

Testimony before the District of Columbia Council
Committee on Education
July 9, 2013

Public Hearing on
Bill 20-310, "The Individual School Accountability Act of
2013,"
Bill 20-311, "The Focused Student Achievement Act of 2013,"
Bill 20-328, "Increasing Access to High Quality Educational
Opportunities Act of 2013,"
Bill 20-041, "Reading Development and Grade 3 Retention
Act of 2013."

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Good morning Chairman Catania and members of the Committee on Education. My name is Judith Sandalow. I am the Executive Director of the Children's Law Center¹ (CLC) and a resident of the District. I am testifying today on behalf of CLC, the largest non-profit legal services organization in the District and the only such organization devoted to a full spectrum of children's legal services. Every year, we represent more than 2,000 low-income children and families, focusing on children in foster care and children with disabilities. The vast majority of our clients attend DC public schools, whether DCPS or charter schools.

I welcome the energy and dedication that you, Chairman Catania, and the other members of the Education Committee have brought to your oversight of the public education system in DC. Despite modest improvements in recent years, DC's education system is still struggling mightily to meet basic expectations. Every lawyer in my office has clients who are three, four, or more years behind grade level. We all know that children who fall so far behind their peers are at very high risk of becoming truant, failing to graduate, and not being able to support themselves as adults. This is a crisis and, Chairman Catania, you are right to approach this work with urgency.

At the same time that we must act with urgency, we must also act with deliberation. We must have sufficient information to make thoughtful choices. I understand that the bills introduced recently are meant to spark a vigorous discussion throughout the District about the ways in which school reform has succeeded and the steps we still need to take to create a school system that prepares children well for adulthood. I look forward to that discussion.

Before providing specific feedback on several of the bills under consideration, I will highlight one overarching recommendation. The bills under consideration largely focus on the structure of the education system in the District. Having a strong and clear framework for the oversight and operation of our schools is critical. However, this structural approach to reform cannot succeed in producing successful students if our schoolchildren do not come to school each day ready to learn.

Recent neuroscience research confirms the common-sense understanding that children who grow up in poverty walk through the schoolhouse door at a disadvantage that even the best instruction cannot alone remedy.² The many stresses that children experience living in poverty influence their developing brains in ways that make it harder for them to listen, harder for them to follow directions, and harder for them to retain information. This is especially relevant in the District, where 72% of schoolchildren come from families who live at or below 185% of the poverty line.³ Many of these children come to school with nervous systems that are dysregulated as a result of what doctors call “toxic stress.”⁴ The reasons that DC children may suffer from toxic stress are too numerous to list, but some of the common reasons include exposure to violence in neighborhoods and homes, and not having stable housing and sufficient food. While schools cannot change neighborhood or family conditions, they can provide the structure and supports that ameliorate the effects of this toxic stress in order to help children be receptive to academic instruction. If schools do not take steps to address the impact of toxic stress on students, then even the best reforms to school governance or instruction will be undertaken in vain.

Districts across the country have adopted innovative programs to support students affected by poverty, trauma, and toxic stress. For example, Massachusetts and Washington states have pioneered Trauma-Sensitive Schools, a school-wide approach to making school policies, facilities, and instruction supportive of children who have experienced family violence and other significant harm. Interventions to support students can be made on many different levels. They might include changing the physical layout of classrooms to give children quiet corners where they can feel safe, reforming discipline policies to emphasize teaching children pro-social behaviors, or training clinical staff in working with children who have survived severe trauma. DC has already adopted on a small scale several programs that address these needs, including the Tools of the Mind program to teach young children basic self-regulation skills and several mental health programs.⁵ Anecdotal feedback about these programs is positive, but they are only a beginning.

As the conversation about school reform continues this summer, I urge the Committee to explore ways to translate scientific knowledge about toxic stress and trauma into legislation that will support students and schools. The Committee should consider directing the Office of the State Superintendent (OSSE) to administer a competitive grant process for LEAs or individual schools to apply for grants to implement evidence-based models. The Committee should also consider integrating in the bills being discussed this week requirements that schools address students' exposure to trauma and chronic stress. For example, turnaround plans could include a plan to train staff to work with children with trauma exposure. My colleagues and I

would be happy to work with the Committee over the coming months to identify promising legislative approaches.

