



501 3rd Street, NW - 8th Floor
Washington, DC 20001
T 202.467.4900 - F 202.467.4949
www.childrenslawcenter.org

Testimony Before the District of Columbia Council
Committee of the Whole
March 11, 2022

Public Hearing:
Bill 24-428, School Attendance Amendment Act of 2021 and
Update on Improving School Attendance/Reducing Truancy and Chronic Absenteeism

Danielle Robinette
Policy Attorney
Children's Law Center

Introduction

Good morning, Chairman Mendelson, Councilmembers, and Committee staff. My name is Danielle Robinette. I am a Policy Attorney at Children’s Law Center and a former public-school teacher. I am testifying today on behalf of 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 regarding the School Attendance Amendment Act of 2021 (the “Act”), and more broadly for the Committee’s attention to attendance and truancy issues. If passed, the Act would change the current definition of “present” and, thus, reduce the number of students harmed by the 80/20 Rule and its overly punitive consequences. Children’s Law Center supports this bill. However, we want to highlight that this is just a first step in the work necessary to overhaul DC’s attendance regulations. We urge the Council to move away from punitive responses to chronic absenteeism and instead focus efforts on supporting students and families in overcoming barriers to attendance.

The children and families we work with often face myriad challenges in attending school that derive not from a lack of desire, but from a lack of resources. Unstable and fluid living situations, unreliable transportation or unsafe routes, caregiver changes,

health concerns, and familial responsibilities all serve as barriers to regular school attendance. For others, school disengagement results from the inability of their school to meet a student's special education or behavioral health needs. In such circumstances, threat of punitive consequence is insufficient to ensure students get to school when the hurdles in front of them are so overwhelming.

My testimony today will first outline the regulatory framework that governs school attendance in the District and discuss how this framework – specifically the 80/20 Rule – is harmful to students and difficult for schools to implement. Next, my testimony will address how the amendments proposed by the Act will reduce harm to students and allow schools to better target resources to the most disengaged students. Finally, we will recommend additional ways in which the Council should work with the education sector to strengthen supports for students and families who struggle to comply with the compulsory attendance law.

The Current Regulatory Framework for School Attendance in the District

Rules for school attendance enforcement fall under the purview of the DC State Board of Education (SBOE).² In 2013, the SBOE approved amended regulations that “reduced the threshold of unexcused absences and mandated earlier interventions for truant students and a stricter definition of ‘present.’”³ With these changes, the SBOE sought to decrease high school dropout rates, increase grades and graduation rates, and reduce juvenile crime and recidivism.⁴ However, nearly 10 years later, these results have

not materialized. In fact, data from School Year 20-21 show that chronic absenteeism rates have grown by 5.1% and the truancy rate has nearly doubled since 2015.⁵

The 2013 regulations introduced the 80/20 Rule, which defines a student as “present” for any “single school day on which the student is physically in attendance . . . for at least eighty percent (80%) of the full instructional day . . .”⁶ Further, a “partial school day” is defined to be “at least twenty percent (20%) of the instructional hours regularly provided on a single school day . . .”⁷ These definitions require all public schools to mark absent any student who does not attend at least 80% of the school day.⁸ For secondary students, where absences are more acute, this means that a student missing just 78 minutes of school is marked absent for the entire day.⁹

In addition to changing attendance definitions, the 2013 regulations introduced “school-based support teams” and required that local education agencies (LEAs) develop protocols and procedures for “monitoring, reporting, addressing, and evaluating attendance and absences.”¹⁰ These procedures must include a process by which students who accumulate five or more unexcused absences are referred to a school-based student support team (SST) which will meet to review and address the student’s attendance.¹¹

B24-428, the School Attendance Amendment Act of 2021, seeks to address the harms caused by the 80/20 Rule by amending DC’s compulsory attendance law to define “required daily attendance” to mean that a student is physically in attendance at their school for at least 60% of an instructional day or school-approved activity.¹² Separately,

the bill allows verified public transportation delays to serve as a valid excused absence so long as it amounts to less than 10% of the school day.¹³

A 60/40 Rule would be more forgiving than the 80/20 Rule and, therefore, would mitigate some harm by decreasing the number of students who are subject to the punitive consequences that result. For this reason, we support the bill. However, we strongly urge the Council to recognize that this is just the first step in restructuring our attendance regulations and our responses to chronic absenteeism.

The 80/20 Rule is Both Harmful to Students and Difficult for Schools to Implement

The 80/20 Rule is the strictest attendance regulation of the 30 largest school districts in the United States.¹⁴ Almost immediately after the 2013 regulations were imposed, education stakeholders alerted the SBOE of challenges with implementation of the 80/20 Rule.¹⁵ Among their concerns were that “the new definition [of present] presented a disincentive for students who arrived late to school to remain in school for the remainder of the day as those students would be marked “absent” even if they were physically present for part of the day.”¹⁶ Additionally, LEAs noted their struggle in complying with the requirement to convene an SST meeting with every student who accrued at least five unexcused absences.¹⁷ In responses to these concerns, the SBOE “directed staff to investigate the concerns raised about implementation of the 80/20 rule further and make a recommendation.”¹⁸ However, eight years later, these same concerns with the 80/20 Rule persist.

