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Testimony Before the District of Columbia Council  
Committee of the Whole and Committee on Education  
Joint Roundtable

*Return to In-Person Instruction in DC Public Schools*

Sharra E. Greer  
Policy Director  
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December 2, 2020

Thank you, Chairperson Mendelson, Chairperson Grosso, and Committee members for the opportunity to testify concerning the return to in-person instruction in DC Public Schools (DCPS). 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 DCPS. 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.<sup>1</sup> 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.

Today's roundtable may largely focus on *how* and *when* students can return to school. These questions are critical in protecting the health and safety of students, school staff, and the broader community against the spread of COVID-19. They are also important to issues of equity and the impact reopening will have on students who will continue to learn virtually.<sup>2</sup>

But in addressing these issues, we must not lose sight of another question: *why* reopening is so important. Answering this question requires facing up to a plain fact: virtual learning is not working for some of our highest-need students. While closing schools has been necessary to control the spread of the virus, it is effectively denying these students an education. This crisis requires an urgent response.

In the work we do for hundreds of families across the District, we are seeing first-hand how many children have become disconnected from school because their needs cannot be met through virtual learning. This includes children with certain types of disabilities, such as autistic children who need Applied Behavioral Analysis (ABA) therapy, which is difficult to provide virtually.<sup>3</sup> It includes children placed in foster care and homeless children who face barriers to online instruction created by the disruption and stress in their lives. It includes English-language learners who need in-person instruction to learn in a new language.<sup>4</sup> It also includes special education students who have faced impediments to receiving related services, support services and evaluations for months due to school closures.<sup>5</sup> According to a recent parent survey conducted by Parents Amplifying Voices in Education (PAVE), 50% of parents of students with IEPs or who are English learners said their children have not received services this year.<sup>6</sup> Students with disabilities were already profoundly behind their peers, and for many remaining in virtual instruction will further widen the gap.<sup>7</sup>

These students are facing alarming learning loss. Some students are even regressing, losing hard-earned skills previously gained through in-school instruction and special education services.<sup>8</sup> Moreover, “children are not just falling behind academically but are missing developmental milestones and losing key skills necessary for an independent life.”<sup>9</sup> As has been the case with other aspects of the pandemic,

these hardships are falling hardest on children of color and families who live in less affluent wards of the District.<sup>10</sup>

We urge the Council and school leaders to give priority to these students when schools reopen. DCPS's previously announced reopening plan contemplated such a priority and its future plan should continue to do so. We recommend that this priority take the form of in-person teacher instruction; many high-need students require more than supervision by non-teachers in a CARES classroom. Equity also requires DCPS to direct the greatest in-school instruction opportunities to the communities and wards that have the highest concentration of high-need students.<sup>11</sup>

We also emphasize the urgency of meeting the needs of these students. Emerging evidence suggests that, with proper safeguards, schools can reopen safely, especially for elementary school students.<sup>12</sup> That, of course, is easier said than done, and in no way do we discount the complexities and challenges of *how* and *when* to reopen safely.<sup>13</sup> In testimony submitted in response to the Council's October 23 roundtable (*see* Appendix A) and in response to an October 2 hearing on distance learning,<sup>14</sup> Children's Law Center offered recommendations on these important issues and urged school leaders to use a transparent, inclusive process in finding a way forward.<sup>15</sup> But in wrestling with these complexities we can't forget *why* reopening is so important – the education and growth of our most vulnerable students depend on it.

I would be happy to answer any questions you may have.

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<sup>1</sup> Judges, pediatricians, and families turn to Children’s Law Center to be the voice 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 one out of every nine children in DC’s poorest neighborhoods--more than 5,000 children and families each year. We multiply this impact by advocating for city-wide solutions that benefit all children. See <https://www.childrenslawcenter.org/>.

<sup>2</sup> I addressed many of these issues in my testimony submitted on November 5, 2020 and attached hereto as Appendix A (Testimony of Sharra E. Greer, Children’s Law Center, Oct. 23, 2020 Comm. of the Whole & Education Comm. Roundtable at 14-15 (submitted Nov. 5, 2020)), and in my testimony submitted on October 2, 2020 available at <https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20Distance%20Learning%20in%20DC%20and%20Public%20Charter%20Schools.pdf>.

<sup>3</sup> The shift to remote learning, closure of day care centers, social distancing and/or confinement to home has particularly affected children with physical and mental disabilities. See Patel, Khushboo. ‘Mental Health Implications of COVID-19 on Children with Disabilities’. *Asian Journal of Psychiatry* 54 (December 2020): 102273. <https://doi.org/10.1016/j.ajp.2020.102273>.

