

ARTICLES & ESSAYS: The Washington Lawyers' Committee's Pursuit of Quality Public Educational Opportunity for All of DC's Children

Fall, 2018

Reporter

62 How. L.J. 168 *

Length: 23793 words

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BACKGROUND

In *Bolling v. Sharpe*,¹ one of the five 1954 *Brown v. Board of Education*² companion cases, the U.S. Supreme Court held that Washington, D.C.'s racially segregated public school system violated the due process clause of the Fifth Amendment.³ In the decade that followed abolition of the District's dual school system, white enrollment in its public schools dropped from 50 percent to less than 10 percent.⁴ **[*169]** In 1967, in *Hobson v. Hansen* (*Hobson I*),⁵ the U.S. District Court for the District of Columbia ordered that students in overcrowded schools in the city (which were located overwhelmingly in African-American wards) be given the option to attend the then under-

¹ [*Bolling v. Sharpe*, 347 U.S. 497 \(1954\).](#)

² [*Brown v. Bd. Of Educ.*, 347 U.S. 483 \(1954\).](#)

³ [*Bolling*, 347 U.S. at 498-99.](#)

⁴ Steven J. Diner, *Crisis of Confidence: The Reputation of Washington's Public Schools in the Twentieth Century*, 53 (1982).

⁵ [*Hobson v. Hansen*, 269 F. Supp. 401, 495, 510, 517 \(D.C. 1967\)](#); *aff'd en banc sub. nom. Smuck v. Hobson*, 408 F.2d 175, 190 (D.C. Cir. 1969).

populated schools in the more affluent (and predominantly white) areas west of Rock Creek Park in order to counter the ongoing discriminatory effects of the city's entrenched racial and economic segregation.⁶ The Court also mandated the development and implementation of public school and teacher assignment plans focused on achieving integration.⁷ In 1971, in *Hobson v. Hanson* (*Hobson II*), the frustrated District Court ordered the D.C. school district to equalize per pupil expenditures for teacher compensation across the system in order to provide economically disadvantaged children - the overwhelming majority of whom were African-American - with the equal educational opportunity to which they were constitutionally entitled.⁸

As part of a larger study of the implementation of the *Hobson II* equalization order, the National Lawyers' Committee for Civil Rights Under Law produced a 1977 report concluding that decision-making with respect to District public school budgets, curriculum and personnel was unduly centralized.⁹ The report went on to discuss how decentralization could encourage local parent groups and principals to collaborate on the best use and allocation of resources in their particular circumstances.¹⁰ Inspired by the analysis, representatives of three D.C. community school boards then approached the National Lawyers' Committee for legal assistance in renegotiating agreements with the D.C. Board of Education to increase their involvement in decision-making regarding local schools.¹¹

The Washington Lawyers' Committee for Civil Rights (hereinafter the "Washington Lawyers' Committee" or the "Committee"),¹² which had consulted with the National Lawyers' Committee regarding [*170] the possibility of engaging pro bono resources of cooperating law firms to respond to the civil rights and poverty issues inhibiting the provision of quality public education in the District of Columbia, arranged for the firms of Covington & Burling and Debevoise & Lieberman to represent the local school boards in the negotiations.¹³ The Washington Lawyers' Committee also saw opportunity in the District of Columbia Board of Education's 1978 enactment of rules establishing Neighborhood School Councils (NSCs) of local school parents, teachers, students and non-parent communities to advise principals on school decisions regarding resource allocation, curriculum, building and ground maintenance, budget and staffing priorities.¹⁴ Committee staff members explored ways in which the resources of the private D.C. bar and business community might be used to enhance parental involvement in the schools, whether in conjunction with NSCs or other parental advisory groups such as Elected School Advisory Councils (SACs)¹⁵ and local chapters of the Parent-Teacher and Home and School associations. With the encouragement

⁶ [Hobson, 269 F. Supp. at 517.](#)

⁷ [Id. at 517-18.](#)

⁸ [Hobson v. Hansen, 327 F. Supp. 844, 863-64 \(D.C. 1971\).](#)

⁹ D. Long, M. Gaffney & L. Bodi, *Legal Constraints on Decentralized Decision-Making in the Public School System of the District of Columbia 2* (1977).

¹⁰ *Id.* at 5.

¹¹ Joseph M. Sellers, *Civil Rights Papers: Washington Lawyers' Committee for Civil Rights Under Law: Public Education Legal Services Project: A Private Sector Initiative in the Area of Public Education*, [27 How. L.J. 1471, 1477 \(1984\)](#).

¹² The organization later added "and Urban Affairs" to its name to better reflect the scope of its efforts in areas such as D.C. public education.

¹³ Sellers, *supra* note 11, at 1477.

¹⁴ *Id.* at 1477-78; see also Don Davis, Patricia Burh & Vivian Johnson, *A Portrait of Schools Reaching Out: Report Of A Survey of Practices and Policies of Family-School-Community Collaboration*, 92 (1992) (discussing the necessity of effective formal mandate that requires neighborhood school councils).

¹⁵ Sellers, *supra* note 11, at 1477-78; See also The Elementary and Secondary Education Act of 1965, [20 U.S.C. § 301](#) (1965), amended by [20 U.S.C. 6301](#) (2015) (authorizing the formation of a program to assist in vitally needed educational services).

of school officials and organizations supporting public education, the Committee's Public Education Legal Services Project (hereinafter the "PELSP" or the "Education Project") was conceived as a means to implement this strategy.

