



Testimony Before the District of Columbia Council
Committee of the Whole
October 27, 2021

Public Hearing:
Bill 24-423, Coronavirus Immunization of School Students and Early Childhood
Workers Amendment Act of 2021

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Introduction

Good morning, Chairman Mendelson, and members of the Committee. My name is Sharra E. Greer. I am the Policy Director at Children’s Law Center, a resident of the District, and a parent of two DC public school students. I am testifying today on behalf of the Children’s Law Center which fights so every DC child can grow up with a stable family, good health, and a quality education. 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.¹

Thank you for the opportunity to testify today on the proposed vaccination mandate for DC students envisioned by Bill 24-423, The Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021 (“the Act”). Over the last year and a half, we have seen how the pandemic has disrupted the health, economic stability, and education of residents across the District. As of October 20, 2021, DC residents have suffered 63,588 positive cases of COVID-19 and 1,186 lives have been lost as a result of the virus.² Students across the District spent more than a year attending school virtually. And even as schools have largely reopened, we continue to see students needing to learn from home while quarantined following exposure to COVID-19 or due to health conditions that put them or members of their household at high risk of serious illness from COVID-19.³

At Children's Law Center, our client communities have been deeply impacted by both the virus itself and the disruptions to education. In a recent client survey, over a quarter of our families reported having someone in their household contract COVID-19 and 40% of families lost a loved one during the pandemic. Further, among parents of children with Individualized Education Plans (IEPs), 44% reported that their student missed some or all of their IEP services during the pandemic.

Children's Law Center strongly supports vaccination for everyone – including children when they become eligible. This is consistent with the recommendations of both public health authorities, who have found COVID-19 vaccines to be both safe and effective,⁴ and the American Academy of Pediatrics, which recommends vaccination for all children consistent with FDA authorization and CDC guidance.⁵ Vaccines not only protect the vaccinated person from COVID-19, especially severe illness, but also reduce that person's the risk of spreading the virus to others.⁶ For students, broad vaccination will protect the health and wellbeing of students and their families while also minimizing further educational disruption and community spread of the virus.

We urge the Council to view vaccine mandates for students as one of many tools designed to increase vaccination rates. Further, we ask the Council to mitigate any unintended harmful consequences of a vaccine mandate for students, such as educational disruptions and child welfare involvement. Finally, we urge the Council to recognize the inequities and disparities that occurred in the rollout of the vaccine for adults and take

affirmative steps now to reduce or eliminate those inequities and disparities in the rollout of the vaccine for students.

The Vaccine Mandate Should Not Result in Further Educational Disruptions or Child Welfare Involvement

As currently drafted, the Act adds “novel coronavirus (SARS-CoV-2)” to the list of vaccines that students must have to attend a school in the District of Columbia.⁷ Although the Act itself does not explicitly state the consequences of noncompliance with this mandate, it includes the COVID vaccine in the list of other required vaccinations for and consequences of noncompliance would follow the same protocol as that for other vaccines.⁸

For routine childhood vaccinations, caregivers certify to their student’s school that the child has received the required vaccinations. This certification is usually done at the time of enrollment and/or the start of a school year, but DC Health recommends that School Health Teams meet throughout the school year to review immunization certification compliance.⁹ To conduct their audits of certification compliance, schools rely on the Universal Health Certificate and the District of Columbia Immunization Information System (DOCIIS).

If a student is not up to date on the required vaccines, and they have not received a waiver, the LEA must notify the student’s guardian in writing that the responsible adult has 20 days to certify that the student has received the required vaccinations or is exempt from the requirement.¹⁰ If after this 20-day grace period the student remains out of

compliance, the school cannot permit them to attend school.¹¹ According to the most recent Immunization Attendance Policy from DC Health, the school must take number of procedural steps prior to removal. However, if the school completes these steps and the student remains noncompliant, the school is required to bar that student from attending. Further, the student's absence is to be denoted as "unexcused absence – immunization" for each school day that the student is not allowed to attend.¹²

Children's Law Center is concerned that extending the same procedure used to enforce routine childhood vaccines to the proposed covid vaccine mandate for students will result in school disruption and educational neglect referrals. If students are unable to get their COVID vaccines as required by the mandate, the above-described existing law requires schools to bar those students from attending school.¹³ The barring of students from school will cause an obvious temporary disruption in their education for the days in which they cannot attend classes. Further, the accumulation of unexcused absences could also lead to several long-term disruptions to their family and education. Per DC law, schools must refer students age 5-13 to the Child and Family Services Agency after the accrual of 10 unexcused full school day absences within a school year.¹⁴ Students age 14 – 17 shall be referred to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of the Attorney General Juvenile Section after the accrual of 15 unexcused absences.¹⁵ Finally, a student may be unenrolled from a local

education agency if the student has accumulated 20 or more consecutive full-school-day unexcused absences.¹⁶