<sup>4</sup> The U.S. Government Accountability Office recently issued a report regarding the challenges of providing distance learning to K-12 English learners and students with disabilities during COVID-19. With respect to English learners, the report concluded: “Some English learners and their families had difficulty fully participating in distance learning during spring 2020 due to a lack of necessary technology, language barriers, and the demands of meeting basic family needs. English learners lost opportunities to practice their language skills, according to school district officials and representatives of professional associations. Also, limited English comprehension affected the ability of families to assist students with the curriculum, according to representatives of professional associations and a technical assistance center.” GAO, “Distance Learning: Challenges Providing Services to K-12 English Learners and Students with Disabilities During COVID-19,” at 2 (Nov. 2020) (GAO Report), available at <https://www.gao.gov/assets/720/710779.pdf>.

<sup>5</sup> See Testimony of Sharra E. Greer, Children’s Law Center, Oct. 23, 2020 Comm. of the Whole & Education Comm. Roundtable at 14-15 (submitted Nov. 5, 2020), attached hereto as Appendix A. See also GAO Report at 2 (“Delivering related services—such as occupational therapy, physical therapy, or speech therapy—for students with complex needs was particularly difficult to do remotely.”).

<sup>6</sup> See <https://app.powerbi.com/view?r=eyJrIjoiYmNiNmE5ZGYtM2RmNC00OGI2LWI2Y2MtMjFhNjE4MwYwMTQ3IiwidCI6ImI4NmUwZjQwLTFiNDQ0NDk5MC1iOTA2LTQwYjFhMWNIMTEyYSIsImMiOiJF9&pageName=ReportSection40187428ace993906a02>.

<sup>7</sup> See OSSE, *Students with Disabilities in the District of Columbia Landscape Analysis*, (2019), available at: [https://osse.dc.gov/sites/default/files/dc/sites/osse/page\\_content/attachments/SWD%20Landscape%20Analysis%2010.10.19.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/SWD%20Landscape%20Analysis%2010.10.19.pdf).

<sup>8</sup> S. Kohli, “Children with disabilities are regressing. How much is distance learning to blame?” *Los Angeles Times* (Aug. 7, 2020), available at <https://www.latimes.com/california/story/2020-08-07/covid-19-distance-learning-weakens-special-education>.

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<sup>9</sup> P. Stein & V. Strauss, “Special education students are not just falling behind in the pandemic — they’re losing key skills, parents say,” The Washington Post (Aug. 7, 2020), available at [https://www.washingtonpost.com/local/education/special-education-students-are-not-just-falling-behind-theyre-losing-key-skills-parents-say/2020/08/05/ec1b91ca-cffd-11ea-9038-af089b63ac21\\_story.html](https://www.washingtonpost.com/local/education/special-education-students-are-not-just-falling-behind-theyre-losing-key-skills-parents-say/2020/08/05/ec1b91ca-cffd-11ea-9038-af089b63ac21_story.html) .

<sup>10</sup> See Testimony of Judith Sandalow, Children’s Law Center, Before the Comm. of the Whole & Comm. on Education, Joint Budget Oversight Hearing at 9-12 (June 4, 2020), available at <https://www.childrenslawcenter.org/testimony/budget-testimony-education-budget-0> .

<sup>11</sup> “Families rely on schools to provide child care; a safe, stimulating space for children to learn; opportunities for socialization; and access to school-based mental, physical, and nutritional health services. Without adequate support for families to access these services, disparities will likely worsen, especially for children who are English language learners, children with disabilities, children living in poverty, and children of African American/Black, Latinx/Hispanic, and Native American/Alaska Native origin.” American Academy of Pediatrics, “COVID-19 Planning Considerations: Guidance for School Re-entry,” available at <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/> .

<sup>12</sup> See Appendix A at 5-6. See also C. Porter, “In Canada, a Push to Keep Schools Open in Second Lockdown,” The New York Times (Nov. 23, 2020), available at <https://www.nytimes.com/2020/11/23/world/americas/Canada-virus-schools-open.html?referringSource=articleShare> ; “As the Pandemic Progresses, a Consensus Emerges that In-Person Teaching with Young Children is Safer Than with Older Ones,” The New York Times (Dec. 1, 2020), available at <https://www.nytimes.com/live/2020/12/01/world/covid-19-coronavirus/as-the-pandemic-progresses-a-consensus-emerges-that-in-person-teaching-with-young-children-is-safer-than-with-older-ones>

<sup>13</sup> See, e.g., E. Green, “Plastic Dividers and Masks All Day: What Teaching in a Pandemic Looks Like,” The New York Times (Nov. 28, 2020) (describing Baltimore City efforts to reopen schools for 1200 academically at-risk students – such as kindergartners, special education students and English-language learners), available at <https://www.nytimes.com/2020/11/28/us/coronavirus-school-reopening.html?referringSource=articleShare> ; T. Tully, “N.J. Governor Wants Schools Open. Local Officials Have Other Ideas,” The New York Times (Nov. 26, 2020), available at <https://www.nytimes.com/2020/11/26/nyregion/nj-schools-reopening-remote.html?referringSource=articleShare> ; E. Shapiro, “New York City Will Reopen Elementary Schools and Reduce Hybrid Learning,” The New York Times (Nov. 29, 2020) (describing reopening of NYC elementary schools and some schools for children with complex disabilities), available at <https://www.nytimes.com/2020/11/29/nyregion/schools-reopening-partially.html> .