Thus began the Committee's challenging and ongoing 40-year struggle to improve public schooling in the District of Columbia. As chronicled more fully in *Civil Rights Papers: Washington Lawyers' Committee for Civil Rights Under Law: Public Education Legal Project: A Private Sector Initiative in the Area of Public Education*, which was published in a 1984 edition of the *Howard Law Journal* in celebration of the Committee's first fifteen years,¹⁶ the next five years were active ones for the Committee's new Education Project. Early on, Committee staff and lawyers from the firms of Nussbaum & Owen and Rogers & Wells produced a "lengthy manual explaining the legal framework in which the school system operated and identifying those [*171] areas ... where parents and their legal representatives could have impact."¹⁷

Simultaneously, with the support of District school leaders and the local community school board, the Committee focused its parental engagement efforts initially on Anacostia, an overwhelmingly African American section of the city that had among the highest levels of unemployment, public assistance, public housing and crime and, not surprisingly, the lowest student test scores in the District.¹⁸ After interviewing school principals and parents, fourteen Anacostia schools were selected, attorneys from the private bar were recruited, and "matched" private attorneys began working with parent organizations for each school by early 1980.¹⁹ Volunteer lawyers began helping local communities resolve straightforward local concerns such as school building disrepair, shortages or misallocation of teachers, books and supplies, and security and fund-raising problems, often liaising with District governmental agencies and school administrators and officials on behalf of schools, parents and students.²⁰

When an unusually drastic system-wide budget cut led to massive teacher layoffs and the elimination of many classroom programs that dwarfed the problems of individual schools in 1980, Education Project attorneys joined with active parents from Anacostia and wealthier wards to try to minimize the toxic impacts of the cuts and prevent such crises in the future.²¹ The Committee sponsored the formation of Parents United for Full Public School Funding ("Parents United")²² to monitor and address public school budgeting issues on an ongoing basis.²³ Marshaling extensive educational and budgetary expertise, Parents United produced reports comparing DC's per pupil school expenditures in fiscal years 1981 and 1982 unfavorably to those in adjacent Montgomery County, Maryland, and organized more than 1,000 parents of District school children around the city to advocate for resolution of the system's fiscal problems and against major cuts to the school board's proposed budgets by the Mayor and City Council.²⁴ [*172] In the face of Parent United's analyses, reporting, advocacy and mobilization of

¹⁶ Roderic V.O. Boggs, Introduction, [27 How. L.J. 1223-24 \(1984\)](#).

¹⁷ Sellers, *supra* note 11, at 1480.

¹⁸ *Id.* at 1480-81.

¹⁹ *Id.* at 1482.

²⁰ *Id.* at 1483-85.

²¹ *Id.* at 1486-87.

²² *Id.* at n. 37 (stating that the organization changed its name to Parents United for the District of Columbia Public Schools in 1985 to better reflect the breadth of its activities).

²³ Sellers, *supra* note 11, at 1487.

²⁴ See generally Wash. Law. Comm., Annual Report, 1982-83 (1983). Parents United for Full Public School Funding, Comparative Analysis of the Public School Budgets-Fiscal 1981 for the District of Columbia and Montgomery County, at 3 (1981). A report with similar findings, conducted in 1982, also included such details as the fact that D.C. spent half as much on its school libraries as Montgomery County. Parents United for Full Public School Funding, Comparative Analysis of the Public School Budgets-Fiscal 1982 for the District of Columbia and Montgomery County, at 4 (1982). The analyses were prepared by Mary Levy and others at the law firm of Rauh, Silard & Lichtman, and Foley, Lardner, Hollenbough & Jakobs. Having served as a key volunteer researcher for the Committee since 1980, Mary Levy would later join the Committee to head the Public

expertise and demonstrative voters over the next several years, the Mayor and Council restored millions of dollars to the final 1982, 1983 and 1984 school budgets ultimately approved by Congress, resulting in reinstatement of programs that had been reduced or eliminated by the 1980 budget cuts.²⁵

Parents United also assumed a more active front-line role on other issues of critical importance to the wellbeing of the DC public schools in the early 1980s. Parents United was a key participant in a broad coalition of civic and community groups that successfully opposed a DCPS-funded tuition tax credit initiative that had been placed on the 1981 ballot by the National Taxpayer's Union, for example.²⁶ With the firms of Beveridge & Diamond and Wald, Harkrader & Ross, Parents United issued a 1982 "Educational Impact Assessment" endorsing longer school days and an extended school year,²⁷ which the Washington Teachers' Union and the Board of Education then incorporated into a new contract. Later that year, Parents United made recommendations to an ad hoc committee formed pursuant to the new collective bargaining agreement to study the teacher assessment system. And in 1983, Parents United intervened in a successful lawsuit filed by the DC Board of Education to stop then-Mayor Marion Barry from unilaterally imposing part of the District's budget deficit on the school system.²⁸ Represented by Arent, Fox, Kintner, Plotkin & Kahn and Committee staff, Parents United was found to have standing to argue that the Mayor's action denied the public the opportunity to comment on the proposed budget in violation of the DC Home [*173] Rule Charter.²⁹ After a temporary restraining order was issued, a settlement was reached instituting several new programs, including pre-K, and mandating that all future education budgeting would take place through standard budgeting procedures rather than mere executive fiat.³⁰

The Committee also formed the Washington Parent Group Fund ("Parent Group Fund") in 1981 to help public school parents in the low-income Anacostia Education Project schools support educational enrichment programs not available as part of the regular school curriculum.³¹ A separate, tax-exempt entity, the Fund was "designed to encourage fund-raising at Project schools by matching funds raised from the private sector with money raised by the parents."³² The law firms of Wald, Harkrader & Ross and Arent, Fox, Kintner, Plotkin & Kahn, along with Price Waterhouse, formulated the Fund guidelines and procedures, and the Fund was governed by a board consisting of parents and representatives of the business community and the Committee.³³ The Fund facilitated investments of nearly \$ 50,000 in a range of programs in its first two years, and brought concerned D.C. public school parents together for discussions focused on educational issues at regular Fund meetings.³⁴ Business community financial support grew rapidly, Barbara Bush actively encouraged corporate and parental involvement in the Fund, and the initiative was recognized nationally by the Ford Foundation as a model of corporate support for public education.³⁵

INTRODUCTION

Education Reform Project from 1990 to 2009, would produce numerous reports on the school district and its finances, and would become perhaps the leading source for school budget and other data on D.C.P.S.

²⁵ Sellers, supra note 11, at 1488.

²⁶ Id. at 1488-89.

²⁷ Parents United, An Educational Impact Assessment of Contract Terms in Dispute Between the D.C. Board of Education and The Washington Teachers' Union, I (1982).

²⁸ Sellers, supra note 11, at n. 40.

²⁹ Id.

³⁰ Wash. Law. Comm., Annual Report, 1983-84, at 18 (1984).

³¹ Sellers, supra note 11, at 1486.

³² Id. at 1490.

³³ Id.

³⁴ Id. at 1491.

³⁵ Id. at 1492.

