.gov/page/2019-20-school-year-enrollment-audit-report-and-data (In SY19-20, 6th-8th grade was made up of 16,571 of the 76,387 students or 22% of the student population).

[91] OSSE, *State of Discipline: 2019-2020,* at 14.

[92] *Id*., at 22.

[93] Students who are at risk are those who qualify for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), have been identified as homeless during the academic year, who under the care of the Child and Family Services Agency (CFSA or "foster care"), and who are high school students at least one year older than the expected age for their grade. *See* OSSE, Data and Reports, *available at:* https://osse.dc.gov/page/data-and-reports-0#:~:text=Students%20who%20are%20at%20risk,and%20who%20are%20high%20school.

[94] OSSE, *State of Discipline: 2019-2020,* at 33.

[95] *Id*., at 13, 25.

[96] *Id*., at 15.

[97] *Id*., at 25.

[98] *Id*., at 27.

[99] *Id*.

[100] Sharra Greer, Children's Law Center, *Testimony Before the District of Columbia Council Committee of the Whole and Education,* (February 26, 2020), *available at:* https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20OSSE%20Oversight%20Testimony%202020%20FINAL.pdf.

[101] OSSE, *LEA Discipline Data: Collection Guide 2020-21 School Year*, 1, *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2020-21%20School%20Year%20LEA%20Discipline%20Data%20Collection%20Guidance%2010.6.20.pdf.

[102] DC Code § 38-236.01(6)

[103] *See* Kristin N. Henning, *The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment*, 57 American Univ. L. Rev. 1513, 1561, n. 313 (2018).

[104] *See* CLC Letter the Police Reform Commission, Appendix *infra*.

[105] *School Safety Omnibus Amendment Act of 2018,* D.C. Law 22-294.

[106] *See* 66 DC Register No. 18, D.C. Law 22-294, Page 5526, (May 3, 2019), *available at:* https://dcregs.dc.gov/Common/DCR/Issues/IssueDetailPage.aspx?issueID=762.

[107] D.C. Law L23-0011, Effective from Aug 31, 2019, Published in 66 DC Register, page 12340.

[108] DCPS, DCPS Policies, *available at:* https://dcps.dc.gov/page/dcps-policies.

[109] Sharra Greer, Children's Law Center, *Testimony Before the District of Columbia Council Committee of the Whole,* (Jan. 21, 2021), *available at:* https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20DCPS%20Reopening%20Roundatble%5B98%5D.pdf

[110] *See* Stein, Perry, '*They got back to us': How one school built trust and got reluctant parents to return,* Washington Post, (Feb. 28, 2021), *available a*t: https://www.washingtonpost.com/local/education/dc-school-reopening-parents-fears/2021/02/28/8a331c24-776b-11eb-948d-19472e683521_story.html.

[111] *Id*.

[112] *Id*.

[113] *Id*.

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

[115] *Id*.

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

[117] OSSE FY2019 Performance Oversight Responses, response to Q25, *available at:* https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/OSSE%20FY19%20Performance%20Oversight%20Questions.pdf

[118] *Id*.

[119] Hebbeler, Kathleen, Donna Spiker, et. al., *Early Intervention for Infants and Toddlers with Disabilities and Their Families: Participants, Services, and Outcomes,* National Early Intervention Longitudinal Study (NEILS), (January 2007), *available at:* https://www.sri.com/sites/default/files/publications/neils_finalreport_200702.pdf.

[120] *IDEA Child Outcomes Highlights for FFY2018,* Early Child Technical Assistance Center (ECTA), *available at:* http://ectacenter.org/eco/assets/pdfs/childoutcomeshighlights.pdf.

[121] Karoly, Lynn A., et. al., *Proven benefits of early childhood interventions*. Santa Monica, CA: RAND Corporation, (2005), *available at:* http://www.rand.org/pubs/research_briefs/RB9145.html. *See also*, Law, Janet, et. al., *Early Language Delays in the UK,* Save the Children, (2013). Finding that high quality early intervention services to young children who have or are at-risk for developmental delays have been shown to positively impact outcomes across developmental domains, including health, language and communication, cognitive development, and social/emotional development. *See, The foundations of lifelong health are built in early childhood*, Center on the Developing Child at Harvard University, (2010, *available at:* https://nic.unlv.edu/files/on%20casey%20website/Harvard%207-22-10%20HCDC%20Health%20Paper%20Summary%20(2).pdf; *Role and responsibilities of speech-language pathologists in early intervention: Technical report*, American Speech-Language-Hearing Association, (2008), *available at:* http://www.asha.org/policy/TR2008- 00290.htm; and Landa, Rebecca J., et. al., *Intervention*

targeting development of socially synchronous engagement in toddlers with autism spectrum disorder: a randomized controlled trial, Journal of Child Psychology and Psychiatrist, 52(1), 13-21, (Jan. 2011).