The 80/20 Rule Harms Students

The 80/20 Rule has several tangible consequences for students and families. Our primary concern for students is that the 80/20 Rule disincentivizes students from attending school. Because students know that they will be considered absent if they are more than 20% late, they are discouraged from attending the rest of the school day. If our goal is to create welcoming and supportive schools, we should not have policies that send the message there is no reason for a student to show up to school if they are already late. We should always encourage students to come to school, no matter the circumstances, even if that means they are only present for one class period. We should value that engagement and give them credit for that attendance.

For DCPS students, the harm of the 80/20 Rule is compounded by the “failure due to absence” policy that prevents a school from promoting any student who accumulates 30 or more unexcused absences within a full school year.¹⁹ Secondary students with more than 30 unexcused absences in one course within a full school year also must receive a failing grade in that course with a resulting loss of credit in that course.²⁰ Like with the 80/20 Rule, the Failure Due to Absence Rule justifies for students that there is no point in attending school after they have missed 30 days.

When a student feels like they have crossed the point of no return, they become more and more disengaged from school. There is no pedagogical evidence to support the idea that once a student has missed 20% or 40% of a school day, no meaningful

learning will take place during the portions of the day in which they are in attendance. Our school attendance policies should foster a supportive environment for children rather than convey to them the message that once a certain percentage of the day has passed, they have no reason to come at all.

Children's Law Center encourages the Council to move away from this punitive response to school absences. We must create schools that are welcoming and that enrich students. If a student is chronically absent, schools ought to identify the individualized challenges facing that student and help the student and overcome their barriers to attendance. The first step in this transition away from punitive attendance policies is to change the 80/20 Rule.

The 80/20 Rule Presents Myriad Implementation Challenges for Schools

In addition to the harm that the 80/20 Rule imposes on students, it presents several implementation challenges for school. These challenges include insufficient flexibility to accommodate various school schedules, significant administrative burdens, and a backlog of SST meetings. Each of these concerns were raised to the SBOE during the first year of the 80/20 Rule applicability. However, these same problems persist today.

Shortly after the SBOE approved the 80/20 Rule, school administrators noted that the regulation presented several implementation challenges. The SBOE heard from DCPS school leaders that the 80/20 Rule created a significant administrative burden on their staff.²¹ Moreover, principals noted that the variety of schedule structures across

different high schools (e.g., 4x4, 4x4 AB, traditional 1-7 period structure, etc.) led to inconsistency in the practical application of the 80/20 Rule on students.²²

Further, the 80/20 Rule implementation requires administrative resources to ensure that schools properly identify and refer students to supportive services. 5A DCMR § 2103 requires DC schools to address chronic absenteeism. Specifically, these regulations call for schools to refer students who has accumulated at least five unexcused absences to an SST.²³ Within two school days of a student's fifth unexcused absence, they are supposed to be referred to an SST which is then to meet within five days of the referral to review the student's attendance, collaborate with various stakeholders, and create and implement an action plan.²⁴

While this model of SSTs is individualized and collaborative in ways that we encourage, the workload is significant for existing school staff who have other responsibilities in their school. In examining the most recent, pre-COVID attendance data, OSSE reports that 23,376 students were chronically absent in School Year 18-19.²⁵ 44,571 K-12 students missed at least 5% of the school year (approximately nine days).²⁶ We cannot reasonably expect schools to convene robust SST meetings and provide meaningful case management without first investing significant resources into staff to conduct this work.

This high number of SST referrals is a consequence of the 80/20 Rule. When a student misses 21% of 5 separate school days, they have accumulated 5 absences and are

thus required to be referred to their school's SST. This system does not allow schools to differentiate between those students who miss 21% of a school day and those who are completely disengaged and missing all day every day. The needs of a student who misses 5 full school days and a student who is tardy for 5 school days are likely quite different.

The Council recognized this reality when it passed the School Attendance Clarification Amendment Act of 2016. This legislation clarified that only full school day absences warranted referrals to the Child and Family Services Agency (CFSA) and the Court Social Services Division of the Superior Court of the District of Columbia.²⁷ This amendment to the compulsory education law effectively disconnected the 80/20 Rule from two punitive consequences – child welfare involvement and truancy proceedings. The Council noted that “[c]hronic absenteeism and chronic tardiness are inherently different...” and that chronic tardiness “does not rise to the level of requiring referral to the courts.”²⁸ This was an early acknowledgment that some consequences are overly punitive and not helpful in addressing student attendance. Today's bill offers another such opportunity to reduce the harm of the 80/20 Rule and take another step toward overhauling attendance policies in the District.