This Article--written as part of a series of pieces to commemorate the Committee's fiftieth anniversary--now seeks to chronicle the Committee's work empowering parents of color and of limited income in support of public educational equity, reform and student enrichment in the District from the early 1980's to the present day. Building on the early efforts of the Committee's Education Project attorneys, Parents United and the Parent Group Fund, the Committee has continued in the years since to play an important role - alongside empowered [*174] parents, private attorneys and the business community - in seeking to ensure that the needs of DC's school children are not short-changed amid the wide-ranging ravages of long-running urban poverty and segregation. In doing so, the Committee has strived to position itself as a partner - rather than an adversary - working with public school leaders, staff and communities toward this end, and challenging and drawing attention to impediments placed in the way of achieving this goal in deference to less noble or worthy competing interests.

Combining active hands-on support and guidance for local children, parent organizations and schools with city-wide policy research and activism and strategic public interest litigation, the Committee has spearheaded a unique approach over the last 35 years. ³⁶ In pursuit of adequately resourced high-quality public education for low-income children in the District, the Committee and related entities have marshaled a range of seemingly disconnected change agents and pursued divergent but reinforcing tracks toward improvement of the D.C. Public School system (hereinafter "DCPS"). Fulfilling the Constitutional guarantee of equal and adequate public education for the District's economically disadvantaged and non-white students has proven a confoundingly elusive goal, however. ³⁷ As Parents United documented in a comprehensive report published fifty years after *Brown and Bolling*, ³⁸ frustratingly enduring challenges remain. This Article seeks, therefore, both to identify and describe the distinctive value the Washington Lawyers' Committee for Civil Rights and Urban Affairs has been able to bring to the struggle for quality and equality in DC public school education over the years, and to anticipate areas of ongoing and arising concern in which Committee vigilance and leadership can have an important impact into the future.

Part II of this Article will document the Committee's unwavering focus, as general counsel of Parents United and in its own right, on empowering parents of D.C.'s public school children in pursuit of adequate government funding for DCPS and to advocate for educational change, reform and improvement within the school system since the early days of the Education Project and the budget battles that birthed Parents United in the early 1980s. We will review the continuing financial woes of the District and its public schools through the 1980s, [*175] and the Committee's involvement in challenging leadership choices that failed to prioritize the public school children of the Nation's Capital. We will chronicle Committee and Parents United recommendations and activities regarding teacher recruitment, retention and evaluation, the condition of the schools themselves, and the health and safety of students attending them. We will look at the impact of the Federal takeover of District governance in the mid-90s, and Committee involvement with and critique of the work of the Control Board and appointed school leadership in that time frame. Then we will move forward to look at the state of DCPS in the first decade and a half of the new century, including Committee-led efforts in the early 2000's to bring school grounds and athletic facilities up to acceptable standards, Committee and Parents United condemnation of the continuing failures of the system, and their contributions to the transition of control of the schools to the District's Mayor in 2006.

In Part III, we will take a look at the expansion and evolution over time of the private/public school partnership program that began with the Committee's recognition that bringing the resources of private firm lawyers and businesses to bear on public schools in the city through "matching" efforts could broaden and deepen academic opportunities while further empowering local parents. First embodied in the Anacostia parent/lawyer partnerships and the Parent Group Fund of the early 1980s, which the Committee formed and for which it served as general counsel, the private/public partnership concept has expanded exponentially to provide an ever-widening array of enrichment opportunities for ever-growing numbers of D.C. school students. Public school students across the

³⁶ Sellers, *supra* note 11, at 1476-78.

³⁷ [Brown, 347 U.S. at 495](#); [Bolling, 347 U.S. at 498](#).

³⁸ Wash. Law. Comm., *Separate and Unequal: The State of the District of Columbia Public Schools Fifty Years After Brown and Bolling* (2005).

District now regularly receive individualized hands-on guidance and access to otherwise inaccessible enrichment opportunities with the help of law firm volunteers; public school communities benefit from the support and involvement of law firm lawyers and employees in school activities and events; families of public school children are encouraged and supported through law firm participation in parent organizations; city-wide challenge programs sponsored by firms bring out the best in the District's students; and the emerging Committee-sponsored Parent Empowerment Program offers matching funds for local parent-teacher inspired programs.

Unfortunately, even as we enter the sixth decade of both the Committee's existence and the District's purportedly integrated public school system, the District still struggles to provide a quality public education for all of the District's children, regardless of race or socio- [*176] economic status. So, as we will discuss in Part V, the Committee continues to focus on the empowerment of parents and on building a city-wide network of advocacy and support; expanding on its historic themes of partnerships, analysis, advocacy and empowerment as the best ways to support and improve educational opportunity for school children in the District. In addition to linking DCPS parents across racial and socio-economic lines and promoting and coordinating partnerships among school and law/business communities, the Committee continues to work to expand the partnership program and to reinforce important connections among participating and prospective schools and firms and businesses and community partners, and to offer funding partnership opportunities to support academic enrichment programs at schools.

We will look at how the Committee's expanding connections among parent teacher groups has enabled the Committee to introduce more parent and teacher leaders to the District-wide Coalition for DC Public Schools and Communities ("C4DC"). The Committee's Public Education Project has also hosted forums to raise awareness and stimulate discussion on issues and concerns facing the broader DCPS community. And the Committee's efforts to understand, explain and respond to the challenges that the uncoordinated decade-long expansion in D.C. of the new "dual"--traditional and charter--school system has presented to the goal of quality educational opportunity for all students--and particularly for students of color residing in predominantly low-income neighborhoods--will be considered. This is just one example of how the Education Project has been returning to litigation and policy analysis and advocacy in D.C. over the past few years as a vehicle for improving racial equity and eliminating the harmful effects of discrimination and poverty.

We will conclude with a summary of the hurdles the school district is likely to be facing in the coming years, and a blueprint for Committee involvement that may be effective, if adequately resourced, in responding to the evolving challenges based on the organization's historically-tested, and proven, broad-based strategy for achieving change.