<sup>14</sup> See <https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20Distance%20Learning%20in%20DC%20and%20Public%20Charter%20Schools.pdf>

<sup>15</sup> See Appendix A.



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## APPENDIX A

Testimony Before the District of Columbia Council  
Committee of the Whole and Committee on Education  
Joint Roundtable – October 23, 2020

*Return to In-Person Instruction in DC Public Schools*

Sharra E. Greer  
Policy Director  
Children's Law Center  
November 5, 2020

Thank you, Chairperson Mendelson, Chairperson Grosso, and Committee members for the opportunity to submit written testimony concerning the return to in-person instruction in DC Public Schools (DCPS). 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 DCPS. 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.<sup>1</sup> 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.

As Chancellor Ferebee stated at the October 23 roundtable, learning at home is not working for every family. Some students, particularly students with disabilities as well as students experiencing homelessness and other students with high needs, are facing very substantial learning loss because their needs cannot be met outside the classroom. DCPS's previously announced plan to reopen elementary schools appropriately gave priority to these students for in-person instruction. But DCPS needs to do a better job at explaining the details of its plan and needs to do more to address the specific needs of students with disabilities, particularly with regard to the structure of self-contained classrooms as well as the provision of related services and special education evaluations. In addition, DCPS needs to do more to ensure the reopening of schools is safe for students, staff, and DC families. It should institute random COVID-



19 testing for staff and students who agree to be tested and ensure effective implementation of all of the risk mitigation measures described in its plan.

All of these steps, however, are insufficient without the trust of students, staff, and the community. The questions and comments raised by the Council at the October 23 roundtable reflect significant concerns and skepticism about DCPS's reopening plans. DCPS teachers and parents have also expressed concerns about safety and the impact reopening plans will have on staffing to support students who continue to rely on remote learning. These concerns recently prompted DCPS to delay reopening beyond the beginning of Term 2, which starts November 9, stating that "[w]e have heard feedback from many in our community about #ReopenStrong plans, and we will use this moment to adjust our timeline and staff plans for reopening."<sup>2</sup> According to press reports, DCPS expects that virtual learning for all students will "probably" continue until next year, although it still plans to reopen classrooms sometime during the current academic year; DCPS also reportedly will continue with its plan to reopen CARE classrooms once it lines up staffing for these classrooms.<sup>3</sup>

DCPS needs to address the concerns raised by teachers and parents through complete transparency and a willingness to collaborate with all stakeholders. Only with such outreach, and the trust of the community, will DCPS be able to achieve a successful, safe reopening.

## *School Reopening Plans Should Give Priority to Students with the Highest Needs*

DCPS's previously announced reopening plan properly seeks to address some of the inequities arising from remote learning. As Chancellor Ferebee has described,

In our current all-virtual learning model, the opportunity gap is real. Learning loss is happening. And we need to reverse this trend by opening schools to support our students who need the classroom experience the most, while also ensuring the needs of our staff are met, and our health and safety commitments are prioritized. ...

We decided to focus our reopening plans around known opportunity gaps: our youngest learners, English Learners, those experiencing homelessness, or students receiving special education services. What does in-person instruction offer them?

For students receiving special education services, providers can offer supports that are difficult to provide virtually, such as physical or occupational therapy. For students who are not reading on grade level, the ability to have intensive language and literacy instruction is limited in a virtual environment, particularly for young learners. We also know that for students who are 3- to 5-years-old, their attention span is limited when learning virtually. ...

Being at school also supports the emotional and physical wellbeing of our students. It ensures students receive a healthy meal each day. It allows them to build relationships with their peers, both in the classroom and outside on the playground.<sup>4</sup>

CLC agrees that priority should be given to the highest need students in reopening schools. Many other school districts are taking this equitable approach in their reopening plans, including public school systems in Fairfax County, Arlington County, Alexandria County, Baltimore City, Philadelphia, Boston, Chicago, and Denver.

The shift to remote learning, closure of day care centers, social distancing and/or confinement to home has particularly affected children with physical and mental disabilities.<sup>5</sup> For example, children with visual or auditory impairments may not have necessary assistive technology to facilitate effective remote learning, which can lead to stress, frustration, and anxiety. Also, children with Attention Deficit Hyperactivity Disorder (ADHD) and Autism Spectrum Disorder (ASD) might struggle with the lack of structure and socialization caused by the pandemic, which can contribute to a deterioration in their development.