[122] *See* Oser, Cindy, and Julie Cohen, Improving Part C Early Intervention: Using What We Know about Infants and Toddlers with Disabilities to Reauthorize Part C of IDEA, Zero to Three Policy Center *available at:* http://main.zerotothree.org/site/DocServer/PartC.pdf?docID=567 ; *see also* Braverman, Paula, et. al., *Early Childhood Experiences: Laying the Foundation for Health Across a Lifetime*, Robert Wood Johnson Foundation Commission to Build a Healthier America, *available at* https://folio.iupui.edu/bitstream/handle/10244/613/commissionearlychildhood062008.pdf?sequence=2.

[123] DCPS FY2018 Performance Oversight Responses, response to Q85, *available at:* https://dccouncil.us/wp-content/uploads/2019/02/dcps19_Part1.pdf.

[124] Fiscal Impact Statement – *Students' Right to Home and Hospital Instruction Act of 2020* (B23-392), (November 16, 2020), *available at:* https://lims.dccouncil.us/downloads/LIMS/43042/Other/B23-0392-FIS_-_Student_Right_to_Home_and_Hospital_Instruction.pdf.

[125] *See* Disability Rights DC, *Need for Oversight and Restriction of the Seclusion and Restraint of District Youth Attending DC Public Schools*, (Oct. 2019), *available at:* http://www.uls-dc.org/media/1185/2019-seclusion-restraint-report.pdf.

[126] *See* Fry, Hannah, *After autistic boy dies during school restraint, 3 educators charged with manslaughter*, LA TIMES (Nov. 13, 2019), *available a*t: https://www.latimes.com/california/story/2019-11-13/autistic-boy-dies-school-restraint-educators-charged-manslaughter.

[127] *See supra* note 125.

[128] *Id.*

APPENDIX

December 16, 2020

Police Reform Commission

Robert Bobb, Co-Chair	Christy Lopez, Co-Chair	
Elena Bell	Robert Bennett	Kent Boese
Samantha Davis	Tina Frundt	Delonte Gholstron
Herb Gray	Emily Gunston	Ronald Hampton
LaShunda Hill	Corwin Knight	George Lambert Jr.
Jeffrey Richardson	Naïké Savain	Sultan Shakir
Mignon Smith	Patrice Sulton	Kurt Vorndran

Dear Chairpersons Lopez, Bobb, and members of the DC Police Reform Commission:

Children's Law Center is a legal services organization 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. Virtually all of the children and youth we represent are Black and Brown, and many of them routinely interact with the Metropolitan Police Department (MPD) in school, at home, and in their communities.

We believe that now is the time to reimagine what a safe and positive school environment looks like. We need to move away from the utilization of police in schools and towards a school environment that supports students. We offer our recommendations on how to make this transition. Additionally, we believe that the involvement of youth voices, educators, parents, administrators, and school staff is fundamental to ensuring an effective transition to police-free schools. We recommend that the Police Reform Commission as well as DC's traditional Public Schools (DCPS), DC Public charter schools, and the Council continue to engage these key constituent groups and use their expertise to address concerns and suggestions that arise.

In order to achieve the goal of police-free schools, we recommend that the District divest from all policing methods in schools and simultaneously invest in the supports and programming

needed to create a safe school climate. Our below recommendations detail a two-part strategy which first divests local dollars from the MPD School Safety Division and the DCPS school security contract, then invests those dollars in programs that create and reinforce safety in our schools. Our divestment position is drawn from the often-harmful interactions our young clients have had with police in schools. Our investment recommendations are for programs and partnerships which are already in existence and currently operate to varying degrees within our schools and communities. Our recommendations offer concrete alternatives to police in schools and support a new vision of school safety that does not contribute to the criminalization of Black and Brown students, but instead enhances their educational experience in DC's public schools.

