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Testimony Before the District of Columbia Council  
Committee of the Whole  
March 2, 2022

Public Oversight Hearing:  
*District of Columbia Public Schools*  
*Office of the State Superintendent of Education*  
*Office of the Deputy Mayor for Education*  
*District of Columbia Public Charter School Board*  
*State Board of Education*  
*Office of the Student Advocate*  
*Ombudsman for Education*

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## **Introduction**

Good morning, Chairman Mendelson and members of the Committee. 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 to two DCPS 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.<sup>1</sup>

Thank you for the opportunity to testify today as part of the Council’s oversight of the education sector. Through our work, we represent DC students who regularly face barriers in accessing their education. In our medical-legal partnership, Health Together, we represent parents who are fighting for their child’s right to access special education services. Through our Guardian ad litem project, our clients in foster care face myriad challenges with educational continuity. Our testimony and recommendations today arise from our experience representing students who are often furthest from opportunity.

As was true at last year’s oversight hearing, the public health crisis continues to pose unprecedented challenges for the education sector. Our public schools cannot simply return to normal. First, because “normal” was failing many students even before the pandemic. And second, because schools are far from returning to their pre-pandemic operations. As we envision what the future of public education could look like, we

encourage the Committee – and the education sector as a whole - to ensure that any imposition of accountability measures is met with parallel investments in supports.

Schools and governments alike impose accountability measures as a means of ensuring that they are receiving a return on their investments of time, money, and human capital. However, there are limits to which accountability, on its own, is sufficient to ensure desired outcomes. Public schools provide several examples of this tension. Grades are not sufficient accountability to ensure that all students engage with and succeed in their schoolwork. Threat of truancy cases are not sufficient to get every student to attend school every day. Obligation of federal law is not sufficient to ensure that schools provide students with all the services in their Individualized Education Plans (IEPs). Threat of consequence is not sufficient to ensure things get done if the task is overwhelming or impossible.

If we, as a city, are to achieve our educational goals we cannot impose accountability on children and families without also supporting them in their efforts to meet those requirements. In our testimony, we will examine several areas in which we have imposed accountability measures on students, families, and schools. For each accountability measure, we identify ways in which the education sector should do more to support stakeholders in meeting their obligations. Specifically, we examine the balance between accountability and support in four areas: Student Vaccinations, Pandemic Recovery, Special Education, and Attendance. In each of these areas, we expect certain

requirements will be met; however, we must also provide the support necessary for individuals to meet our expectations of them. We encourage the Committee and the education agencies to provide the supports that students, families and schools need to ensure success in school.

### **The Education Sector Needs A Comprehensive Implementation Strategy for the Student Vaccine Mandate**

At the end of 2021, the Council passed the Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021 which adds the COVID-19 vaccine to the list of immunizations that students are required to have to attend public school in the District of Columbia.<sup>2</sup> Starting in School Year 2022-2023, students for whom the U.S. Food and Drug Administration has granted full approval of a COVID-19 vaccine must certify that they are immunized or they shall not be admitted to school.<sup>3</sup> Children's Law Center testified in support of the mandate because 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.<sup>4</sup> However, we urged the Council to recognize the inequities and disparities that occurred in the rollout of the vaccine for adults and to take affirmative steps to reduce or eliminate as many barriers as possible to youth vaccination.<sup>5</sup>

As school communities prepare for enforcement of the mandate, the education sector must ensure that they are supporting families by addressing concerns about the COVID vaccine. 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. For these reasons, it is important that we hold families accountable for vaccinating their children. However, without adequate support, the vaccine mandate risks causing unintended negative consequences of education disruption, school pushout, and child welfare involvement. We urge the Council and the education agencies to work together to create a comprehensive strategy that will support successful implementation of the vaccine mandate. At a minimum, the District's strategy must include plans for addressing vaccine hesitancy and a clear timeline for rollout of the new electronic vaccine certification system.