Giving priority to the children with disabilities as well as other children with high needs will help reduce some of the gross societal inequities exacerbated by the pandemic. As DCPS retools its plan it needs to address the deficiencies in its previous proposal. For example, under the original plan there were concerns that it was not sufficiently equitable and failed to provide enough in-person learning seats in communities, such as Wards 7 and 8, that need the most support. There have also been concerns that the plan did not allow enough local school involvement in the selection of students for open seats. In addition, when DCPS moves forward again to reopen schools, it should seek to minimize the impact decisions about the staffing for in-person learning (including

decisions to transfer school staff) will have on DCPS's current virtual instruction program.

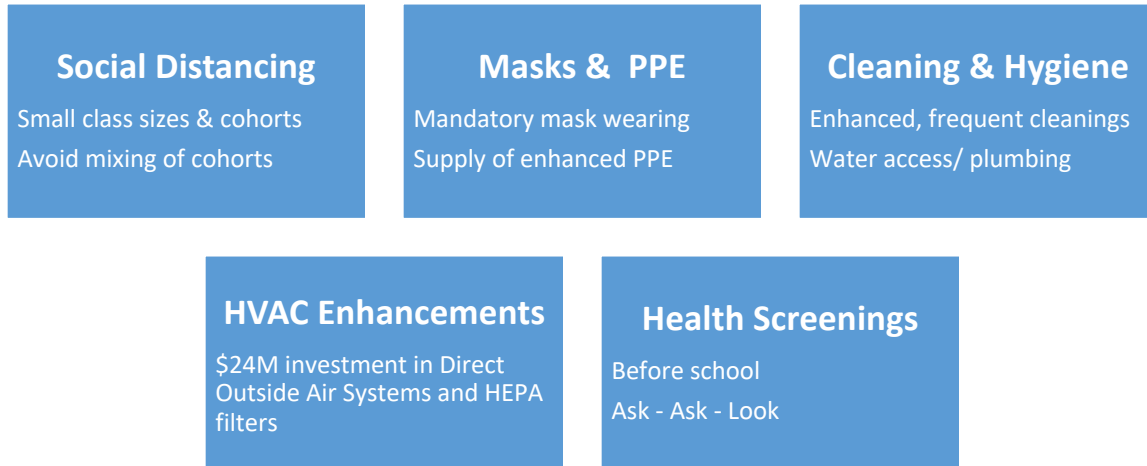
***Preliminary Evidence Suggests Schools Can Be Reopened Safely If Proper Measures Are Followed and Community Spread of the Virus is Under Control***

“So far, schools do not seem to be stoking community transmission of the coronavirus, according to data emerging from random testing in the United States and Britain.”<sup>6</sup> New York City reopened its schools about a month ago, with about 25% of its students attending school in-person under a hybrid approach. Based on random COVID-19 testing conducted at NYC schools, it appears that, so far, only a small number of teachers and staff have been infected by the virus. “Out of 16,348 staff members and students tested randomly by the school system in the first week of its testing regimen, the city has gotten back results for 16,298. There were only 28 positives: 20 staff members and eight students.”<sup>7</sup> An unscientific survey of schools across the country that have reopened found that only 0.51% of their students had been infected by COVID-19 (counting both confirmed and suspected cases) while 0.61% of school staff had been infected.<sup>8</sup> In addition, the risks of reopening schools for younger children seem relatively lower given the “emerging scientific consensus ... that younger children do not spread the virus as easily as older children and adults.”<sup>9</sup>

This emerging evidence thus provides tentative support for reopening elementary schools, especially given the negative impact school closures have on children.<sup>10</sup> It must be emphasized, however, that the data is still preliminary and much remains unknown about how COVID-19 spreads. The evidence supporting reopening also makes two critical assumptions: first, the rate of infection in the broader community must be under control, and second, schools must follow strict mitigation measures to reduce the risk of infection within the school community. In the absence of either assumption, the equation fundamentally changes.<sup>11</sup> Boston, for example, was recently forced to suspend its school reopening plans due to an alarming uptick in the COVID-19 test positive rates in the city.<sup>12</sup> And Israel confronted a broad outbreak of the virus after it reopened schools without adequate mitigation protocols in its schools.<sup>13</sup>

*Effective Implementation of Safety and Health Protocols – Including Random Testing – Will Be Essential*

DCPS’s original plan was to use a range of health and safety protocols to mitigate the risks of COVID-19 infections when schools reopen:



If this continues to be the plan, DCPS needs to ensure all of these measures are fully and effectively implemented through the investment of sufficient resources, proper training and supervision, and frequent audits. When a student or staff tests positive for COVID-19, DCPS will need to strictly follow the guidance established by DC Health and OSSE regarding quarantining, contact tracing and other measures, and keep the school community properly informed.