The purpose of the proposed COVID vaccine mandate for students is to help stop community spread and “decrease exposures, the need for quarantine, and provision of remote learning, while increasing the efficient and effective operation of schools and child care centers.” It is counterproductive to that goal for the mandate itself to cause educational disruptions.¹⁷ We urge the Council to delay enforcement of the COVID mandate for students until at least until the start of School Year 22-23.

A Vaccine Mandate Should Be One of Many Tools Used to Ensure Student Vaccination

In developing a robust strategy to ensure the vaccination of as many young people as possible, there are many tools we can and should use to complement and support the vaccine mandate. We must also revisit the lessons that we learned through DC’s rollout of the COVID-19 vaccine for adults and the various pediatric immunization clinics held prior to the start of the school year. Ultimately, the mandate should just be one of many tools that we use to ensure that students get vaccinated against COVID-19.

Inequitable Access & Disparate Impacts

Inequitable access to healthcare in the District long predates the COVID-19 public health emergency.¹⁸ Communities in Wards 4, 5, 7 and 8 have fewer urgent care clinics, pharmacies, and vaccine locations.¹⁹ Moreover, DC Health has not announced any plans for pediatric clinics or mass COVID vaccination sites.²⁰ Therefore, we must anticipate

that there will be barriers to access for several communities across the District, especially those East of the Anacostia River when vaccines are made available for younger children.

Additionally, we know that COVID vaccine coverage is much lower in Wards 7 and 8.²¹ The combination of inequitable access and lower rates of vaccination in these communities allows us to predict the disparate impact that a vaccine mandate for students will have. Because this disparate impact is predictable, we have an opportunity to proactively lessen the barriers that contribute to gaps in access and uptake.

We urge the Council to acknowledge the disparate impact that the proposed mandate will have on low-income communities in the District. Those with the desire and means to opt out of this mandate could choose to disenroll their student from a DC school and move them to a private school outside the District or to homeschool them. However, for many low-income families, this is not an option. As such, the consequences of noncompliance with the mandate will fall disproportionately on those without the financial means to opt out.

Layered Strategies to Meet Community Needs

To prevent inequitable access from resulting in disparate impacts on marginalized communities, layered strategies will be a necessary to balance the safety of students against the barriers to compliance with the mandate. No single type of support will meet the diverse needs of communities across the District, and thus we recommend that Council and the education sector implement several strategies to increase the COVID

vaccine uptake among students. In support of this effort, the CDC has developed guidance for schools to increase vaccination rates among staff, students, and families.

The CDC recommends the following action steps:²²

1. Set up a COVID-19 vaccination clinic at your school
2. Partner up on COVID-19 vaccine-related activities in your community
3. Arm school staff with resources for answering general COVID-19 vaccination questions
4. Promote vaccine confidence among students, parents, and guardians
5. Promote well-child visits for routine health needs
6. Make COVID-19 a teachable moment

We support the implementation of these strategies and would recommend additional DC-specific context based on lessons we have learned from previous vaccination efforts.

We also strongly support the creation of vaccination clinics at schools across the District. Specifically, vaccines should be available at all schools where students are eligible to be vaccinated during school hours as well as the hours right before and after school.²³ We have learned from the city-wide vaccine clinics and from the back-to-school vaccine drives that a willingness to get vaccinated can be overwhelmed by many factors: location of the clinics, hours of service, ease of sign up, distance to public transportation, language access, among others.²⁴

While DC does not currently publish data on the COVID vaccination coverage of students, we can estimate data by looking at coverage rates by age group. For youth age 12-17, vaccination rates vary widely by ward of residence. For example, 73% of 12-17

year-olds in Ward 2 have been fully vaccinated while only 21% of 12-17 year-olds in Ward 8 have been fully vaccinated.²⁵ From these data, we can plan our efforts to concentrate on where the greatest supports will be needed.