#### Addressing Vaccine Hesitancy Among Families of Young Students

Children's Law Center strongly supports vaccination for everyone – including children, consistent with the recommendations of both public health authorities and the American Academy of Pediatrics.<sup>6</sup> However, we have serious concerns around the unintended harmful consequences of the student vaccine mandate. Students who are not current on vaccines required by law are not permitted to attend school,<sup>7</sup> and each day the student is out of school due to non-compliance is denoted as “unexcused absence – immunization.”<sup>8</sup> 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 aged 5-13 to the

Child and Family Services Agency after the accrual of 10 unexcused full school day absences within a school year. Students aged 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.<sup>9</sup> 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.<sup>10</sup>

The mandate only requires a vaccine for which the US Food and Drug Administration (FDA) has granted full approval of as opposed to emergency use authorization. The FDA has given the Pfizer-BioNTech COVID-19 vaccine emergency authorization to use in children ages 5-15 years old and full approval to use in people ages 16 years and older. If enforcement were to begin March 1, 2022, 45 percent of 16 and 17 years would be out of compliance. Meaning over 4,500 DC children would be at risk of education disruptions and child welfare involvement. We hope these numbers look very different come the start of School Year 2022-2023. However, we are concerned, especially, given the national reporting of a downward trend in uptake of vaccines by children, that without a proper plan in place, March 2022 and August 2022 will not look much different from each other.

To strike the right balance between accountability and support, we must invest in efforts to identify the root causes of vaccine hesitancy. Until we understand the concerns underlying a family's choice not to vaccinate their student against COVID-19, we cannot

provide the information or support necessary to overcome the barrier. Moreover, concerns about the vaccine may be highly individualized and, thus, approaches to overcoming this hesitancy will need to be individualized.

Garrison Elementary School principal Brigham Kiplinger provides one example through his efforts to reach vaccine hesitant parents at his school.<sup>11</sup> Kiplinger's "unwavering persistence" has contributed to 80% of Garrison students having received at least one shot.<sup>12</sup> This vaccination rate far outpaces the national (28.1%)<sup>13</sup> and local (29%)<sup>14</sup> rates for the 5-11 age group. Public health officials have noted that vaccine uptake among this youngest age group surged when the vaccine was first authorized for the 5-to-11 group, but quickly petered out thereafter.<sup>15</sup> This appears to be holding true for our youngest DC residents as well.<sup>16</sup> While each family may have unique concerns about the COVID vaccine, Principal Kiplinger's individualized approach to building relationships and trust with parents is one model from which the education sector could learn.

If we are planning to bar unvaccinated children from school and then, subsequently, pursue educational neglect or truancy cases for students missing excessive amounts of school, we must support families in overcoming whatever barrier that remains between them and vaccination. While the District has done extensive work to ensure that vaccines are widely available, we clearly have more work to do to convince the families of our youngest residents that the COVID vaccine is safe. While the city continues to encourage residents to receive their COVID vaccine, we must plan for what

we are prepared to do if vaccination rates among school-age children is still low come August.

In a recent conversation with the Office of the Deputy Mayor for Education (DME), Children's Law Center was pleased to hear that the DME is of the belief that even if a vaccine event yields just one shot, it will have been worth the effort because that could mean one more life saved. While this approach is encouraging, the District does not seem to be moving the needle on childhood vaccination rates. We recognize that it has been particularly difficult to overcome the concerns that parents have about vaccinating their children – even when the adults in the family are vaccinated themselves.<sup>17</sup>

#### Implementation of the Electronic Vaccine Certification System

In addition to supporting families in complying with the vaccine mandate, we must also support schools in its implementation. The vaccine mandate legislation requires the electronic submission of certification of all required childhood immunizations.<sup>18</sup> DC Health is in the process of developing an updated immunizations information system that will allow schools to easily track which students are up to date on their immunizations and which are to be excluded under the mandate. While we have long had concerns about inaccuracies in the District of Columbia Immunization Information System (DOCIIS) and we are happy to hear that a replacement is in the works. However, we are also seriously concerned that DOCIIS 2.0 will not be rolled out in time for school staff to be trained on how to use it. To date, there is no publicly



available timeline for the creation of the required electronic system or training schedule. If we are going to hold schools accountable for implementation of the vaccine mandate, we must support them with the knowledge and tools they need to do their job successfully. We ask the Council to hold DC Health and the education sector accountable for establishing a clear timeline for the rollout of the electronic system with ample time to provide the necessary onboarding and training to school administrators and staff charged with operating this system.

Schools must have time to prepare for School Year 2022-2023. It is difficult for schools to train on new systems and protocols in the summer.<sup>19</sup> DC Health must have this new system up and running with sufficient time to train necessary personnel on its use and prevent any delays in record verification for students. Moreover, if there are continued delays in establishing or training on the new system, the District must ensure students are not the ones negatively impacted for lack of ineffective implementation on the part of DC government.<sup>20</sup> Schools must have a strong communication plan that keeps families and students up to date on the progress of the new system and the impacts that progress will have on vaccination record verification. The new electronic certification system is just one of the many pieces schools will have to put into place to be prepared for the vaccine mandate to go into effect. Establishing a clear timeline for the new system will provide schools with sufficient time and bandwidth to work on other aspects of the implementation of the mandate and help ensure its success.<sup>21</sup>

## **Fostering School Climates that Can Support Pandemic Recovery**

Students cannot succeed in their academic work if their foundational social and emotional need are not met first. The trauma, grief, and confusion born of the COVID-19 pandemic will impact students for years to come. As such, we must ensure that schools are meeting the social and emotional needs of students and staff before we can expect them to make meaningful academic progress.