Unified Public Education Lottery Act of 2013

We support the unified lottery and anticipate that it will make applying to high-quality schools less burdensome for families of limited means. We also support the option for the Office of the State Superintendent of Education (OSSE) to include priorities in the lottery for students based on socioeconomic status or other factors that OSSE may deem appropriate. In our experience, students from low-income households and students in foster care are especially in need of high-quality educational opportunities. To make sure that disadvantaged students and parents have equal access to the lottery, the legislation should be amended to require that lottery forms be made available in the primary non-English languages spoken in the District.

Parent and Student Empowerment Act of 2013

Children's Law Center had positive experiences with the prior Ombudsman for public education. We found that the Ombudsman was able to resolve many of our clients' difficulties quickly and effectively. Since the Ombudsman's office was disbanded, our attorneys have had to take formal legal action to address many issues that the prior Ombudsman would likely have been able to resolve informally. We advocated for funding for the Ombudsman's office in the budget cycle and are very appreciative of your leadership, Chairman Catania, in obtaining the funding for that office.

We are also in support of the proposed legislation. We do, however, have some concern that the newly-created Office of the Student Advocate will need to be careful that its advocacy

on behalf of parents does not prevent parents from exercising their legal rights. The proposed legislation describes the necessary qualifications for the Chief of the Office of the Student Advocate. The qualifications do not include legal training. We suggest that the legislation be amended to require that the Chief have experience or training in the law to ensure that the Chief is able to recognize situations in which parents require legal representation and should be referred to organizations that can provide such representation.

Public Education Governance Improvement Act of 2013

This bill gives OSSE the authority to waive District regulations at the request of a Local Education Agency (LEA). This is deeply troubling. If there are District regulations that impede student achievement, those regulations should be addressed directly. Proposed changes to regulations must be issued for notice and comment, allowing the public to be informed of changes to the regulations and to provide feedback. Going outside of this process by allowing OSSE to waive regulations prevents the public from being informed and having the opportunity to comment. It may also lead to a very confusing system where different regulations apply to different LEAs. A parent would likely be challenged to figure out which regulations applied to her child's LEA. We urge the Council not to give OSSE the authority to waive regulations for LEAs. Instead, we encourage the Council and OSSE to use the formal notice and comment process to revise any regulations that may be problematic.

Focused Student Achievement Act of 2013

Students who are at risk of retention are raising a red flag indicating that there is some underlying problem, whether a learning disability, a mental illness, or a family stressor that is

limiting the student's achievement. That underlying problem needs to be addressed in order for the child to make progress. We therefore encourage the Committee to amend this bill to require that all students identified as at risk of retention be assessed for special education and mental health needs. Once the student's underlying problem is identified, then the plan to help the student meet promotion standards should be tailored to address that need.

In addition to developing a plan to help students at risk of retention meet promotion standards, principals should also be required to develop plans for students who have been retained to ensure that they meet promotion standards in the year that they are retained. This plan should also be focused on addressing the students' underlying needs, so for some students it might include specialized reading instruction while for other students it might include providing them with transportation to school so that they don't miss instructional time when their parents can't afford metro fare. The plan should be a written document developed with the parent and student's input.

The number of times that students may be retained in their educational career should be limited to two. If students are retained more than twice, they end up so much older than their peers that they and their peers are likely to feel uncomfortable.

Finally, parents should have the right to appeal decisions to retain on fairness grounds. The bill gives parents the right to appeal only on the grounds that a student actually met the promotion criteria. There are other legitimate bases for appeal, for example that a school has not identified a child's special education needs or protected a child from persistent bullying.