We can also learn important lessons from other jurisdictions that have implemented a COVID-19 vaccine mandate for students. Specifically, we encourage the Council and the education sector to develop a plan for how this mandate will function as vaccines are approved for additional age groups. When the San Diego Unified School District passed a COVID vaccine mandate for students, they paired it with a clear roadmap that outlined vaccination timelines for future age groups.²⁶ Similarly, when the Los Angeles Unified School District passed their vaccine mandate, they included guidance for students whose birthdays will make them eligible for a vaccine in the coming months, regardless of any approval for kids aged 5-11.²⁷ We recommend that the Council and the education sector to pair any COVID vaccine mandate for students with a clear roadmap for students who will soon become eligible for a COVID vaccine. Specifically, such a roadmap should include timelines for students who become eligible after the effective date of the mandate either by reaching their 12th birthday or by the CDC's expansion of vaccine authorization for younger groups.

Finally, we encourage the Council and the Executive to engage with school leaders, Local School Advisory Teams, community leaders, and youth in efforts to develop community supports. These trusted stakeholders can be armed with

information (in relevant languages) about vaccine safety and efficacy for those caregivers who may be hesitant about vaccinating their students. There is still much misinformation surrounding the vaccine. Further, the vaccines will have side effects for children and caregivers still have legitimate concerns and questions about the safety of the COVID vaccine for children. Rather than punish families for these legitimate concerns, the City must enable trusted messengers to provide families with the knowledge and support necessary for them to feel comfortable with the vaccine.

Unique Concerns for Older Youth

Moreover, the COVID vaccine mandate will require a greater level of youth engagement than other vaccine requirements because older youth get a more significant say in their own healthcare decisions. Currently, most required vaccines are administered when a child is 12 or under²⁸ but the COVID vaccine mandate will affect students of all ages as they become eligible to receive the vaccine. Specifically, two different categories of young people will need additional supports: those students who are 18+ who do not want to receive the COVID vaccine and those students 12-17 who may want to be vaccinated, but face opposition from their parents. For the first group, we encourage the Council to examine whether the COVID vaccine mandate should be a way for students 18+ to opt out of school. This group of students may already face several pushout factors that disincentivize attendance. As policymakers, the Council should

examine whether the interest in a vaccine mandate outweighs the interest in preventing school disengagement.

For the second group, “a minor, 11 years of age or older, may consent to receive a vaccine if the minor is capable of meeting the informed consent standard, the vaccine is recommended by the United States Advisory Committee on Immunization Practices (“ACIP”), and will be provided in accordance with ACIP’s recommended immunization schedule.”²⁹ Because the ACIP “made an interim recommendation for use of the Pfizer-BioNTech COVID-19 vaccine in adolescents aged 12–15 years for the prevention of COVID-19”³⁰ in May 2021, it would follow that students who are eligible and want to receive a COVID-19 vaccine can consent on their own behalf, even if their caregiver is opposed. Schools and DC Health must be prepared to support this group of students with “age-appropriate alternative vaccine information sheets, which shall be made available before vaccination of minors to support providers for use in the informed consent process.”³¹

Furthermore, there is an open legal question regarding whether the mature minor doctrine implemented by the Minor Consent for Vaccinations Amendment Act of 2020 allows a minor 11 or older to refuse a vaccine that their parent wishes them to receive. The Act does not specifically address this concern. For these reasons, we encourage the Council to work with DC Health and vaccine providers to determine protocols for when children and caregivers disagree about whether to receive a COVID vaccine.

The Vaccine Mandate Timeline Must be Realistic and Reasonable

As currently drafted, the Act would require the person responsible for a student to submit documentation of their student's vaccination against COVID-19 or submit documentation of a religious or medical exemption to vaccination by December 15, 2021.³² This timeline is simply unrealistic. Even for children aged 12 to 17 for whom the vaccine is already authorized, December 15th does not leave enough time for the complex logistics necessary to implement a vaccine mandate. Setting an unrealistic timeline will not only create logistical problems but also cause significant stress on caregivers and vaccine providers. Without additional guidance, this timeline will cause confusion and anxiety among our students and their families that may discourage vaccination rather than promote it.

As an initial matter, December 15, 2021 does not seem to be a realistic from a legislative process perspective. Even if, after today's hearing, the bill was marked-up by the Committee and first reading occurs at the next scheduled legislative meeting on November 2, 2021, second reading could not occur any sooner than November 16, 2021. Then, the bill would have to be sent to the Mayor for review and then to Congress for their 30-day review period. It does not seem possible that the Act could even be effective by December 15, 2021 – not to mention the rules and guidance that would need to be issued by the Mayor, the Office of the State Superintendent of Education (OSSE), and Local Education Agencies (LEAs).