We have seen several examples of how the emotional toll of the pandemic and the burdens it has placed on schools has impacted the state of public education. The pandemic has upended social connections in every aspect of children’s lives – undermining their sense of safety, security, and belonging. Medical practitioners report “soaring rates of depression, anxiety, trauma, loneliness and suicidality” in children that will have a long-lasting impact on their lives.<sup>22</sup> Since the start of the pandemic, more than 140,000 children have experienced a pandemic-related death of a caregiver, and emergency department visits for children with mental health emergencies have risen sharply.<sup>23</sup> In early 2021, emergency department visits for suspected suicide attempts were 51% higher for adolescent girls and 4% higher for adolescent boys compared to the same time period in early 2019.<sup>24</sup> For some students, we have seen these behavioral health needs manifest through increased disciplinary incidents reported to us by our clients and coalition partners.

Moreover, we have seen the toll that the pandemic has taken on teachers. We have seen teachers leave the classroom because of the increased burdens placed on them throughout the pandemic.<sup>25</sup> Staffing shortages – due to both attrition and required quarantine periods – have meant that teachers have had to manage larger classes, lost planning periods, and unpredictable transitions between virtual, in-person, and hybrid classrooms. We cannot expect that students will learn on pace with curricular standards – let alone make up for pandemic learning loss - under such conditions. These are not realistic expectations without serious investments in school-based supports.

If we are intending to hold students and schools accountable for making up for lost time, we must first ensure that they have comprehensive supports to overcome the significant hurdles placed in front of them. To this end, we encourage the Committee to examine two means of supporting students – the School-Based Behavioral Health (SBBH) program and the removal of School Resource Officers (SROs).

#### Continued Investments School-Based Behavioral Health Support

While the FY22 budget included significant investments in the SBBH Expansion Program, more investments are needed to sustain its success and to fully realize the benefits of the program. Investments are needed to support Tier 1 and Tier 2 services that are not covered by Medicaid. Tier 1 services promote behavioral health prevention for all students while Tier 2 services provide focused interventions for students at risk of

developing behavioral health problems. These lower-tier services will be key to addressing the trauma and stress faced by schools because of the pandemic.

Although we are pleased to see the progress that has been made in SBBH, there is still much work to be done for this program to achieve its goal. First, the Department of Behavioral Health (DBH) and the education sector must do more to ensure all 251 schools are matched with a community-based organization (CBO) and complete their hiring processes before the end of this school year. The primary obstacle to this is the severe workforce shortage in the mental health sector, which makes hiring and retaining clinicians exceptionally challenging. Further, pandemic conditions make it extremely hard to recruit candidates for this program. Many candidates don't feel safe going into school buildings – particularly with the low vaccination rate and high transmission rate of coronavirus amongst children. Finally, with funding for the program still set at 2016 levels – the program struggles to meet the salary expectations of in-demand mental health professionals in 2022. Despite these challenges, full implementation of the SBBH Expansion Program must be a top priority for DBH, the education agencies, and the schools that have yet to onboard their full-time clinician.

#### Removal of School Resource Officers

In addition to meeting the behavioral health needs of students, we must also examine how we respond to discipline incidents in schools. We must again strike a balance between holding students accountable for their actions and supporting them in

addressing the underlying causes of their dysregulation and misbehavior. Specifically, Children's Law Center believes that schools should be welcoming places where students feel safe. Such an environment is not possible while we continue to have police officers patrolling schools.

Even before the pandemic, many of our young clients experienced harmful, and even traumatizing, interactions with the police in their schools. The presence of Metropolitan Police Department (MPD) officers in schools perpetuates harm and hinders efforts to create positive school climates. This is only truer now that students are coming to school with increased emotional needs. For these reasons, Children's Law Center, along with many coalition partners, advocated for the dissolution of the School Safety Division (SSD) within MPD and the investment of dollars to expand supportive services for students.