Under its previously announced plan, DCPS was going to provide on-site, rapid antigen COVID-19 testing for any symptomatic student or staff member,

with a positive rapid test followed by the more accurate PCR test.<sup>14</sup> DCPS should also include in any future reopening plan random testing for students and staff members who return to school and consent to such testing. An estimated 40% of Covid-19 cases are asymptomatic and 50% of transmissions occur from asymptomatic persons, prompting a number of public health experts to recommend random testing.<sup>15</sup> “Many public health specialists have repeatedly called on the CDC and health officials throughout the federal government to endorse and more aggressively use surveillance testing and screening.”<sup>16</sup>

A number of school districts have followed suit and incorporated random testing into their reopening plans. The NYC public school system plans to randomly test 10 to 20 percent of the school population in each of its 1600 public schools once a month.<sup>17</sup> Other school districts, including in Boston, parts of New York State, and South Dakota, plan to provide random testing for school staff and some cases for students as well.<sup>18</sup>

### *The Need for Trust and Transparency*

No reopening plan will succeed without the support of students, parents, teachers, and the broader community. Each of these stakeholders must trust that schools will be reopened in a safe, equitable manner. In response to concerns in the community, DCPS recently postponed its plan to begin reopening schools on

November 9. DCPS should use the extra time to redouble its outreach and transparency efforts.

There are several ways DCPS could improve its previously announced plan. DCPS, for example, should release third-party, expert assessments about the readiness of school building HVAC sites. It has already taken the first important step of making public the results of school safety checklists.<sup>19</sup> We recommend that DCPS also conduct and publish the results of periodic audits about school compliance with safety and health protocols and actively solicit feedback from the community on this information. We were pleased to learn at the November 4 telephone townhall that DCPS will be undertaking a new initiative to collect longitudinal parent feedback using a new survey tool. We hope that this parent feedback will be shared with school communities and advocates in real time. DCPS should be open and transparent about student and staff COVID-19 cases that arise, including its response to such cases, while maintaining the privacy rights of the individuals involved. And it needs to use its best efforts to address the concerns teachers and staff have raised about reopening.

None of this is easy. But with openness and trust, DCPS will be in a stronger position to collaborate with the community in a successful and safe reopening of schools.



*DCPS Has Failed to Provide Parents with Key Information How Related Services in CARES Classrooms and Self-Contained Classrooms Will Be Delivered Prior to Offering Slots*

For families to truly make an informed decision about whether or not a student with a disability should return to in-person learning, DCPS must clarify whether or not related services will be provided in person or virtually before extending offers for in-person learning. Unfortunately, the only way parent families could have known that related services might have been provided under the original plan for the self-contained classrooms and general education in-person classrooms was if they tuned into the October 29, 2020 Parent University Webinar.<sup>20</sup> No announcement was sent out to parents ahead of time to advise them of the related services policy. No mention of in-person related services was in any of the promotional materials distributed by DCPS about the reopening plan. When DCPS begins to communicate with parents and families about the possibility of bringing students with disabilities back into self-contained classrooms and in-person learning, they must provide thorough and easy to understand information about the provision of related services to families well in advance of extending invitations.

We acknowledge that DCPS was able to pivot to providing related services to students via virtual modalities since the onset of the pandemic. Client families shared with us that some types of related services have been successfully

delivered through the internet, particularly speech language pathology, behavioral health teletherapy, and some forms of occupational therapy. Other types of related services, like the use of one-on-one aides and Applied Behavioral Analysis (ABA) therapy, have been particularly challenging to modify to the online format. Students with autism, sensory processing disorders, and those who need manipulatives for their therapies have faced significant challenges in obtaining these key school-based therapeutic services. Related services are a key component of a child's IEP and are required to assist a child with a disability to benefit from their special education curriculum.<sup>21</sup> We thank the Chancellor for recognizing that providing related services in a meaningful way which supports progress towards a student's individualized educational goals is a key concern for DCPS.

On October 30, during the DCPS Parent University Session, we learned that DCPS had planned to provide in-person related services for students who are in general education in-person classes as well as self-contained classrooms. For students who are participating in a general education in-person learning classroom, related service providers would be a pull-out service. Students with disabilities would leave their classroom and be escorted to an area where related service providers will be equipped with PPE and plexiglass partitions between themselves and the student. For students in self-contained classrooms, related

services were to be delivered as a pull-in service, with related service providers entering each classroom to provide services. Students at River Terrace were to have their related services needs evaluated on an individual level and providers would push-in or pull-out depending on student need. Each of these professionals had been included in the original DCPS reopening plan, and were to be subject to safety and health protocols, including access to additional PPE.<sup>22</sup> Under any plan going forward, clearly communicating with families of students with disabilities and providing information on how related services will be provided is necessary if families are to make a fully informed decision about returning their students to the classroom. As DCPS retools its plan we ask that DCPS make this information about how the related services will be provided clear and readily available to all families of students with disabilities in English, Spanish, Amharic and other languages as needed as soon as possible.

