



**Testimony before the District of Columbia Council  
Committee on Education and Committee of the Whole**

**January 21, 2016**

**Public Hearing on B21-0508, “*School Attendance Clarification Amendment Act of 2015*”**

**Judith Sandalow**

**Executive Director**

**Children’s Law Center**

## **Introduction**

Good afternoon Chairman Mendelson and Chairman Grosso and members of the Committees. My name is Judith Sandalow. I am the Executive Director of Children's Law Center<sup>1</sup> and a resident of the District. I am testifying today on behalf of Children's Law Center. With 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 8 children in DC's poorest neighborhoods – more than 5,000 children and families each year. Ensuring that all children are attending school every day is extremely important as a foundation for their future success and an important part of our work is helping children achieve that goal.

I want to thank you both, Chairman Mendelson and Chairman Grosso, for continuing to focus on truancy prevention and for holding this joint public hearing on such a critical issue. As you both know, truancy is a serious problem in our schools. The District of Columbia Public Schools (DCPS) reported an 18.2 percent truancy rate during the 2013-2014 school year<sup>2</sup> and the Public Charter School Board (PCSB) reported a 14.2 percent truancy rate during the 2014-2015 school year.<sup>3</sup> The District and Council have taken many steps to address truancy in our schools, including creating the Truancy Taskforce and passing the *Attendance Accountability Amendment Act of 2013*. I am thankful that the Council is, again, looking at this issue. The *School Attendance Clarification Amendment Act of 2015* will make positive changes to our truancy and attendance laws. I also have several recommendations that I believe will further improve outcomes for our youth and families.

## **The Proposed Legislation Makes Important Positive Changes**

I want to highlight the provisions in this bill that Children's Law Center strongly supports. First, prohibiting public and public charter schools from suspending, expelling, or unenrolling students due to an unexcused absence or late arrival to school is a smart change that

will greatly benefit students. Research shows that suspension does not produce the desired effect – a student does not change his or her behavior and come back to school ready to learn. In fact, just the opposite is true -- suspension and expulsion is correlated with decreased academic performance, dropping out, substance abuse, and criminal activity.<sup>4</sup> A study of nearly one million students in Texas study found that 31% of students who were suspended or expelled repeated a grade at least one time.<sup>5</sup> This same study showed that students who have been suspended or expelled were almost three times as likely to be referred to the juvenile justice system the following year.<sup>6</sup>

Unenrolling students for poor attendance results in similar negative consequences. It can also have a dramatic impact on the student. For example, a former Children’s Law Center client, whom I’ll call John, attended a DC public charter school.<sup>7</sup> When his mother passed away, John missed a number of days of school while he was dealing with the trauma of losing his parent. In response, his school unenrolled him due to lack of attendance. Because this action was not an expulsion, John had no legal recourse to overturn the decision and could not access a right to a review or a due process hearing. As a result, despite John’s sincere desire to return to school, where his brother, all his friends, and teachers could help him cope with his loss, the school did not allow him to enroll, adding to the trauma in his life. Although John had our help to quickly re-enroll elsewhere, many parents have difficulty identifying a new school that will take their child, leading to significant education gaps. Our goal should be to address the reasons that students do not attend or are tardy to school, not punish students by excluding them further.

I also support revisions to the “80/20 rule,” the regulation that defines missing more than 20% of regular school hours as an absence.<sup>8</sup> The root causes of being tardy versus absent are often very different and it is important that schools are able to provide targeted interventions that

address an individual child's particular barriers. Additionally, I hope that this revision decreases the number of referrals that schools make to the Child and Family Services Agency (CFSA), Court Social Services (CSS), and the Office of Attorney General (OAG), as required by current law. The "80/20 Rule" wrongly captures chronically tardy students in this referral process, causing a student who is late once each month of the school year potentially to be referred to CFSA.

Lastly, I support changes to the protocol for law enforcement officers who come in contact with youth they believe are truant. Eliminating the requirement that schools notify the Metropolitan Police Department (MPD) when a student accumulates 10 unexcused absences makes sense. It reduces an administrative burden that is not leading to reduction in truancy.<sup>9</sup> I also support requiring law enforcement officers to take any minor they believe is truant back to school instead of taking them into police custody and for requiring the school to accept them. This practice risks pushing youth into the juvenile justice system and, ultimately, toward the school-to-prison pipeline without addressing the underlying cause of the truancy. Schools, not police officers, should be the primary institution that tackles truancy. I also strongly urge the school to establish policies that facilitate a smooth return for these students.

### **Recommendations to Improve the Proposed Legislation**

My first recommendation is to expand the legislation to require that schools not only accept students brought by the police, but also to require schools to open their doors to any student who wants to go to school and learn, regardless of whether they have a police escort. Some public and public charter schools have instituted a "locked door" policy that requires the school to turn away students who do not arrive on time.

Without this addition to the proposed legislation, one could imagine a scenario where a student escorted by a police officer is allowed to return to school, but a student who is not escorted by a police officer, and is waiting outside of the school building, watches as the doors open for their fellow student and then immediately close once the police officer leaves. A student who is late for his/her first period class should not have to engage a police escort just to enter the school house doors. I encourage the Council to amend this legislation to prohibit any school from denying entrance to a student because they arrive late.