Additionally, both the Pfizer-BioNTech and Moderna vaccines for novel coronavirus (SARS-CoV-2) require multiple doses. At this time, only the Pfizer vaccine is approved for children 12 years and older and they must wait three weeks after administration of the first dose before they can receive the second dose.³³ DC Code § 38-505 states that in such cases:

“the student shall be permitted to attend school while the treatments are continuing if, within the 20 school days, the school receives written notification from whomever is administering it that the immunization is in progress.”

Among other things, the rulemaking required by this Act will need to establish clear guidance for medical professionals, caregivers, and schools as to what sort of written notification will be required and how it can be submitted for students who have received only the first dose of a two-dose vaccine within the 20-day grace period.

In evaluating the appropriateness of an alternative timeline, we recommend that the Council consider several factors:

1. A realistic effective date for the legislation
2. Current wait times for appointments with pediatricians
3. Current vaccination rates among those students already eligible for a vaccine
4. Willingness of schools to become vaccination sites and the time they would need to set up such a program

It is also worth noting here that only one other jurisdiction – California – has issued a statewide vaccine mandate for students.³⁴ Governor Newsom’s mandate first applies to students in grades 7-12 and does not anticipate that it will apply until July 2022. We

urge the Council to reconsider the December 15, 2021 and identify a timeline that is more realistic and reasonable for students and their families to meet.

Conclusion

Public health leaders and pediatricians support vaccination for children who are eligible, and a mandate will increase the number of children who are vaccinated. However, before we can reasonably expect families to comply with a vaccine mandate for students, the city must take the time to reach out to parents and youth and provide them with the information and supports necessary for them to be comfortable with the vaccine. Further, it will take time to address problems with access to the vaccine, and to develop the procedures and guidance necessary to implementing the mandate. For these reasons, we urge the Council to set a reasonable timeline for the vaccine mandate, and to temporarily suspend the enforcement procedures laid out in existing law with respect to the COVID vaccine for students, at least until the start of School Year 2022 - 2023. We also encourage the Council to view the vaccine mandate as one of many strategies and tools designed to encourage broad vaccination for everyone in DC, including students.

Thank you for this opportunity to testify. We welcome any questions and would be more than willing to work with the Committee to strengthen this bill and to advance student vaccination efforts more broadly.

¹ Children’s Law Center fights so every child in DC can grow up with a stable 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 Government of the District of Columbia, DC COVID-19 Data, from October 18, 2021, *available at*: <https://coronavirus.dc.gov/data>.

³ See Government of the District of Columbia, DC Public Schools (DCPS) COVID-19 Data, *available at*: <https://coronavirus.dc.gov/page/dc-public-schools-dcps-data>.

⁴ Centers for Disease Control and Prevention, *Benefits of Getting Vaccinated*, update August 16, 2021, *available at*: <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html>.

⁵ Committee on Infectious Diseases. *COVID-19 vaccines in children and adolescents*. Pediatrics. 2021; doi: 10.1542/peds.2021-052336, *available at*:

<https://pediatrics.aappublications.org/content/pediatrics/early/2021/05/11/peds.2021-052336.full.pdf>.

⁶ Centers for Disease Control and Prevention, *Key Things to Know*, updated October 7, 2021, *available at*: https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html?s_cid=10496:cdc%20covid%20vaccine:sem.ga:p:RG:GM:gen:PTN:F:Y21.

⁷ See B24-0423, *Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021*, Sec. 2(a) (amending D.C. Official Code § 38-501(4)).

⁸ See DC Code § 38-505, Attendance without certification; *see also* Office of the State Superintendent of Education, *Immunization Attendance Policy School Year 2021-2022*, page 13, *available at*: https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/FINAL_Immunization%20Attendance%20Policy%202021-22_05.25.21.pdf.

⁹ Office of the State Superintendent of Education, *Immunization Attendance Policy School Year 2021-2022*, page 8, *available at*: https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/FINAL_Immunization%20Attendance%20Policy%202021-22_05.25.21.pdf.

¹⁰ *Id.* at 10.

¹¹ DC Code § 38-505, Attendance without certification.

¹² Office of the State Superintendent of Education, *Immunization Attendance Policy School Year 2021-2022*, page 13, *available at*: https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/FINAL_Immunization%20Attendance%20Policy%202021-22_05.25.21.pdf.

¹³ *Id.*

¹⁴ DC Code § 38-208(c)(1)(A), Truancy procedures; inter-agency coordination.