Divest from MPD's School Safety Division and DCPS's School Security Contract

Schools should be a safe space where students can learn and grow in a trauma-informed environment that supports their educational and socio-emotional learning goals. Unfortunately, these goals are undercut when students experience negative, even traumatizing, interactions with MPD officers, School Resource Officers (SROs), and contract security guards during the school day. These are just a few examples of the types of problematic interactions with police at school that our young Black and Brown clients have shared with us:

- An 11-year-old client who refused to get on the school bus and the response was for the DCPS school to call the police.

- A five-year-old client visited by a uniformed MPD officer, not a social worker, and taken away alone to be interviewed about abuse allegations.

- A fifth-grade student who left the school building but remained on campus. The elementary school called MPD who responded by escalating the situation to the point of putting the child into restraints.

Police are too often called when students are having behavioral difficulties. Children often have behavioral outbursts because of trauma they are experiencing outside of school and struggles that they face in school. Children who have become emotionally dysregulated should be helped – not arrested. The response from adults should be to ask, "why is this child acting out and how can we address the underlying concern?" – rather than to call the police.

Black and Brown children are disproportionately affected by this practice. Students with disabilities are also dramatically affected. National trends show that students with disabilities are nearly three times more likely to be to be arrested than their general education peers.[1] When disability and race intersect the impact is compounded. SRO interactions with students with disabilities can be especially problematic. Because SROs are not school employees, they do not have access to a student's Individualized Education Plans (IEP) and/or Behavior Intervention Plans (BIP). This leads to police officers responding to a mental health crisis with little or no information about the child's special needs, triggers, or preferred de-escalation strategies.

Our clients with disabilities have shared stories that illustrate the devastating consequences of what happens when police are called during an episode of emotional or behavioral dysregulation. Our clients with disabilities who have interacted with police at school have shared the following experiences with us:

- A nine-year-old client who was experiencing a mental health emergency was handcuffed and accompanied by uniformed officers to the Emergency Department

- A 12-year-old client was threatened by staff at their group home that the police would be called when he was having a mental health crisis.

- An 11-year-old student was handcuffed at a DCPS school for running through the halls and then was transported by an SRO in handcuffs to Children's National Hospital for a psychiatric evaluation when a parent could not be reached.

In addition to these sorts of specific incidents with police in schools, many children in DC have negative reactions to police based on their experiences in the community. Many have witnessed friends and family arrested or hassled by police. For some students, the mere presence of police officers at school can be enough to trigger fear and past trauma. For example, a Children's Law Center lawyer witnessed a child client withdraw and recoil into their sweatshirt after walking into a room at school with police present even though the police officers were not interacting directly with the client. For many students the regular presence of police in schools does not create a safe and secure learning environment. In fact, due to their negative and traumatic experiences in their communities, the presence of police in schools creates an environment of fear and hostility for many students.

The cumulative effect of these school and community interactions, repeatedly highlighted by videos of police violence circulated on social media, is a sort of race-based traumatic stress[2] that has no place in a public school. By redirecting local dollar allocations away MPD's School Safety Division and DCPS's security contract and shifting those funds to critical programs like school-based mental health, we have an opportunity to create an environment where students are supported and not criminalized.

Invest Local Dollars to Create Safe Schools

In order for the transition toward police-free schools to be successful, the divestment from MPD's School Safety Division and DCPS's school security contract must be paired with investments in programming and supports that will improve school climates and create safe

schools without a need for police or contracted security guards. The below recommendations are based upon our experiences with and observations of programs that have been implemented to varying degrees in some schools across the District. Our recommendations include expansions of programs to support student behavioral health, alternative discipline practices, and professional development for teachers and other school staff. Additionally, we recommend that community-based programs that have established and trusted relationships with young people be brought into the school setting.

Increase investments in our School Based Mental Health (SBMH) Program

The District's SBMH program provides children, youth, and their families with access to high-quality services that promote mental wellness and generate a positive school culture. Local community based mental health providers partner with schools based on the school's individualized needs. As the SBMH project is implemented at each campus, students are able to access three distinct service tiers: mental health promotion and prevention for all students (Tier 1), focused interventions for students at-risk of developing a mental health problem (Tier 2), and intensive treatment for individual students who already have a mental health problem (Tier 3). The multi-tiered approach is intended to facilitate the effective and efficient use of the District's resources in the service of providing appropriate and reliable school-based behavioral health services to children and youth. This, in turn, makes it easier for students to access key mental health supports and also ensures that teachers and staff benefit from having clinicians available.