***DCPS Should Clarify How Learning in Self-Contained Classrooms Will Be Structured***

The DCPS original reopening plan explained that students with special education needs will be brought back in self-contained classrooms.<sup>23</sup> However, it is still unclear how DCPS plans to balance the delivery of special education curriculum to the students who choose to remain virtual and those who are in person. The Washington Teachers Union recently retweeted a thread posted by a special education teacher who shares that under the original plan she was:

“expected to teach in person while simultaneously teaching the ones who elect to stay virtual. That’s right. The district has prioritized teachers teaching only one group of students for all students except those with full-time IEP’s...This plan means kids who stay home will have a worse experience than they had in virtual learning thus far. It also means these teachers, who already balance being full time teachers providing specialized instruction with case management, are stretched even more thin.”<sup>24</sup>

This information was confirmed in DCPS’s October 30 Parent University session where it was explained that the plan was that teachers in self-contained classrooms would be required to simultaneously teach students in-person and students with disabilities logged in to receive virtual education.

Although DCPS assured parents that additional paraprofessionals will be available to assist with teaching, we are extremely concerned that the quality of instruction and individualized attention that each student will receive may be seriously compromised by this method. In fact, it is reasonable to assume that families are relying on DCPS to provide their students with the same instructional delivery and quality as they received pre-COVID. Requiring teachers to split their time and attention between students in person and students online seems like a lose-lose situation for all involved. Under the retooled plan we recommend DCPS reconsider this plan to have special education teachers simultaneously provide instruction to both in-person and virtual students with disabilities.

DCPS should also clarify whether or not there will be any specific health and safety modifications for students in self-contained classrooms. It is likely that some

students who will be in the self-contained classrooms will have additional needs like toileting, physical prompting, and may not be able to keep masks on at all times. Under its previously announced plan, DCPS indicated that it would reduce self-contained classroom class sizes in order to allow for more time for activity transition, hand washing, and sanitizing as well as reduce transmission risks.<sup>25</sup> For those students returning in-person, informing parents of how many students will be in each self-contained classroom and how needs like toileting, physical contact, and masking will be conducted will allow parents to make an informed decision about bringing their student back to the classroom.

### ***DCPS Should Open School Buildings Up for In-Person Special Education Evaluations***

Since the pandemic started, in person evaluations for special education services have been almost entirely halted. Children's Law Center is working with parents who have been waiting for their children to receive needed evaluations since before the pandemic even began. For students who are waiting on initial evaluations and are yet to be receiving any type of services, these delays create unconscionable learning loss and missed opportunities for individual students. For students who already have IEPs in place, reevaluations are critical to ensuring that students are receiving the right types of support to achieve educational progress. We were extremely disappointed to learn that DCPS plans to continue to do the majority of their assessments virtually. Although DCPS has stated they plan to prioritize some groups of students, the Council should

urge DCPS to commit to ensuring that all students with suspected disabilities can receive the necessary assessments to create a complete evaluation for these children.

### *Conclusion*

Thank you for this opportunity to submit testimony to the Council. Children’s Law Center is committed to working with the Council, DCPS and other stakeholders as DCPS retools its school reopening plans.

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<sup>1</sup> Judges, pediatricians, and families turn to Children’s Law Center to be the voice 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 one out of every nine children in DC’s poorest neighborhoods--more than 5,000 children and families each year. We multiply this impact by advocating for city-wide solutions that benefit all children. *See* <https://www.childrenslawcenter.org/>.

<sup>2</sup> Email from Chancellor Ferebee to DCPS Community (Nov. 2, 2020), available at <https://dcpsreopenstrong.com/updates/changes-to-school-reopening-plans/> .

<sup>3</sup> Perry Stein, “DC Public Schools Cancels Plan to Bring Some Students Into Classroom Nov. 9,” Washington Post (Nov. 2, 2020), available at [https://www.washingtonpost.com/local/education/dc-teachers-protest-school-reopening/2020/11/02/2fb57c14-1d03-11eb-ba21-f2f001f0554b\\_story.html](https://www.washingtonpost.com/local/education/dc-teachers-protest-school-reopening/2020/11/02/2fb57c14-1d03-11eb-ba21-f2f001f0554b_story.html) .

<sup>4</sup> Email from Chancellor Ferebee to DCPS Community (Oct. 21, 2020), available at <https://dcpsreopenstrong.com/updates/a-commitment-to-equity/> .