Individual School Accountability Act of 2013

This bill and the “Increasing Access to High Quality Educational Opportunities Act of 2013” suggest alternative approaches to reforming struggling DCPS schools: allowing the DCPS Chancellor to create “DCPS Innovation Schools” and giving the Chancellor chartering authority. At this point, we do not take a position on this component of the bills. However, we do have comments on several other components.

Specifically, we see in this bill an opportunity to encourage schools to address the effects of trauma and toxic stress on their students. This could be achieved through the performance frameworks and the improvement plans for underperforming schools. The performance frameworks should be expanded to include metrics such as the availability of school mental health services and the implementation of evidence-based positive behavior intervention models. The turnaround plans should include plans to assess and address students’ trauma exposure and other mental health needs. As discussed above, we must prioritize addressing the effects of trauma and toxic stress if our reforms to curriculum and school structure are to succeed.

Increasing Access to High Quality Educational Opportunities Act of 2013

We support several components of this bill, namely (1) requiring all charters to be independent LEAs for special education purposes and (2) allowing charters to give admissions preferences to children who live in the neighborhood and children in special education.

We are concerned, however, that this legislation could lead to many fewer neighborhood schools existing, which would put a transportation burden on low-income

families. This legislation would allow the District of Columbia Public Schools (DCPS) to charter schools without requiring that those schools be schools of right. Giving DCPS charters the *option* to become schools of right is not enough; they should be required to admit neighborhood students. Otherwise, low-income families may have a very difficult time transporting their children to school and participating in their children's education. Going across town for parent-teacher meetings or volunteering in the classroom is simply not realistic for parents who live at or near the poverty line. Their children should not be penalized because their parents cannot afford the cost of transportation.

Fair Student Funding and School-Based Budgeting Act of 2013

This bill recognizes that children living in poverty have greater needs than children from better-off families. This is indisputably true and very important for the public education system to recognize. We do have some questions, though, about how the additional funding from this bill would be used. While we absolutely support targeting resources to low-income children, we hope that there will be a wide-ranging discussion about where those resources would have the most impact. I understand that the DC education adequacy study is underway and hope that its results will be illuminating.

We strongly support making transportation free for low-income students, and encourage the Committee to amend this bill to make transportation free for all low-income students, not just low-income high school students. No child should have to miss school because his or her parents can't afford metro fare.

Thank you for the opportunity to testify. I am happy to answer any questions.

¹ Children’s Law Center works to give every child in the District of Columbia a solid foundation of family, health and education. We are the largest provider of free legal services in the District and the only to focus on children. Our 80-person staff partners with local pro bono attorneys to serve more than 2,000 at-risk children each year. We use this expertise to advocate for changes in the District’s laws, policies and programs. Learn more at www.childrenslawcenter.org.

² See, e.g., National Scientific Council on the Developing Child (2005). Excessive Stress Disrupts the Architecture of the Developing Brain: Working Paper No. 3. Retrieved from www.developingchild.harvard.edu.

³ Kids Count Data Center, Free and Reduced-Price Lunch Eligibility, <http://datacenter.kidscount.org/data/tables/4778-free-and-reduced-price-lunch-eligibility?loc=10&loct=3#detailed/3/any/false/1024,937,809,712,517/3534,894,897/11147>.

⁴ See, e.g., *Pediatrics*, “Early Childhood Adversity, Toxic Stress, and the Role of the Pediatrician: Translating Developmental Science into Lifelong Health,” Dec. 26, 2011, available at <http://pediatrics.aappublications.org/content/129/1/e224.full.pdf+html>.

⁵ In school year 2010-2011, DCPS offered several pilot mental health programs for children who had experienced trauma: a mental health consultation program in 18 elementary schools in which social workers provided weekly consultation to teachers, a Cognitive-Behavioral Intervention for Trauma in Schools pilot in three middle schools, and a Structured Psychotherapy for Adolescents Responding to Chronic Stress pilot in six high schools. District of Columbia Public Schools, Office of Special Education, Evidence-Based Treatments and Practice, Powerpoint evaluation of SY2010-2011 program (October 2012). Children’s Law Center has requested more current information about these programs from the agency.