To this end, the Fiscal Year 2022 Budget Support Act of 2021 included a provision that would gradually phase out School Resource Officers (SROs) and would dissolve the SSD by July 1, 2025.<sup>26</sup> The reasoning behind this gradual phase out was to allow for schools to transition gradually from the use of SROs to the implementation of supportive services.<sup>27</sup> This Act requires that, by July 1, 2022, the SSD's sworn and civilian staff is not to exceed 60 personnel.<sup>28</sup> This represents a reduction of 31 employees from FY20's sworn staffing levels.<sup>29</sup> However, with less than four months until the first reduction in SROs is

due to occur, MPD has not publicly shared how the agency plans to comply with the statutory requirement.

According to the Office of the Deputy Mayor of Education, MPD plans to change the way in which SROs are assigned to schools.<sup>30</sup> Rather than be assigned to schools in a cluster beat model, each officer will be assigned a specific set of schools.<sup>31</sup> It is unclear if schools have been consulted on the redistribution plan or if school leaders are aware what the plan is. If school leaders have not been meaningfully involved in planning for the phase out, we are concerned they may not be preparing to put into place the supportive services needed to replace SROs. While the Budget Support Act identifies annual deadlines for MPD, the Council must use their oversight role to ensure that the phase out is planned and implemented with transparency. We also recommend that the Council ensure that there is an analysis of any potential racial or socio-economic impact of the new distribution of SROs across the District.

As we testified last year, the removal of SROs must be paired with an investment in programming and supports that will improve school climates and create safe schools without the need for police.<sup>32</sup> The education sector and community stakeholders cannot appropriately target supports and services without foundational transparency from MPD. A failure to plan and engage with the full spectrum of education stakeholders – including school leaders, parents, out-of-school time programs, and safe passage providers – is likely to undermine the project of creating safe schools.

With thorough oversight from the Council and collaboration with school communities, we can ensure that schools have the behavioral health supports, robust safe passage, and comprehensive restorative justice programming. Failure to plan for the needs of student will lead to preventable safety concerns. We urge the Council to ensure that MPD engages with school communities in the transition away from police in schools and toward welcoming, positive school climates.

### **Schools Need More Support to Provide Adequate Special Education Services**

Over the years, we have repeatedly testified before the Council about our concerns that students with disabilities are not adequately supported in DC schools.<sup>33</sup> More recently, we raised to this Committee's attention the significant amount of special education and related services that simply did not occur while schools were transitioning to virtual learning.<sup>34</sup> Moreover, the challenges of the public health emergency have had a deep – and diverse – impact on students with disabilities.<sup>35</sup> We encouraged this Committee as well as the education agencies to think creatively about how we will make up for the services denied during the pandemic – including compensatory education funds and extended eligibility. However, if we plan to hold schools and LEAs accountable for clearing their significant backlogs of services and evaluations, the Council and the Office of the State Superintendent of Education (OSSE) must provide the supports necessary to get the job done – namely addressing staffing shortages and regulatory delays.

### Impacts of Staffing Shortages

Across the country, schools are facing staffing shortages.<sup>36</sup> And DC is no exception.<sup>37</sup> For student with disabilities, staffing shortages are preventing students with disabilities from receiving the services to which they are entitled under federal law. For example, both instructors in the deaf/hard-of-hearing program at Payne Elementary School have quit this school year. Our client at the school was not offered any options to make up for services missed when the classroom was without a qualified instructor. Several clients enrolled in charters have missed related services such as speech therapy and behavioral support services due to a lack of speech pathologists and school social workers, respectively. We urge the Council, along with the education agencies, the charter sector, the Washington Teachers Union, and other community stakeholders to develop a comprehensive strategy for addressing these staffing shortages and to ensure that students with disabilities have the support and services to which they are entitled.

### Persistent Regulatory Delays

As schools scramble to get through each day, they must also prepare for the year to come. However, it is difficult, if not impossible, for LEAs to plan for the implementation of future programs without the regulations that OSSE is required to promulgate. We have concerns about two regulatory delays that will make it exceedingly difficult for schools and LEAs to comply with local and federal law in the coming school



year: the finalization of the Chapter 30 regulations and the promulgation of regulations under the Students' Right Home or Hospital Instruction Act of 2020.

As we have testified before, the years-long delay in revision to Chapter 30 of the DCMR regarding special education.<sup>38</sup> Over the course of seven years, Children's Law Center has provided input to OSSE through the 2014 focus groups, the advanced notice of public rulemaking in 2017, the first proposed rulemaking comment periods in mid-2018 and early 2020, and the second proposed rulemaking in October 2021.<sup>39</sup> OSSE has yet to publish a Final Rulemaking for Ch. 30, but has assured us that the regulations will be finalized by July 1, 2022.<sup>40</sup> However, our concern is that schools will not have sufficient time between July 1 and the start of School Year 2022-2023 to learn and implement the broad array of changes made in the Ch. 30 rewrite. OSSE must provide extensive training and technical assistance to schools as they work to implement the new Ch. 30.