Next, I want to recommend changes to ensure there are adequate supports in schools. As I mentioned previously, I believe that schools are the best place to address individual student's barriers to attendance. The *Attendance Accountability Amendment Act* also recognizes this by requiring schools to conduct Student Support Team (SST) meetings when a student reaches 5 unexcused school absences. It is deeply concerning that schools are not fully complying with this law. Recently, Chancellor Henderson testified that DCPS completed only 60.8 percent of their required SST meetings for school year 2014-2015.<sup>10</sup> To learn the specific reasons a child is missing school and to respond with the necessary intervention, someone from the school must meet with the student and his or her parents. Plain and simple, that is what an SST meeting is. I urge the Council to ensure full funding and staffing in the schools to comply with the truancy interventions required by current law.

In addition, when the school has not met with the student and family to resolve attendance issues, I recommend the school should be prohibited from referring students to the CFSA, CSS, or the OAG. This will ensure that schools can't use the criminal justice system to replace their obligation to meet with and assist students. To fully effectuate this goal, I also recommend that the school's failure to conduct an SST meeting be made an affirmative defense

to truancy petitions made against students age 14 and older. Court involvement is inappropriate if a student has not been offered interventions or services.

Lastly, as I have testified before, I have concerns that referral to CFSA, CSS and OAG for unexcused absences is not only an ineffective way to address attendance issues, but might well be counterproductive. I recognize the Council's concern that if the school's efforts to re-engage the student are not working, the Council would like another agency to make sure children and families are not falling through the cracks. However, I do not believe these agencies are well suited to address the root causes of poor school attendance. In 2014, the Family Court returned 87 percent of the referred students back to the school for "failure to demonstrate efforts to intervene and abate the truancy," thus recognizing the school as the appropriate first line of intervention.<sup>11</sup> The schools also question whether these referrals reduce truancy, with Chancellor Henderson saying that she has "significant doubts that these compliance exercises [meaning referrals to outside agencies] will help improve student attendance."<sup>12</sup> Referrals are also very resource intensive and do not seem to be providing a safety net to catch families in crisis. In school year 2013-2014, 96 percent of cases referred to CFSA were unsubstantiated and pushed out of CFSA as an information and referral case.<sup>13</sup> This data clearly shows that CFSA – an agency designed to deal with abuse and neglect by parents – is not well-positioned to address barriers to attendance.

I recommend data be collected to determine if these referrals are having an effect. I propose adding a data collection provision to this legislation that would require the Office of the State Superintendent of Education (OSSE) to track whether a student who has been referred to CFSA or CSS and OAG accumulates additional unexcused absences after the referral, the number of unexcused absences, and whether a re-referral was made during that school year or

any subsequent school years. We also need to do more to uncover the root causes of chronic absenteeism in order to offer appropriate, high-quality supports and services. Therefore, I recommend requiring schools to collect data on common barriers to school attendance that are identified during the SST process. This additional data should be included in OSSE's annual report on the state of absenteeism in the District.

## Conclusion

Thank you both for championing this issue, for introducing this bill, and for bringing us all here today to discuss this important topic. I look forward to working together to ensure that our students are in school every day and succeeding.

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<sup>1</sup> 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 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 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 8 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.

<sup>2</sup> District of Columbia Public Schools, *DCPS at a Glance: Attendance* (2015), <http://dcps.dc.gov/page/dcps-glance-attendance>.

<sup>3</sup> DC Public Charter School Board, *Attendance, Discipline and Truancy Report* (2015), <http://www.dcpsb.org/report/attendance-discipline-and-truancy-report>.

<sup>4</sup> "Out-of-school suspensions and expulsions can affect a student's future emotional and educational well-being, as research suggests that school exclusion actually increases the likelihood that students will misbehave in the future, become truant, fail to graduate, develop substance abuse issues, or encounter the juvenile justice system." Office of the State Superintendent of Education, *Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools*, (2014), available at [http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE\\_REPORT\\_DISCIPLINARY\\_G\\_PA\\_GES.pdf](http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE_REPORT_DISCIPLINARY_G_PA_GES.pdf).

<sup>5</sup> Justice Center, Council of State Governments and Public Policy Research Institutes, *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*, (2011), available at [https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf).

<sup>6</sup> *Id.*

<sup>7</sup> We have changed our clients' names to protect their confidentiality.

<sup>8</sup> DC Mun. Regs. Tit.5, Sec. A2199.1 (2014).

<sup>9</sup> MPD does not currently administer truancy prevention programs. Instead, MPD will send a letter notifying the parent that they may be in violation of the school attendance requirement and subject to prosecution. D.C. Mun. Regs. tit. 5, § A2101.9 (2014).

<sup>10</sup> District of Columbia Public Schools, *Chancellor's Testimony on Truancy and the Implementation of Truancy Reform Initiatives* (2015), <http://dcps.dc.gov/release/chancellors-testimony-truancy-and-implementation-truancy-reform-initiatives>.

<sup>11</sup> Superior Court of the District of Columbia, Family Court 2014 Annual Report (2015), <http://www.dccourts.gov/internet/documents/Family-Court-2014-Annual-Report.pdf>.

<sup>12</sup> *Supra* note 9.

<sup>13</sup> CFSA FY 2014 Oversight Responses, Q.22.