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I. THE COMMITTEE'S EARLY LEADERSHIP IN PUSHING FOR "FULL" DCPS FUNDING LED TO EXPANDED ROLES AND INFLUENCE FOR THE COMMITTEE, PARENTS UNITED AND ITS SCHOOL PARENT MEMBERS ON SYSTEM-WIDE FINANCIAL AND OPERATIONAL ISSUES

The Washington Lawyers' Committee has spearheaded extensive efforts to promote adequate school funding and quality student-focused school operations since its first foray into school finances through and in support of Parents United at the time of the school budget battles of the early and mid-1980s. ³⁹ In the years that followed, Parents United developed into a flagship organization for securing resources for schools in the District: Its overall role growing to include marshalling data and evaluating school system operations, empowering school parents and administrators with factual information and documentation, and demanding and monitoring the system's response to identified needs. ⁴⁰ Over the years, Parents United, and the Committee's Mary Levy, became the District's most authoritative source of information, analysis, and advocacy regarding school system-wide matters. ⁴¹ In addition to working to secure adequate system-wide annual budget funding, Parents United, the Committee and the public

³⁹ Sellers, *supra* note 11, at 1488-89.

⁴⁰ *Id.* at 1490-91.

⁴¹ Wash. Law. Comm., Annual Report, 1993, at 12 (1994).

school parents they helped "arm" and empower took it upon themselves to address issues of teacher quality and compensation, building and facilities conditions, and staffing adequacy; all concerns that were highlighted during those early '80s budget crises that spawned Parents United in the first place.

A. Illuminating Comparative Underfunding and Reporting Failing Grades

Parents United's comparisons of DCPS versus Montgomery County school district spending for the 1981-1982 fiscal year identified a significant variation between the two similarly-sized systems in budgeting for and hiring of teachers. DCPS employed 350 to 450 fewer teachers than Montgomery County.⁴² In 1982, the system had one seventh the number of classroom aides (86 in DCPS versus 601 in [*178] Montgomery County).⁴³ Spending for instructional support staff services such as attendance officers, social workers, psychologists, curriculum development, and special education testing, constituted about five percent of the District's budget, while consuming nine percent of that of Montgomery County.⁴⁴ Administrative and central office support also received about 25% less funding in the District system, and DCPS employed significantly fewer staffers.⁴⁵ DCPS spent half as much on libraries as Montgomery County, and \$ 9 million more on custodial expenses, utilities, maintenance, and repairs, likely due to older school buildings and vandalism.⁴⁶

Parents United's focus on teacher quality began with recommendations made in connection with the 1982 renegotiation of the teachers' union collective bargaining agreement and the ad hoc committee formed pursuant to the renegotiated contract to propose an updated teacher evaluation system.⁴⁷ Parents United recommended an increase in teacher pay overall, creation of a system to advance pay scales for high quality teaching, development of a reward system for teachers who minimized sick leave, an extension of the school day, smaller class sizes, and teacher relief from non-teaching duties.⁴⁸ Recognizing that "quality schooling relied on quality teaching," the report to the ad hoc committee also set forth its recommendations for the establishment of "an objective, reliable and valid teacher evaluation system."⁴⁹

Keeping the focus on improving schools, two Parents United representatives served on a DCPS Superintendent's Task Force on Teacher Initiatives that released a report in 1984 making seventeen recommendations for ways DCPS could achieve educational excellence based on national studies and research.⁵⁰ Many of the recommendations highlighted DCPS's financial issues, including the need [*179] for higher teacher salaries⁵¹ and funding for critical school building maintenance and improvements.⁵² This analysis was followed by a Parents

⁴² Parents United, Comparative Analysis of the Public School Budgets - Fiscal 1982 for the District of Columbia and Montgomery County 3 (1981).

⁴³ Id. at 4.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Parents United, An Educational Impact Assessment of Contract Terms in Dispute between the D.C. Board of Education and the Washington Teachers' Union, at Summary (1982).

⁴⁸ Id.

⁴⁹ Parents United, Parents United Recommendations for the Teacher Evaluation System 1 (1982).

⁵⁰ Parents United, Parents United's Recommendations for Educational Excellence in the D.C. Public Schools: The Implications of National Studies For The FY 1985 D.C. Public School Budget, at Introduction (1984).

⁵¹ Id. at 7. This call for increased salaries was repeated in a later report, which showed that salaries were chronically under market compared to neighboring areas - sometimes by more than 20%. See Wash. Law. Comm., The Recruitment and Retention of Excellent Teachers for the District of Columbia Public Schools 15 (1987).

⁵² [Parents United, supra](#) note 50, at 14-15.

United-instigated and authored 1985 report titled "Business and Civic Leaders Study of the Fiscal Needs of the District of Columbia Public Schools." ⁵³ Mary Levy, then of the law firm of Ruah, Lichtman, Levy & Turner, was the principal drafter of the report, which compared resources available to typical elementary and secondary schools in DC to those in Fairfax and Montgomery Counties. ⁵⁴

The results of the comparisons were stark: DC lagged in nearly every measure, generally due to underfunding. ⁵⁵ For example, DCPS spent nearly half as much per pupil as did Montgomery County schools on textbooks, supplies, and materials. ⁵⁶ The condition of DC public school buildings "demoralized teachers and students; they are dim, drab, uncomfortable, and occasionally dangerous," ⁵⁷ and would "require an extra-ordinary one time investment of capital funds" to bring them to an acceptable standard. ⁵⁸ The report also recognized the dire need for support staff in DCPS schools, calling for "substantially greater paraprofessional and secretarial support" so principals could manage the significant demands of running high-needs schools instead of acting as receptionists and processing paperwork, ⁵⁹ and specialty staff, such as librarians and counselors, could be relieved from inappropriate administrative or manual workloads. ⁶⁰ As a result of this report and advocacy efforts by Squire, Sanders & Dempsey; Pierson, Ball & Dowd; Ruah, Lichtman, Levy & Turner; and Covington & Burling, funding increases for textbooks and supplies, the expansion of Pre-K, and major improvements to buildings and grounds were included in DCPS's 1986 fiscal year budget. ⁶¹

[*180] In 1986, Parents United issued a report based on responses from 110 DCPS schools to a questionnaire regarding building conditions and classroom resources. ⁶² The survey confirmed that classes skewed large; offices were understaffed; libraries had small collections and many lacked full-time librarians; art and music instruction was limited or non-existent at some schools; many schools lacked nurses; and counselors had extremely high student-to counselor ratios. ⁶³ Following a 3,000 participant Parents United "balloon launch" for full public school funding at the District Building and the testimony of more than 50 Parents United-coordinated witnesses in a 10-hour City Council meeting, a substantially full budget, including \$ 8 million for building repairs, was adopted for the 1987 fiscal year. ⁶⁴

Efforts by the Committee and Parents United to improve the quality of the public education experience in the District continued in the late 80s and early 90s. ⁶⁵ In early 1987, the law firm of Lichtman, Trister & Turner helped Parents United prepare its first public "Report Card for the Mayor," which emphasized the inadequacy of resources available

⁵³ Parents United, Business and Civic Leaders Study of the Fiscal Needs of the District of Columbia Public Schools 1 (1985).