The second regulatory delay of concern is the promulgation of regulations for Home and Hospital Instruction (HHI). Under the Students' Right Home or Hospital Instruction Act of 2020, OSSE was required to promulgate regulations "no later than 120 days after the applicability date of th[e] act."<sup>41</sup> As such, the Agency should have published a notice of proposed rulemaking by January 29, 2022.<sup>42</sup> However, as of the time of this hearing, no such notice has been published in the DC Register.

This delay in issuing regulations will impede the ability of LEAs to meet their obligations under the Act. Namely, that "beginning in school year 2022-2023, every LEA

shall adopt and implement a home and hospital instruction program.”<sup>43</sup> Without regulatory guidance from OSSE, LEAs are unlikely to be able to develop meaningful HHI programs in compliance with the law. We are concerned that further delays in promulgation of HHI regulations will result in delays in provision of HHI to students for whom it may be their only way to meaningfully access their education.

### **Supporting Students to Improve Attendance**

Chief among the responsibilities for which we hold students and families accountable is the expectation of regular school attendance. Under DC Code § 38-202, the parent or guardian of any DC resident between age 5 to 17 are required to place in the minor in their custody in regular attendance in an educational institution.<sup>44</sup> Further, it is unlawful for a minor to be absent from school without a valid excuse.<sup>45</sup> Violation of the compulsory attendance law is a misdemeanor and can result in fines, community service, and/or imprisonment.<sup>46</sup> Furthermore, for students ages 5 to 13, the accrual of 10 unexcused full day absences shall result in a referral to the Child and Family Services Agency (CFSA).<sup>47</sup> For students ages 14 to 17, the accrual of 15 unexcused full day absences shall result in a referral to Court Social Services and the Office of the Attorney General who can prosecute violations of the compulsory attendance law.<sup>48</sup>

This statutory regime provides one form of accountability for students and their families for failure to comply with the expectation that they attend school regularly. Additionally, there are academic consequences for students who accumulate significant

absences. First, under the so-called “80/20 Rule” a student is determined to be absent if they miss more than 20% of the school day.<sup>49</sup> For secondary students, where absences are more acute, this means that a student who misses just 1.3 hours of school will be marked absent for the entire day.<sup>50</sup> This rule makes DC’s attendance regime one of the strictest in the country.<sup>51</sup> Within DCPS, the impact of the “80/20 Rule” is compounded by the so-called “failure due to absence” rule which states that “[s]econdary students accumulating more than thirty (30) unexcused absences in a course within a full school year shall receive a failing final grade in that course with a resulting loss of course credit.”<sup>52</sup>

We urge the Council and the education agencies to focus on ways in which we could support students and families, rather than punish them. The current punitive attendance approach disincentivizes students who have reached the 30-day threshold under 80/20 Rule because they know that they will be retained regardless of future attendance, engagement, or academic success. We were glad to see that the Committee has scheduled an upcoming hearing devoted to issues around attendance. We hope that forum will serve as an opportunity to reimagine how we conceptualize attendance to focus on supporting students and their families rather than punishing – and further disengaging – them.

## **Conclusion**

Across the entire education sector, the pandemic has created new challenges for stakeholders to overcome. However, it has also highlighted several ways in which the

system was already broken and had long been failing the students furthest from opportunity. As we look back over our successes and challenges over the past year, we hope that the Committee will keep in mind the need for balance between accountability and support. We have asked so much of our students and teachers and families over the past two years. In order to move forward, we must ensure that everyone has what they need to thrive and learn.

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

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<sup>1</sup> 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.

<sup>2</sup> Coronavirus Immunization of School Students and Early Childhood Workers Regulation Amendment Act of 2021, 69 D.C. Reg. 440 (Jan. 21, 2022).

<sup>3</sup> See D.C. Code § 38-502.01(a)(2), (b).

<sup>4</sup> 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:FY21](https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html?s_cid=10496:cdc%20covid%20vaccine:sem.ga:p:RG:GM:gen:PTN:FY21).

<sup>5</sup> Bill 24-423, *Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021*, Public Hearing Before the Comm. of the Whole, D.C. Council, (Oct. 27, 2021) (testimony of Sharra E.