A Full Overhaul of Attendance Will Require Continued Investment and Collaboration

In addition to amending the 80/20 Rule, Children's Law Center supports investing in student-centered supports that help schools to identify a student's barriers to attendance and to connect them to relevant services. Attendance data shows that at-risk

students²⁹ are more likely to incur absences compared to their peers.³⁰ At the same time, at-risk students report higher instances of feeling unsafe due to bullying, harassment, and embarrassment.³¹ They are more frequently enrolled in schools with poor facility conditions, are more disconnected and disengaged from adults in the school community, have limited transportation options, and have additional familial responsibilities.³² Failing to address these issues only increases student absenteeism.³³

Children's Law Center supports the use of SSTs to create individualized solutions to address a student's barriers to attendance. However, for schools to implement SSTs with fidelity, we strongly recommend that the Council provide the resources necessary through funding and staffing positions. In our experience, insufficient resources have led to SST meetings that are brief and superficial. These meetings often feel like a box to check off rather than a meaningful opportunity to find solutions for students and families. Specifically, we encourage the Council to provide funding for SSTs to be organized by an individual with case management experience. This school-based role would be dedicated to ensuring that SST meetings bring together all the relevant stakeholders to devise a plan to support a student's attendance. Moreover, this role would be able to conduct follow up to determine if the support plan is working or if adjustments are needed.

Additionally, we know that the Every Day Counts! Taskforce has spent extensive time and energy examining the ways in which the Education Sector can improve the ways

in which it supports students in overcoming barriers to attendance. We look forward to the Taskforce's forthcoming report and recommendations which are expected later this year. Upon release of these recommendations, we encourage the Committee to hold another hearing to continue today's discussion on how to best address the individualized needs of students who are chronically late or absent.

Conclusion

Thank you again for the opportunity to testify, and I welcome any questions.

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 DC Code § 38-2652(a)(14).

³ District of Columbia State Board of Education, Letter RE: Challenges Associated with Implementation of the District of Columbia's New Compulsory Attendance Laws and Recommendations for Addressing Them (April 1, 2015), p. 4 *available at*:

https://sboe.dc.gov/sites/default/files/dc/sites/sboe/release_content/attachments/Chronic%20Absenteeism%20-%20ADOPTED%20-%200040115_0.pdf

⁴ *Id.*

⁵ District of Columbia Office of the State Superintendent of Education, *District of Columbia Attendance Report, School Year 2020-2021* (November 30, 2021), p. 10, *available at*:

https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2020-21%20Attendance%20Report_FINAL.pdf

⁶ 5-A DCMR § 2199.

⁷ *Id.*

⁸ *Id.*

⁹ Assuming a standard 6.5-hour school day.

¹⁰ 5A DCMR § 2103.2(c)

¹¹ 5A DCMR § 2103.2(c)(3)

¹² The School Attendance Amendment Act of 2021, B24-0428, § 2 (2021)

¹³ *Id.*, at § 3.

¹⁴ *See generally*, Rebecca Bullied et. al., *Attendance Policy Research and Recommendations for the District of Columbia*, Georgetown University (December 2020) (on file with author).

¹⁵ District of Columbia State Board of Education, *supra* note 3, at 3.

¹⁶ *Id.*, at 4.

¹⁷ *Id.*, at 3

¹⁸ *Id.*

¹⁹ 5B DCMR § 2103.3

²⁰ 5B DCMR § 2013.6

²¹ District of Columbia State Board of Education, *supra* note 3, at 6.

²² *Id.*, at 7.

²³ 5A DCMR § 2103(c).

²⁴ 5A DCMR § 2103(c)(3).

²⁵ District of Columbia Office of the State Superintendent of Education, *District of Columbia Attendance Report, School Year 2018-2019* (November 30, 2019), p. 63, available at:

https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2020-21%20Attendance%20Report_FINAL.pdf

²⁶ *Id.*, at 65-66.

²⁷ D.C. Law 21-140: *School Attendance Clarification Amendment Act of 2016*, available at:

<https://code.dccouncil.us/us/dc/council/laws/21-140>

²⁸ Council of the District of Columbia Committee of the Whole, Committee Report on Bill 21-508, "School Attendance Clarification Amendment Act of 2016," (April 19, 2016), p. 7 available at:

https://lms.dccouncil.us/downloads/LIMS/34948/Committee_Report/B21-0508-CommitteeReport2.pdf

²⁹ District of Columbia Office of the State Superintendent of Education, *District of Columbia Attendance Report, School Year 2018-2019* (November 30, 2019), p. 25, available at:

<https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2018-19%20School%20Year%20Attendance%20Report.pdf>

(outlining that at-risk students are defined as those receiving Temporary Assistance for Needy Families (TANF) or Supplemental Nutrition Assistance Program (SNAP); students who are homeless: students under the care of CFSA; and students who are in high school and are at least one year older than the expected age for their grade).

³⁰ *Id.*

³¹ Valerie L. Marsh, *Understanding Chronic Absenteeism: What Research Tells Us about Poor Attendance at School*, American Federation of Teachers (AFL-CIO) (Winter 2019–2020) available at:

<https://www.aft.org/ae/winter2019-2020/marsh>

³² *Id.*

³³ *Id.*