<sup>5</sup> Patel, Khushboo. ‘Mental Health Implications of COVID-19 on Children with Disabilities’. Asian Journal of Psychiatry 54 (December 2020): 102273. <https://doi.org/10.1016/j.ajp.2020.102273>.

<sup>6</sup> Apoorva Mandavilli, “Schoolchildren Seem Unlikely to Fuel Coronavirus Surges, Scientists Say,” The New York Times (Oct. 22, 2020), available at <https://www.nytimes.com/2020/10/22/health/coronavirus-schools-children.html?referringSource=articleShare> .

<sup>7</sup> D. Rubinstein & J. Goodman, “Surprising Results in Initial Virus Testing in N.Y.C. Schools,” The New York Times (Oct. 19, 2020) (Oct. 19 NYT Article), available at <https://www.nytimes.com/2020/10/19/nyregion/schools-coronavirus.html?referringSource=articleShare> .

<sup>8</sup> Anna North, “10 facts about school reopenings in the Covid-19 pandemic,” Vox (Oct. 1, 2020), available at <https://www.vox.com/2020/10/1/21493602/covid-19-schools-reopening-nyc-florida-hybrid> . *See also* Anya Kamenetz, “Are the Risks of Reopening Schools Exaggerated,” NPR (Oct. 21, 2020)(Oct. 21

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NPR Article) (“Despite widespread concerns, two new international studies show no consistent relationship between in-person K-12 schooling and the spread of the coronavirus. And a third study from the United States shows no elevated risk to childcare workers who stayed on the job.”), available at <https://www.npr.org/2020/10/21/925794511/were-the-risks-of-reopening-schools-exaggerated>

<sup>9</sup> Oct. 19 NYT Article.

<sup>10</sup> See Oct. 21 NPR Article (“As a pediatrician, I am really seeing the negative impacts of these school closures on children,” Dr. Danielle Dooley, a medical director at Children's National Hospital in Washington, D.C., told NPR. She ticked off mental health problems, hunger, obesity due to inactivity, missing routine medical care and the risk of child abuse — on top of the loss of education. ‘Going to school is really vital for children. They get their meals in school, their physical activity, their health care, their education, of course.”). Education Week has compiled state-by-state data on which schools have reopened and which remain closed. <https://www.edweek.org/ew/section/multimedia/map-covid-19-schools-open-closed.html>.

<sup>11</sup> This week the American Academy of Pediatrics reported the highest weekly increase of COVID cases in children since the start of the pandemic. AAP’s president stated that “I’m very concerned about the long-term harms that children may suffer, particularly Black and Hispanic children, who are suffering a higher number of infections. This includes not only children who test positive for the virus, but everyone in these communities who are suffering disproportionate emotional and mental health harms.” <https://www.aappublications.org/news/2020/11/02/coviddata110220>.

<sup>12</sup>

<https://www.bostonpublicschools.org/site/default.aspx?PageType=3&DomainID=4&ModuleInstanceID=14&ViewID=6446EE88-D30C-497E-9316-3F8874B3E108&RenderLoc=0&FlexDataID=30168&PageID=1>.

<sup>13</sup> I. Kershner and P. Belluck, “When Covid Subsided, Israel Reopened Its Schools. It Didn’t Go Well.” The New York Times (Aug. 4, 2020), available at <https://www.nytimes.com/2020/08/04/world/middleeast/coronavirus-israel-schools-reopen.html>.

<sup>14</sup> Matt Blitz, “D.C. Schools Will Open With \$24 Million Update To Filtration And On-Site Rapid Testing,” *dcist* (Oct. 22, 2020), available at <https://dcist.com/story/20/10/22/d-c-schools-will-open-with-24-million-update-to-filtration-and-on-site-rapid-testing/>.

<sup>15</sup> Y. Rafiei & M. Mello, “The Missing Piece — SARS-CoV-2 Testing and School Reopening,” *The New England Journal of Medicine* (Oct. 21, 2020), available at <https://www.nejm.org/doi/full/10.1056/NEJMp2028209>.

<sup>16</sup> Will Feuer, “U.S. health officials say CDC is developing new coronavirus testing guidance for screening at schools, businesses,” *CNBC* (Sept. 16, 2020), available at <https://www.cnb.com/2020/09/16/cdc-is-developing-new-coronavirus-testing-guidance-for-screening-at-schools-businesses.html>. While the CDC currently is not recommending widespread use of random testing in schools, it has stated that “[s]chools in a community where public health officials are recommending expanded testing on a voluntary basis including testing of a sample of asymptomatic individuals, especially in areas of moderate to high community transmission.” <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-testing.html>.