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Greer, Policy Director, Children’s Law Center), available at: [https://childrenslawcenter.org/wp-content/uploads/2021/10/CLC-Testimony\\_Vaccine-Mandate\\_Final.pdf](https://childrenslawcenter.org/wp-content/uploads/2021/10/CLC-Testimony_Vaccine-Mandate_Final.pdf)

<sup>6</sup> 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>.

<sup>7</sup> 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. Office of the State Superintendent of Education, Immunization Attendance Policy School Year 2021-2022, p. 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](https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/FINAL_Immunization%20Attendance%20Policy%202021-22_05.25.21.pdf). If after this 20-day grace period the student remains out of compliance, the school cannot permit them to attend school. *Id.* According to the most recent Immunization Attendance Policy from DC Health, the school must take number of procedural steps prior to removal. *Id.* at 10-13. If students are unable to get their COVID vaccines as required by the mandate, under existing law, schools are required to bar those students from attending school. *Id.* at 13.

<sup>8</sup> Office of the State Superintendent of Education, Immunization Attendance Policy School Year 2021-2022, p. 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](https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/FINAL_Immunization%20Attendance%20Policy%202021-22_05.25.21.pdf).

<sup>9</sup> DC Code § 38-208(c)(1)(B).

<sup>10</sup> DC Code § 38-236.04(c).

<sup>11</sup> See Jan Hoffman, *As Covid Shots for Kids Stall, Appeals Are Aimed at Wary Parents*, N.Y. TIMES, Jan. 29, 2022, available at: <https://www.nytimes.com/2022/01/29/health/covid-vaccine-children.html>

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> <https://coronavirus.dc.gov/data/vaccination>

<sup>15</sup> See Jan Hoffman, *supra* note 11.

<sup>16</sup> <https://coronavirus.dc.gov/data/vaccination>

<sup>17</sup> See Jan Hoffman, *supra* note 11.

<sup>18</sup> D.C. Code § 38-502(b).

<sup>19</sup> Madeline Will, *Summer School Is More Important Than Ever. But Teachers are “Fried” and Need a Break*, Education Week, April 26, 2021, available at: <https://www.edweek.org/leadership/summer-schools-is-more-important-than-ever-but-teachers-are-fried-and-need-a-break/2021/04>. Phyllis L. Fagell, *The thought of summer training makes teacher want to quit*, Phi Delta Kappan, July 6, 2021, available at:

<https://kappanonline.org/summer-training-makes-teacher-want-to-quit-fagell-career-confidential/>.

<sup>20</sup> For example, if schools are not able to properly train on the verification of vaccine records via the new system before August 2022, then students, whose providers uploaded the vaccine records to new electronic certification system, should not be faulted for the school’s failure to verify through the system.

<sup>21</sup> Schools also will need to plan on how best to inform students and families about the mandate and how to comply with it. Additionally, schools need create plans to work with those who are out of compliance and address barriers to students being compliant whether that be vaccine hesitancy, access, or other concerns preventing them from being vaccination.

<sup>22</sup> “AAP, AACAP, CHA declaration national emergency in children’s mental health.” American Academy of Pediatrics, October 19, 2021, available at: <https://publications.aap.org/aapnews/news/17718/AAP-AACAPCHA-declare-national-emergency-in>

<sup>23</sup> *Id.*

<sup>24</sup> U.S. Surgeon General’s Advisory, *Protecting Youth Mental Health*, p. 9, 2021, available at: <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>

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<sup>25</sup> See, e.g., Aallyah Wright, *Teachers ‘Beaten Down’ By Staff Shortages, COVID*, STATELINE, AN INITIATIVE OF THE PEW CHARITABLE TRUSTS (Jan 31, 2022), available at: <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/01/31/teachers-beaten-down-by-staff-shortages-covid>

<sup>26</sup> See DC Code § 5-132.02(e).

<sup>27</sup> See *Committee Mark-Up: Report and Recommendations FY22 Budget*, Before the Comm. on the Judiciary & Pub. Safety, D.C. Council, (June 30, 2021) (statement of Councilmember Charles Allen, Chair, Comm. on the Judiciary & Pub. Safety) (responding to concerns about withdrawing SROs, “while there certainly were calls to, say, immediately eliminate the division, because we wanted to make sure those pieces are in place, that’s why you see the step-down approach that’s spread out over several years which allows us to work with MPD and work with other partners for that transition.”)