The SBMH program is currently in its expansion phase and will need additional local-dollar support in order for expansion to reach all schools in the District. There are several roles at each school to support the integration and expansion of the SBMH program, including the School Behavioral Health Coordinator, Community-Based Organization (CBO) clinician, Department of

Behavioral Health (DBH) clinical specialist, and DBH Clinical Supervisor. With these resources in place, schools have been able to complete the School Strengthening Tool and Work Plan, which are used by each school's administrative or behavioral health team to identify the specific behavioral health needs of each school and create a comprehensive and integrated plan for meeting those needs. At the community level, the DC Community of Practice (CoP) was established to facilitate strategic collaboration between school personnel, community leaders, and CBO clinicians. These various infrastructure components, along with robust interagency communication and coordination, are critical to the continued efficacy and functionality of the District's SBMH program.

It is important to note that even though schools have been operating virtually due to the COVID-19 public health emergency, the SBMH program continues to provide support to school leaders on creating a positive school climate. School based mental health clinicians have been offering virtual counseling services to students throughout the pandemic and working closely with school staff to identify students in need of such services, as well as ways to promote the social and emotional health of students in a virtual setting. Clinicians have also been working to support staff wellness, engaging families through phone calls, activities, newsletters, and troubleshooting, and providing virtual support for students using morning check-ins, stress relief sessions, and mindfulness.[3]

With the infrastructure that is currently in place at both the school- and community-level, over 130 schools have been able to provide critical behavioral health services to students. Additional investments to the SBMH program in FY21-22 would allow DBH to expand the program to include the 50+ DCPS and public charter schools that are still waiting on vital behavioral health

resources. We recommend increasing investments in the SBMH Program in order to expand its

reach to all public schools in DC.

Provide teachers and staff with trauma-informed training, professional development, and supports

Nationally, roughly one in five children have experienced adverse childhood experiences and

traumatic experiences.[4] These traumatic experiences can range from food insecurity, neglect and

abuse, and even chronic toxic stress. Trauma may manifest itself in students as absenteeism,

performing below grade level in reading and math, and behavior problems.[5] Students experiencing

these forms of complex trauma can benefit from teachers and school staff who have been trained

not only to recognize the signs of trauma in children and youth, but who are also able to access

trauma informed training, professional development, and supports to assist these students.[6] We

recommend that local dollars be allocated in the upcoming budget in order to provide these

trainings and professional development opportunities for teachers and staff in our school

community.

Expand restorative justice programming in schools and communities

The District has invested in the concept of restorative justice programming for children and

youth and has supported its use within the community. Currently, SchoolTalk DC has provided

restorative justice supports to over 60 DCPS and charter schools in our community.[7] These

supports range from individual training sessions for students and staff, to facilitation of important

restorative conversations, restorative justice conferencing, classroom circles, and dialogue circles.[8]

We recommend that the District continue to invest in restorative justice programming for children

and youth in schools and communities.

Invest in school-based violence interrupter programming and training and expand community-based violence interrupters

We recommend that the District continue to invest in and expand violence interrupter programs. Currently, the District is supporting violence interrupter programs through the Office of the Attorney General and the Office of Neighborhood Safety and Engagement. The model takes a public health approach to addressing community violence by interrupting violence, identifying and treating those at highest risk for committing violent crime, and changing community ideas around the normalization of violence.[9] In order to continue to build on a culture of school safety, we recommend that the District bring this model into the school community and provide the opportunity for students to interact with violence interrupters and engage in training provided to violence interrupters.

Explore funding the expansion of credible messengers in communities and schools

We recommend that the District explore the expansion of credible messengers into communities and schools broadly. The Credible Messenger Initiative is a program for youth committed to the Department of Youth Rehabilitation Services (DYRS) that blends individual mentorship programming with restorative justice processes.[10] This program helps to connect young people with members of the community who share similar experiences like being court involved, are skilled in mentorship and community building, and demonstrate integrity and transformation. Expansion of this program would ensure that all students, beyond those who are involved with DYRS, would be able to access to the benefits of the program which include:

- Promotion of family and community engagement
- Connecting young people to caring adults in their communities
- Enhancing city-wide violence intervention services
- Improving services to youth in the community
- Connecting youth to resources and relationships

In addition, expansion of this program would create job opportunities for DC residents who already serve as community leaders and could serve as credible messengers in schools.