¹⁵ DC Code § 38-208(c)(1)(B), Truancy procedures; inter-agency coordination.

¹⁶ DC Code § 38-236.04(c), Limitations on exclusion as a disciplinary action.

¹⁷ Councilmember Christina Henderson, *Statement of Introduction: B24-0423 Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021*, October 4, 2021, *available at*: <https://lims.dccouncil.us/downloads/LIMS/47962/Introduction/B24-0423-Introduction.pdf>.

¹⁸ Kae Rabinowitz, *In DC, access to medical care really depends on where you live*, Greater Geater Washington, October 4, 2016, *available at*: <https://ggwash.org/view/43061/in-dc-access-to-medical-care-really-depends-on-where-you-live>.

¹⁹ *Id.*

²⁰ Charles Allen Ward 6 Update: 10-18-21, *available at:*

https://www.charlesallenward6.com/ward_6_update_10_18_21.

²¹ Ward 7 has a vaccination rate of 37% while Ward 8 has a vaccination rate 29% both significantly lower than any of the other six wards. *See* Government of the District of Columbia, DC COVID-19 Coverage by Ward, *available at:* <https://coronavirus.dc.gov/data/vaccination>.

²² Centers for Disease Control and Prevention, *How Schools Can Support COVID-19 Vaccination*, *available at:* <https://www.cdc.gov/vaccines/covid-19/planning/school-located-clinics/how-schools-can-support.html>.

²³ Columbia Heights Educational Campus (CHEC) has been operating as a weekly walk-up vaccine location for anyone age 12 and up and will continue to do so through the end of October 2021. However, DC Health has not publicly reported utilization data for that site. If those data exist, they would be helpful in planning days, times, etc. during which school-based vaccine sites are most useful. Additionally, we might be able to glean demographic patterns about residents who chose to get vaccinated at CHEC (age groups, ward of residence, connection to school, etc.).

²⁴ Children’s Law Center sought out data from the back-to-school vaccine clinics that were held across the District in the week leading up to the start of school; however, data on these clinics are not publicly available. Anecdotal evidence indicates that these clinics were not well attended. However, it would be helpful to know from schools what specific efforts were made to publicize these clinic opportunities to school communities as well as what supports were available to help students and caregivers access them.

²⁵ *See* Government of the District of Columbia, DC COVID-19 Coverage of Fully Vaccinated by Age Group and Ward, *available at:* <https://coronavirus.dc.gov/data/vaccination>.

²⁶ *See* Sand Diego Unified School District, *Vaccination Roadmap*, September 28, 2021, *available at:* [https://go.boarddocs.com/ca/sandi/Board.nsf/files/C797R4004A4C/\\$file/Vaccine%20Mandate%20Plan.pdf](https://go.boarddocs.com/ca/sandi/Board.nsf/files/C797R4004A4C/$file/Vaccine%20Mandate%20Plan.pdf)

²⁷ Dana Goldstein, *Los Angeles Mandates Vaccines for Students 12 and Older*, *New York Times*, October 6, 2021, *available at:* <https://www.nytimes.com/2021/09/09/us/la-vaccine-mandate-students-schools.html>.

²⁸ *See* Centers for Disease Control and Prevention, *Recommended Child and Adolescent Immunization Schedule for ages 18 years or younger* (2021), *available at:* <https://www.cdc.gov/vaccines/schedules/downloads/child/0-18yrs-child-combined-schedule.pdf>

²⁹ DC Law 23-193, *Minor Consent for Vaccinations Amendment Act of 2020*, Sec. 2 (adding 22-B DCMR § 600.9(a)).

³⁰ Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report (MMWR)*, May 21, 2021, *available at:* <https://www.cdc.gov/mmwr/volumes/70/wr/mm7020e1.htm>

³¹ DC Law 23-193, *Minor Consent for Vaccinations Amendment Act of 2020*, Sec. 2 (adding 22-B DCMR § 600.9(a)).

³² *See* B24-0423, *Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021*, Sec. 2(b) (amending D.C. Official Code § 38-501(4)).

³³ Centers for Disease Control and Prevention, *Types of Vaccines Available*, updated October 20, 2021, *available at:* <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/different-vaccines.html>.

³⁴ Shawn Hubler, *California to Mandate Covid-19 Vaccines for All Students as Soon as Next Fall*, *New York Times*, October 19, 2021, *available at:* <https://www.nytimes.com/2021/10/01/us/california-covid-mandate-vaccine-students.html>.