<sup>28</sup> See DC Code § 5-132.02(e)(1)

<sup>29</sup> See Robert Contee, Metropolitan Police Department, “Responses to Fiscal Year 2020 Performance Oversight Questions,” at 154 (April 26, 2021), available at: <https://dccouncil.us/wp-content/uploads/2021/04/JPS-Performance-Oversight-Responses-2021-MPD.pdf> (noting in response to question 39 that the SSD’s sworn staffing was composed of one commander, two lieutenants, nine sergeants, and 79 SROs – totaling 91 sworn personnel, but does not note whether there are any civilian personnel).

<sup>30</sup> See email from Clara Botstein, Director of Legislative and Governmental Affairs, Office of the Deputy Mayor for Education, to Danielle Robinette, Policy Attorney, Children’s Law Center (Feb. 4, 2022, 09:40 EST) (on file with author).

<sup>31</sup> See Metropolitan Police Department, “School Safety and Security in the District of Columbia: SY 2019-2020,” at 2, available at: [https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/MPD%20School%20Safety%20Annual%20Report\\_School%20Year%202019-2020%20Final.pdf](https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/MPD%20School%20Safety%20Annual%20Report_School%20Year%202019-2020%20Final.pdf) (explaining that SROs are deployed in a combination of short beats and clusters in which each short beat consists of no more than four schools with a deployment of up to four SROs and the remaining schools in each police district will be in a cluster with SROs who will check in daily and provide safety support).

<sup>32</sup> See, e.g., *Metropolitan Police Department, Performance Oversight Hearing Before the Comm. on the Judiciary & Pub. Safety, D.C. Council*, (Mar. 11, 2021) (testimony of Danielle Robinette, Policy Attorney, Children’s Law Center), available at: [https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC\\_MPD-Oversight-Testimony\\_FINAL.pdf](https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC_MPD-Oversight-Testimony_FINAL.pdf)

<sup>33</sup> See, e.g., *The State of Special Education and Disability Services in Public Schools*, Public Hearing Before the Comm. on Educ., D.C. Council, (Nov. 16, 2016) (testimony of Renee Murphy, Senior Policy Attorney, Children’s Law Center), available at: <https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Testimony-State-of-Special-Education-Disability-Services-in-DCs-Public-Schools.pdf>

<sup>34</sup> See e.g., *The District’s Public Education System After the COVID-19 Pandemic*, Public Hearing Before the Special Comm. on COVID-19 Pandemic Recovery, D.C. Council, (May 27, 2021) (testimony of Sharra E. Greer, Policy Director, Children’s Law Center), available at: <https://childrenslawcenter.org/wp-content/uploads/2021/07/Education-COVID-Hearing-5.26.21-FINAL.pdf>; *Re-Opening District of Columbia Public Schools (DCPS) and District of Columbia Public Charter Schools (DCPCS) for School Year 2021-2022*, Public Hearing Before the Comm. of the Whole, D.C. Council, (July 22, 2021) (testimony of Danielle Robinette, Policy Attorney, Children’s Law Center), available at: [https://childrenslawcenter.org/wp-content/uploads/2021/08/CLC-Testimony-7.22-Roundtable-on-Return-to-School\\_FINAL.pdf](https://childrenslawcenter.org/wp-content/uploads/2021/08/CLC-Testimony-7.22-Roundtable-on-Return-to-School_FINAL.pdf); *Special Education Policies for Students with Disabilities*, Public Hearing Before the Comm. of the Whole, D.C. Council, (Feb. 2, 2022) (testimony of Danielle Robinette, Policy Attorney, Children’s Law Center), available at: [https://childrenslawcenter.org/wp-content/uploads/2022/02/CLC-Testimony\\_Special-Education-Roundtable-2.2.22\\_Final.pdf](https://childrenslawcenter.org/wp-content/uploads/2022/02/CLC-Testimony_Special-Education-Roundtable-2.2.22_Final.pdf)