Ensure adequate investments in socio-emotional learning curriculum and implementation

We recommend that the District remain committed to adequately funding socio-emotional learning curriculum for students across all grade levels. Socio-emotional learning is the process through which children and adults understand and manage emotions, set and achieve positive goals, feel and show empathy for others, set and achieve positive goals, maintain positive relationships, and make responsible decisions.[11] DCPS is already implementing and integrating socio-emotional learning curriculum with supports from the Collaborative for Academic, Social and Emotional Learning. We recommend that the District continue to fund socio-emotional learning in FY21.

Ensure fidelity in Positive Behavioral Intervention and Supports (PBIS) programs at schools

PBIS programs are evidence-based strategies that help to improve individual student classroom behavior and create safe schools by focusing on preventing problem behaviors rather than punishing students.[12] Studies have shown that schools that implement school-wide PBIS programs show a decrease in the number of suspensions, improved perceptions of safety, and improvements in academic performance.[13] In order to implement PBIS programs with fidelity, schools will need additional financial resources to be sure that these programs are being properly implemented and evaluated. We recommend that local dollars be set aside for implementing PBIS programs in both DCPS and charter schools.

Adequately fund behavioral intervention support staff, administrative staff, and behavioral support technicians at each school

Many of the functions of security guards could be replicated by existing and newly hired school staff if the District were to adequately fund behavioral intervention support staff, administrative

staff, and behavioral support technicians at each school. We envision administrative staff being

available to assist with checking in parents, reviewing paperwork, and assisting the registrar with

attendance issues. Behavioral intervention support staff and behavioral support technicians can be

key partners in ensuring school safety by using their training to assist classroom teachers and

administrators with any behavioral issues before they escalate.

Conclusion

We thank you for the opportunity to provide these recommendations. We also want to urge

the Commission to continue to engage youth voices, educators, parents, administrators, and school

staff as we work towards police-free schools. We are happy to answer any questions you may

have. Please feel free to contact Danielle Robinette at DRobinette@childrenslawcenter.org.

Respectfully Submitted,

Children's Law Center

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[1] *See* ACLU, *Cops and No Counselors*, *How the Lack of School Mental Health Staff is Harming Students*, *Available at:* https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors.

[2] *See* Kristin N. Henning, *The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment*, 57 American Univ. L. Rev. 1513, 1561, n. 313 (2018).

[3] The DC Community of Practice. *Social Emotional Learning and School Climate During Distance Learning*. (May 2020).

[4] Sparks, S.D., *Some FAQs for Educators on Children's Trauma*. Education Week. (2019, Aug. 9). *Available at*: https://www.edweek.org/ew/articles/2019/08/21/some-faqs-for-educators-on-childrens-trauma.html

[5] https://pubmed.ncbi.nlm.nih.gov/29629790/.

[6] There are many robust reports and training materials available to support teachers and staff. For a non-exhaustive list, please visit: https://traumasensitiveschools.org/reports-and-resources/.

[7] Waiting for Leila to send some additional up to date information and where they're working specifically.

[8] *See*: http://www.restorativedc.org/restorativepractices/.

[9] Office of the Attorney General for the District of Columbia. *Investing in OAG's Violence Interrupter Program*. (2019, Feb. 7). *Available at*: https://oag.dc.gov/blog/investing-oags-violence-interruption-program.

[10] https://dyrs.dc.gov/page/credible-messenger-initiative.

[11] The definition of socio-emotional learning can be found at https://casel.org/what-is-sel-4/.

[12] Lee, A, J. *PBIS: What You Need to Know*. Understood.org. (n.d.). *Available at*: https://www.understood.org/en/learning-thinking-differences/treatments-approaches/educational-strategies/pbis-how-schools-support-positive-behavior.

[13] *See* Bradshaw, C., Mitchell, M.M., and Leaf, P.J., *Examining the Effects of Schoolwide Positive Behavioral interventions and Supports on Student Outcomes: Results From a Randomized Controlled Effectiveness Trial in Elementary Schools*. Journal of Positive Behavior Interventions. (April 2009). *Available at*: https://journals.sagepub.com/doi/10.1177/1098300709334798; Horner, R. and Sugai, G. *Defining and Describing Schoolwide Positive Behavioral Support*. Handbook of Positive Behavioral Support. (2009). Available at: https://link.springer.com/chapter/10.1007/978-0-387-09632-2_13;   and Nelson, J. R., Martella, R. M., & Marchand-Martella, N. *Maximizing student learning: The effects of a comprehensive school-based program for preventing problem behaviors*. *Journal of Emotional and Behavioral Disorders, 10*(3), 136–148. (2002). Available at: https://doi.org/10.1177/10634266020100030201.