<sup>17</sup> Oct. 19 NYT Article; <https://www.schools.nyc.gov/school-year-20-21/return-to-school-2020/health-and-safety/covid-19-testing>. Researchers at New York University had recommended that the

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school system enhance the plan so that it tests about half of the students at each school twice a month. B. Carey, et al., “N.Y.C.’s School Testing Plan May Miss Large Outbreaks, Study Finds,” The New York Times (Oct. 4, 2020), available at <https://www.nytimes.com/2020/10/02/nyregion/schools-virus-testing-outbreak.html> .

<sup>18</sup> J. Vaznis, et al., “Boston to Randomly Test Teachers and Other Educators Weekly for COVID-19,” Boston Globe (Sept. 10, 2020) (“Under the plan, the district will test up to 5 percent of the members of the Boston Teachers Union on a weekly basis, giving high priority to those working in schools in neighborhoods with high COVID-19 positivity rates as well as employees who work directly with student where social distancing is not possible.”), available at <https://www.bostonglobe.com/2020/09/10/metro/boston-schools-teachers-union-reach-agreement-school-reopening/> ; M. Eisenstadt, “Onondaga County To Start Random Testing of Teacher, Staff To Keep Tabs on Coronavirus,” Syracuse.com Oct. 8, 2020), available at <https://www.syracuse.com/education/2020/10/onondaga-county-to-start-random-testing-of-teachers-staff-next-week-to-keep-tabs-on-coronavirus-spread.html> ; “Random Testing @ Maspeth High School” (Oct. 22, 2020), available at <https://www.mhs.nyc/apps/news/article/1322716> ; S. Conlon, “These S.D. School Districts Opted for Voluntary Random COVID-19 Testing,” Argus Leader (Sept. 16, 2020) (reporting that nearly 70 South Dakota school districts, non-public schools and other education agencies have opted to do voluntary sentinel surveillance COVID-19 testing of school staff), available at <https://www.argusleader.com/story/news/education/2020/09/16/these-s-d-school-districts-opted-voluntary-random-covid-19-testing/5806283002/> .

<sup>19</sup> See DCPS, “School Building Reopening Plans and Readiness Checklists”, (n.d.), *available at* <https://dcpsreopenstrong.com/school-plans/>.

<sup>20</sup> The October 29<sup>th</sup> Parent University webinar was titled “Preparing for in-person learning for students with an IEP”. We note this webinar provided key information about re-opening plans for students with IEPs including how related services would be provided. Unfortunately, the information was only provided in English and as of November 1<sup>st</sup> there is no version available online for parents to view if they were not able to log into the webinar. DCPS stated that there would be a corresponding Spanish language session scheduled but no firm date was given. Children’s Law Center represents a number of Spanish speaking families of students with disabilities and we remain concerned that parents who speak English as a second language were not promptly provided with this important information in order to make decisions about whether their learner would return to the classroom.

<sup>21</sup> Individuals with Disabilities Education Act, Part B(A), §300.34(a) (2004).

<sup>22</sup> The October 29<sup>th</sup> Parent University session explained that for those related services professionals providing in person services additional PPE would be available including: gloves, gowns, masks, and plexiglass shields for students participating in pull-out instruction.

<sup>23</sup> Mayor Bowser, Coronavirus (COVID-19) Situational Update, (Oct. 5, 2020), *available at* [https://mayor.dc.gov/sites/default/files/dc/sites/coronavirus/page\\_content/attachments/Situational-update-presentation-10-05-20.pdf](https://mayor.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Situational-update-presentation-10-05-20.pdf) at 12.

<sup>24</sup> This twitter thread was retweeted by the Washington Teachers Union on October 29, 2020. It is the first indication we have been able to find of what the DCPS plan is for self-contained classrooms. @DCSamTeaches, (Oct. 29, 2020), “So yesterday I found out the plan for self-contained special education classrooms for term 2 in @dcp public schools. It’s a plan that highlights once again that equity isn’t and never has been a priority for dcps”, *available at*: <https://twitter.com/DCSamTeaches/status/1321777340733582336>.



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<sup>25</sup> The Washington Teachers Union also recommends cutting class sizes in self-contained rooms down below the eight to ten student limit. See Washington Teachers Union, *Reopening our Schools. Recommendations from the Washington Teachers' Union & the WTU Reopen DC Taskforce*, (Jun. 22, 2020), available at:

[https://d3n8a8pro7vhmx.cloudfront.net/wtulocal6action/pages/297/attachments/original/1592838681/Reopening\\_our\\_Schools\\_-\\_Taskforce\\_Report\\_-\\_FINAL.pdf?1592838681](https://d3n8a8pro7vhmx.cloudfront.net/wtulocal6action/pages/297/attachments/original/1592838681/Reopening_our_Schools_-_Taskforce_Report_-_FINAL.pdf?1592838681) at 18.