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- <sup>35</sup> See Hannah Natanson, *et al.*, *How America failed students with disabilities during the pandemic*, WASH POST (May 02, 2021), available at: <https://www.washingtonpost.com/education/2021/05/20/students-disabilities-virtual-learning-failure/>
- <sup>36</sup> See Vanessa Romo, *Lawmakers are rewriting rules as schools grapple with teacher shortages*, NPR (Jan. 14, 2022), available at: <https://www.npr.org/2022/01/14/1073253450/lawmakers-are-rewriting-rules-as-schools-grapple-with-teacher-shortages>
- <sup>37</sup> See Perry Stein, *District to hire more substitute teachers and contact tracers to help understaffed schools*, WASH POST (Oct. 16, 2021), available at: [https://www.washingtonpost.com/local/education/dc-schools-substitutes-teachers-covid/2021/10/16/78e24cf8-2de4-11ec-baf4-d7a4e075eb90\\_story.html](https://www.washingtonpost.com/local/education/dc-schools-substitutes-teachers-covid/2021/10/16/78e24cf8-2de4-11ec-baf4-d7a4e075eb90_story.html)
- <sup>38</sup> See Office of the State Superintendent of Education, “LEA Look Forward October 16-23, 2014,” available at: [https://osse.dc.gov/sites/default/files/dc/sites/osse/release\\_content/attachments/LEALookForwardPre-Template%20%2838%29.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/release_content/attachments/LEALookForwardPre-Template%20%2838%29.pdf) (noting that the deadline for “5-E DCMR Chapter 30 LEA Focus Group Registration” was October 17, 2014).
- <sup>39</sup> See Children’s Law Center, *Comments on the Notice of Proposed Rulemaking for new Special Education Regulations in Chapter 30 of Title 5A of the DC Municipal Regulations* (Oct. 4, 2021), available at: [https://childrenslawcenter.org/wp-content/uploads/2021/11/CLC\\_Chapter30WrittenComments\\_Oct2021.pdf](https://childrenslawcenter.org/wp-content/uploads/2021/11/CLC_Chapter30WrittenComments_Oct2021.pdf); *Proposed Rulemaking to Adopt a New Chapter 30 for Special Education in Subtitle A of Title 5 of the District of Columbia Municipal Regulations*, Public Hearing Before the Off. of the State Superintendent of Educ., (Dec. 12, 2019) (testimony of Elizabeth Oquendo, Policy Attorney, Children’s Law Center), available at: <https://childrenslawcenter.org/wp-content/uploads/2021/07/Chapter-30-Regs-Hearing-Testimony.pdf>; Children’s Law Center, *Comments on the Advanced Notice of Proposed Rulemaking for new Special Education Regulations in Chapter 30 of Title 5A of the DC Municipal Regulations* (July 16, 2017), available at: <https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Comments-on-Chapter-30-Special-Education-Rulemaking.pdf>; *Special Education Rulemaking*, Public Hearing Before the Off. of the State Superintendent of Educ. Div. of Elementary, Secondary, and Specialized Educ., (Aug. 20, 2015) (testimony of Renee Murphy, Senior Policy Attorney, Children’s Law Center), available at: <https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Testimony-re-OSSE-Special-Education-Requirements-2015.pdf>.
- <sup>40</sup> See email from Victoria Glick, Director of Special Education, Division of Systems and Supports K-12, Office of the State Superintendent of Education, to Danielle Robinette, Policy Attorney, Children’s Law Center (Feb. 17, 2022, 09:28 EST) (on file with author).
- <sup>41</sup> DC Code § 38-251.10.
- <sup>42</sup> See email from Christina K. Setlow, the-Deputy Committee Director, Committee of the Whole, Council of the District of Columbia, to Danielle Robinette, Policy Attorney, Children’s Law Center (Dec. 15, 2021, 14:55 EST) (on file with author) (finding that the effective date for the Student’s Right to Home or Hospital Instruction Act of 2019 would have been October 1, 2021, as the start of the fiscal year in which the Act was funded) .
- <sup>43</sup> DC Code § 38-251.02(a).
- <sup>44</sup> DC Code § 38-202(a).
- <sup>45</sup> DC Code § 38-203(c)(1).
- <sup>46</sup> DC Code § 38-203(d)-(h).
- <sup>47</sup> See DC Code § 38-208 (c)(1)(A).
- <sup>48</sup> See DC Code § 38-208 (c)(1)(B)-(2).
- <sup>49</sup> 5-A D.C.M.R. § 2199.
- <sup>50</sup> Assuming a standard 6.5-hour school day.
- <sup>51</sup> See Rebecca Bullied, *et al.*, “Attendance Policy Research and Recommendations for the District of Columbia,” (Dec. 2020), (unpublished research paper), (on file with author).

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<sup>52</sup> District of Columbia Public Schools, “Attendance and Truancy Policy: School Year 2021-22,” at 12 (Aug. 30, 2021), *available at*: [https://dcps.dc.gov/sites/default/files/dc/sites/dcps/page\\_content/attachments/Attendance-and-Truancy-Policy-SY%202021-22.pdf](https://dcps.dc.gov/sites/default/files/dc/sites/dcps/page_content/attachments/Attendance-and-Truancy-Policy-SY%202021-22.pdf) (citing 5-B DCMR § 2103.6).