⁵⁴ Wash. Law. Comm., Annual Report, 1985-86, at 16 (1986).

⁵⁵ [Parents United, supra](#) note 53, at 5.

⁵⁶ *Id.* at 39.

⁵⁷ *Id.* at 4.

⁵⁸ *Id.*

⁵⁹ *Id.* at 5.

⁶⁰ *Id.*

⁶¹ Wash. Law. Comm., Annual Report, 1984-85, at 16 (1985).

⁶² Report on file with author.

⁶³ Report on file with author.

⁶⁴ Parents United, 10th Anniversary Gala Commemorative Program 11 (1990).

⁶⁵ See *id.* at 12-14. Delabian Rice-Thurston served as Executive Director of Parents United from 1984-2000. She came to Parents United after working as city planner for D.C. Rice-Thurston's husband was a DCPS teacher and they had two young children who attended DCPS schools.

to schools in DC through multiple failing grades.⁶⁶ Publicity generated by the report card, along with advocacy by Parents United, spurred budgetary adjustments, including provisions for reductions in class sizes in the lower elementary grades and secondary level English and Math classes,⁶⁷ and the Mayor's agreement to fund teacher pay increases as they were negotiated.⁶⁸ Meanwhile, a Parents United follow-up survey of school building conditions released in June 1987 revealed that little progress had been made on urgent, major repairs.⁶⁹

In September 1987, the Committee published a report outlining recommendations for attracting and retaining high quality teachers to the District.⁷⁰ The Committee identified four major areas for improvement: (1) more competitive teacher salaries, (2) facilities improvement [***181**] or compensation for poor working conditions, (3) waiver of the requirement that teachers live in the District, and (4) reestablishment of teacher testing as part of the hiring process.⁷¹ The fact that DCPS salaries were low compared to "virtually all the surrounding suburban jurisdictions," presented a "major obstacle to retaining new teachers."⁷² Referencing findings from Parents United's 1986 report on facilities, the Committee cited the difficulty recruiting teachers given the dilapidated school buildings, old or broken equipment and lab facilities, outdated or missing text books, low-achieving pupils, and the location of schools in high-crime areas.⁷³ The residency requirement created additional hiring problems because the District had a small supply of housing that was both of decent quality and affordable for teachers' salaries. And the lack of English or subject-matter proficiency requirements or good cause rejection were identified as major shortcomings in the teacher hiring process.⁷⁴

B. Offering Promise and Reform but Expressing Alarm(s)

In an effort to bring some certainty to the ambiguities and vagaries of the annual multi-stepped (from School Board to Mayor to Council to Congress) budget approval process, the law firm of Hogan & Hartson had begun working with the Committee in the mid-80s on a citizen initiative to place funding for public education in DC as "of the highest priority," and ensure that the Board of Education, the Mayor, and the DC Council would hold annual public hearings regarding the needs and priorities of local schools.⁷⁵ Through the leadership of the Committee, over 20,000 sponsoring signatures were collected,⁷⁶ key civil rights organizations (such as the Urban League) and community leaders voiced their public support, and private lawyers took to the streets to encourage voting.⁷⁷ The

⁶⁶ Id. at 12.

⁶⁷ Wash. Law. Comm., Annual Report, 1987, at 14 (1987).

⁶⁸ [Parents United](#), *supra* note 64, at 12.

⁶⁹ Id.

⁷⁰ Wash. Law. Comm., The Recruitment and Retention of Excellent Teachers for the District of Columbia Public Schools, at Summary (1987).

⁷¹ Id.

⁷² Id.

⁷³ Id.

⁷⁴ Id.

⁷⁵ Wash. Law. Comm., *supra* note 54, at 15.

⁷⁶ Id. Iris Toyer, who later served as Director of the Committee's Public School Legal Services Project from 1994-2009, was a sponsor of the Initiative. Iris began her involvement with Committee in 1980 as PTA president at Stanton Elementary School, one of the original schools in the PELSP. She went on to become a Co-Chair of Parents United, and was elected to the D.C. Board of Education in 1990 and served in that role until 1992. While serving in these positions she secured a BA degree from University of the District of Columbia in 1983 and a law degree from Georgetown Law School in 1987.

⁷⁷ Id.

DC Public School [*182] Support Initiative, also known as Initiative 25,⁷⁸ which also required that specific criteria (such as teacher salaries and building conditions) be considered in funding decisions, ultimately became law with the approval of 77% of DC voters on November 3, 1987.⁷⁹ The following month, Parents United issued a second "Educational Impact Assessment" of the contract terms at issue in negotiations between the Board of Education and the Washington Teachers Union, urging an increase of teacher salaries and work day to suburban district levels.⁸⁰

Led by Parents United, crowds of parents and other activists packed the FY 1989 school budget hearings held by the Mayor and the City Council pursuant to Initiative 25 in December 1987 and March 1988.⁸¹ A "Citizens Committee on the 1988 and 1989 Budgets" convened in May of 1988 by Parents United, and assisted by attorneys from Arent, Fox, Kintner, Plotkin & Kahn and Laxalt, Washington, Perito & Debuc,⁸² concluded that the school system faced a deficit due to inadequate funding of pay increases.⁸³ In late 1988, Parents United members, represented by Morrison & Foerster, intervened in the Board of Education's suit against the Mayor to compel him to authorize supplemental funding in order to honor his written promises to fund DC teacher pay increases.⁸⁴

Keeping the pressure on, Parents United's "Witness for D.C. Public School Funding" initiative brought parents and others from several public schools to the District Building every weekday for six weeks in early 1989 to support full funding of the Board of Education's requested FY 1990 budget.⁸⁵ Meanwhile, a "Second Report of the Citizens Committee on the 1988 and 1989 Budgets," issued by Parents United in January 1989, again with the help of the Arent Fox and Laxalt Washington firms, reaffirmed that additional funding was needed to avert furloughs of school system employees.⁸⁶ In March, the Mayor settled the supplemental funding lawsuit with the Board, agreeing to absorb the funding deficit, add funds to the FY 1989 budget, and support the school system in seeking \$ 20 million additional [*183] funding from Congress for FY 1990.⁸⁷ Parents United responded by initiating its "Ounce of Prevention" campaign for \$ 20 million in Congressional funding, taking Congressional staff members to tour the dismal athletic fields at McKinley High School.⁸⁸

With several Parents United members, the D.C. Committee on Public Education (COPE), a task force made up of business and civic leaders, issued its report in June of 1989.⁸⁹ Our Children, Our Future proposed an array of solutions to the deficiencies of public schooling in the District that were consistent with both earlier Parents United pleas and then-current educational philosophies, and were purportedly possible to implement within the city's

⁷⁸ Wash. Law. Comm., Annual Report, 1988 (20th Anniversary Edition), at 12 (1988).

⁷⁹ Wash. Law. Comm., *supra* note 67, at 14.

⁸⁰ [Parents United](#), *supra* note 64, at 12.

⁸¹ Wash. Law. Comm., *supra* note 78, at 12.

⁸² *Id.*; Wash. Law. Comm., Annual Report, 1989, at 27 (1989).

⁸³ Wash. Law. Comm., *supra* note 78, at 12.

⁸⁴ *Id.*

⁸⁵ [Parents United](#), *supra* note 64, at 13.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Wash. Law. Comm., Annual Report, 1990-91, at 13 (1991). A variety of Congressional advocacy efforts led by Akin, Gump, Strauss, Hauer & Feld with the assistance of Parents United resulted in extra funding for after-school enrichment programs for fiscal year 1990. Wash. Law. Comm., Annual Report, 1989, at 26 (1989).

limited financial means. ⁹⁰ In December of that year, the school board, with the support of COPE and Parents United, submitted a budget request for FY 1991 of \$ 600 million, with 95% of the requested increase representing costs of implementation of the COPE recommendations. ⁹¹ Following another edition of Parents United's "Citizen Witness for DC Public School Funding" event in early 1990, the Mayor recommended full funding, and the Council adopted a budget of \$ 526 million, plus \$ 20 million for building repairs and \$ 36 million promised for teacher pay increases. ⁹² The budget included funding to continue smaller class sizes, additional classroom aides, school supplies and equipment, athletic trainers and other curriculum and program improvements. ⁹³

Battles over school funding continued into the early 90s, however, with Arent, Fox, Kintner, Plotkin & Kahn representing Parents United, as the school system sued when Mayor Barry again tried to reclaim millions of dollars of school funding. ⁹⁴As he had years earlier, the mayor tried to accomplish this by implementing an executive order to manage a city budget shortfall. ⁹⁵ In September of 1990, the appellate court ruled in favor of the school system and Parents [*184] United, which intervened at the appellate level, preserving funding for school supplies, textbooks, and other basic educational necessities. ⁹⁶

Parents United also spearheaded a major effort in the late 80s and early 90s to assure that schools were safe for DCPS students. ⁹⁷ With the Lawyers Committee as counsel, Parents United sued the District in 1989 for enforcement of the District of Columbia Public School Nurse Assignment Act, ⁹⁸ which required the assignment of a registered nurse to each elementary and secondary school for a minimum amount of time each week. ⁹⁹ In settlement, the District also agreed to provide a nurse or certified athletic trainer at specified DCPS athletic events. While the District allotted funds for the hiring of fourteen athletic trainers, it could not cover every athletic event and hired only half of the number of nurses it would need to comply with the Act. ¹⁰⁰ The court granted a preliminary injunction in October of 1989 for the enforcement of the medical supervision of athletic events, stating that having unsupervised events "unequivocally" risked irreparable harm or injury to student-athletes. ¹⁰¹ Summary judgment was granted in favor of Parents United on August 3, 1990 for enforcement of both provisions, resulting in a permanent injunction for the provision of nurses and athletic trainers. ¹⁰² The District was held in contempt twice before fully complying in March of 1992. ¹⁰³

⁹⁰ Id.

⁹¹ [Parents United, supra](#) note 64, at 13.

⁹² Id. at 14.

⁹³ Id.

⁹⁴ Wash. Law. Comm., Annual Report, 1990-91, *supra* note 89, at 13.

⁹⁵ Id.

⁹⁶ Id.; [Barry v. Bush, 581 A.2d 308-09 \(D.C. 1990\)](#); Parents United was able to win this suit because of work done earlier in [Evans v. Washington, 459 F. Supp. 483 \(D.D.C. 1778\)](#), which as part of the settlement stipulated that the mayor could not unilaterally defund schools. The mayor violated the settlement order by his action and thus was enjoined by the court. Id. at 310-11.

⁹⁷ Wash. Law. Comm., Annual Report, 1989-90. Parents United v. Dist. of Columbia, No. 89-8377 (D.C. Super. Ct. 1989).

⁹⁸ [Kelly v. Parents United for the Dist. Of Columbia Pub. Sch., 641 A.2d 159, 160 \(D.C. 1994\)](#).

⁹⁹ [Id. at 160-61](#).

¹⁰⁰ Id.

¹⁰¹ [Id. at 162](#).

¹⁰² Id.

In a massive December 1989 "Special Report on DC Public School Buildings and Grounds," Parents United and Steptoe & Johnson documented intolerable and unsafe conditions at DCPS schools.¹⁰⁴ A report on fire and building code violations in school buildings was released by Parents United in April of 1990.¹⁰⁵ Because maintenance of school buildings and school grounds had been an easy **[*185]** target for budget cutting,¹⁰⁶ DCPS facilities suffered from years of neglect: 75% of schools in the District had roofs that leaked, and there were thousands of fire code violations across all schools, many of which were life-threatening.¹⁰⁷ These facts were publicized through Parents United's organized "Witness for DC Public School Funding" school visits, press conferences, articles in the Washington Post, and television and radio spots.¹⁰⁸ Ultimately, this activism led to major increases in capital funding, including \$ 10 million dollars in a special capital appropriation from the District of Columbia, and \$ 12 million from Congress.¹⁰⁹

In 1993, Parents United worked with Hogan & Hartson and Debevoise & Plimpton in renewed advocacy efforts to raise salaries for the woefully underpaid teachers in DCPS.¹¹⁰ Parents United documented teachers' low morale and the fact that good teachers had left to work at higher paid schools in the suburbs.¹¹¹ As a result of Parents United's campaign, DCPS Superintendent Franklin Smith granted the first teacher salary increase in three years.¹¹²

Steptoe & Johnson brought a lawsuit on behalf of Parents United to force DCPS to conduct more fire inspections of schools and fix the ongoing fire code hazards.¹¹³ District Judge Kaye Christian issued an injunction in 1994 ordering the District to repair the extant violations, 1,807 of which were life-threatening,¹¹⁴ and warned DCPS that she would not allow affected schools to open at the start of the next school year if the repairs were not made over the summer.¹¹⁵ In the face of slow progress, the opening of DCPS schools was ultimately delayed for three days in 1994.¹¹⁶ While the delay was short-lived, it was a **[*186]** highly publicized failure of the system that offered newly re-elected Mayor Barry an opportunity to wrest control of the operations of DCPS from the school board,

¹⁰³ [Id. at 163.](#)

¹⁰⁴ Wash. Law. Comm., *Making a Difference: Reflection on Six Cases 22* (1993).

¹⁰⁵ [Parents United, supra](#) note 64, at 14.

¹⁰⁶ Wash. Law. Comm., *supra* note 104, at 23.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* Total repair needs had been estimated at \$ 500 million. Wash. Law. Comm., 1 Update 7 (1993).

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Wash. Law. Comm., *supra* note 104, at 23.

¹¹³ *Parents United v. Dist. of Columbia*, No. 92-03478 (D.C. Super. Ct. 1994); see also 2 Wash. Law. Comm. Update 1, 5 (1994); Wash. Law. Comm., *Annual Report, 1994*, at 40 (1994).

¹¹⁴ See *Parents United*, No. 92-03478, at 261; *Fire Code Violations May Delay Opening of Washington Schools*, N.Y. Times (Sept. 4, 1994), <https://www.nytimes.com/1994/09/04/us/fire-code-violations-may-delay-opening-of-washington-schools.html>.

¹¹⁵ Sari Horwitz, *Judge Takes D.C. to School*, Wash. Post (Sept. 2, 1994), https://www.washingtonpost.com/archive/local/1994/09/02/judge-takes-dc-to-school/6a52e88b-4490-42d8-a895-d669a5a8dd50/?utm_term=.bbf997552cfc.

¹¹⁶ *Id.*

which was the first elected representative body D.C. residents had ever known. At the same time, Parents United lamented the perpetually poor achievement levels of DCPS schools.

C. Ceding to Federal Control While Spotlighting Unlevel Fields

Emboldened by Republican mid-term election wins in late 1994, and given ready justifications such as a city-wide financial crisis and indications of mismanagement like delayed school openings, Congress assumed significant control of District governance in 1995. A five-member control board was appointed by the President to assume fiscal oversight of the District.¹¹⁷ Although a dire and controversial step, federal involvement did spur coordination between city government and Congress to create a "comprehensive bold plan for radical reform," in the words of two Representatives.¹¹⁸ Part of this plan was to improve management and budgeting practices, and introduce formula-based funding.¹¹⁹ Mary Levy, the Director of the Committee's Education Project and widely regarded as the most knowledgeable analyst of school finance in the District, was heavily involved in this process.¹²⁰ Her expertise was critical to working out the new plan.¹²¹ Hogan & Hartson also partnered with Parents United to analyze school budgets and spending, and to advise schools on not only preventing disruptions caused by the financial crisis, but also cuts to the budget over which Congress had assumed control.¹²²

On April 27, 1996, President Clinton signed the D.C. Appropriations Act, which contained many elements of the reform plan.¹²³ Among these were budgetary and management improvements, including monthly and annual budget and finance reporting, revision and publication of detailed budget plans to match the money the city actually **[*187]** had (as opposed to what it asked for), a zero-based budget, and published budgets for each school.¹²⁴ These transparency measures were paired with a formula for D.C. government funding of schools on a per-student basis.¹²⁵ Hogan & Hartson helped draft some provisions of the legislation.¹²⁶ Unfortunately, the bill did not arrive in time to prevent a \$ 54 million cut to education funding for fiscal year 1996-97, which led to continued textbook and supply shortages and large class sizes, many of which exceeded thirty students per classroom.¹²⁷

The fire code litigation continued for eight years, and at times it led to the closure of multiple schools for failure to comply.¹²⁸ When schools closed, Parents United pushed for an infusion of capital funding and the creation of an

¹¹⁷ Wash. Law. Comm., 1 Update 3-4 (1995). A major change would come to the structure of governance for D.C. Public Schools again in 2007, when legislation passed through Congress and approved by President Bush amended the D.C. Home Rule Charter to make D.C. Public Schools governed by the Mayor and D.C. Council rather than the Board of Education. Wash. Law. Comm. 13 Update 6 (2007).

¹¹⁸ Wash. Law. Comm., 1 Update 3-4 (1995).

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Wash. Law. Comm., Annual Report, 1995, at 36 (1995).

¹²³ District of Columbia Appropriations Act, Pub. L. No. 04-194, **110 Stat. 2356 (1997)**.

¹²⁴ ***Id.* at 2370-71.**

¹²⁵ Parents United, D.C. Public School Funding: Myth & Reality 11 (2003).

¹²⁶ Wash. Law. Comm., 2 Update 8 (1996).

¹²⁷ *Id.* at 9.

¹²⁸ Wash. Lawyers' Comm., Annual Report, 1996, at 30 (1996). For example, approximately 78,000 students were forced to start school three weeks late in the 1997-98 school year because the roof installation plans did not meet safety requirements. 3 Wash. Law. Comm. Update 3 (1997); [Parents United v. Dist. of Columbia, 699 A.2d 1121, 1123 \(D.C. 1997\)](#).

independent facilities authority to raise funding and handle capital improvement issues.¹²⁹ These efforts, combined with the lawsuit, led to twice as much construction funding being allocated to the schools in 1997 than in prior years, but neither the D.C. City Council, Control Board, nor Congress were willing to make a firm commitment for capital improvements to fully repair schools to a level comparable with other districts.¹³⁰ A settlement reached in November of 1997 committed the District to funding a renovation and repair plan, holding yearly inspections, and appointing an independent advisor to monitor compliance.¹³¹ The work of Parents United and the Committee, in part through the litigation efforts over school fire code violations, resulted in an FY 1999 budget that included funding for modernizing or replacing buildings for the first time ever. While insufficient to accomplish the scale of rebuilding needed, 100 million dollars were allocated for capital improvements to schools, a major increase from the twenty million dollars per year that had been allocated to this area before the lawsuit.¹³²

[*188] As part of the November 1997 capital improvements settlement, 27.5% of proceeds from each D.C. general obligation bond issue were to go to public schools for major repair and renovation projects.¹³³ When a 1999 bond issue shorted schools by close to \$ 11 million, Steptoe & Johnson stepped in to address the issue on behalf of the Committee by threatening legal action.¹³⁴ In response, the District adjusted its fiscal year 2000 and 2001 capital budgets such that schools would receive 30% of all bond funding in 2000 and 2001.¹³⁵ Steptoe also took steps to ensure transparency with respect to funding and other data.¹³⁶ In early 2001, the Board of Education approved the Facility Master Plan, which would modernize or replace DCPS schools in batches of ten over the following ten to fifteen years.¹³⁷ Implementation of the Master Plan would require \$ 2 billion, a stark contrast to the annual average of \$ 18 million spent on facilities between 1990 and 1996.¹³⁸

Under the Control Board reform plan, the District was required to allocate school funds pursuant to a uniform per-pupil calculation, with limited variations for certain grade levels, disabled students, and students below minimum literacy levels.¹³⁹ Mary Levy and Committee staff with extensive experience in school finance provided technical assistance in writing the formula,¹⁴⁰ including drafting the legislation that would eventually become the Uniform Per Student Funding Formula enacted by the D.C. Council.¹⁴¹ Sidley & Austin and the Committee monitored compliance with the formula and other budget appropriations.¹⁴² In later years, when tweaks to the formula

¹²⁹ Wash. Law. Comm., Annual Report, 1996, *supra* note 128, at 30.

¹³⁰ Wash. Law. Comm., 3 Update 10-11 (1997).

¹³¹ Wash. Law. Comm., Annual Report, 1997, at 29 (1997).

¹³² Wash. Law. Comm., Annual Report, 1998, at 15, 32 (1998).

¹³³ Wash. Law. Comm., Annual Report, 1999, at 27 (1999).

¹³⁴ *Id.*

¹³⁵ Wash. Law. Comm., Annual Report, 2000, at 36 (2000).

¹³⁶ *Id.*

¹³⁷ Parents United, *Leaving Children Behind: The Underfunding of D.C. Public Schools Building Repair and Capital Budget Needs 4-5* (2003).

¹³⁸ *Id.* at 3.

¹³⁹ See Wash. Law. Comm., *supra* note 130, at 30.

¹⁴⁰ *Id.*

¹⁴¹ Wash. Law. Comm., Annual Report, 1998, at 15 (1998).

¹⁴² Wash. Law. Comm., Annual Report, 1999, at 27 (1999).

became necessary to provide adequate general and special education for all students, the Committee worked with the D.C. State Education Office to make recommendations to the Mayor and the D.C. Council. ¹⁴³

[*189] In 2001, a report entitled "Unlevel Playing Fields" highlighting the disparities in funding for athletic programs between the District and suburban public schools in Montgomery and Fairfax Counties was released by the Committee, Parents United and Kirkland & Ellis. ¹⁴⁴ Noting that DCPS athletics looked to be in good condition at the time of the 1989 court victory in which DCPS was ordered to hire medical staff for athletic competitions, the report explained how drastically that changed during the 1990s. The report demonstrated that student athletes and physical education programs in D.C. were, by the start of the next decade, once again severely underfunded. ¹⁴⁵

Funding for the DCPS athletics department had been cut by one third since 1992, ¹⁴⁶ and DCPS students spent nearly one-half as much as Fairfax and Montgomery counties on all extracurricular activities on a per-student basis. ¹⁴⁷ The improvements that had been made to facilities (such as gyms, locker rooms, fields, and weight rooms) in the early 1990s largely deteriorated, and some were still "dilapidated and dangerous." ¹⁴⁸ Coaches were receiving stipends as little as half of what peers in similar urban districts received. ¹⁴⁹ The most striking feature of the 2001 report, however, was the "Visual Comparison" section. DCPS high school facilities were directly compared to neighboring district schools' through photographs, and the differences were stark. The authors called for an additional \$ 1 million in funding for athletics on an annual basis, ¹⁵⁰ and the severity of the comparison stirred regional interest and led to a foundation being set up to support DCPS athletics - the Level Playing Fields Foundation - for which Akin, Gump, Strauss, Hauer & Feld provided legal support. ¹⁵¹

D. Highlighting Long-Festering Problems Sent Back to the Drawing Board

When Congress returned control of D.C.'s schools to the District Board of Education in 2001, Parents United, the Committee, and Sidley Austin analyzed the DCPS budget and expenditure reports to **[*190]** ascertain why an \$ 80 million deficit was projected for 2002. ¹⁵² The report that was produced, "The Blame Game: Searching for Financially Accountable Schools in the District of Columbia," explained how the 1996 Appropriations Act (which made the chief financial officers of every executive agency of the District, including the Board of Education, directly responsible only to the District's Chief Financial Officer) had wreaked havoc on financial reporting in the District. ¹⁵³ It extended the kind of finger-pointing that had long been evident in the District among the Mayor, the Council and the Board of Education when it came to public education to yet another oversight official, reinforcing the already "fractured and irrational separation of powers that de-links the substantive policymaking authority and operations

¹⁴³ Wash. Law. Comm., Annual Report, 2001, at 13 (2001).

¹⁴⁴ Id. at 13, 37.

¹⁴⁵ Id.

¹⁴⁶ Parents United, Unlevel Playing Fields: A Comparative Study of Athletic Programs, Facilities and Funding in the District of Columbia and Suburban Public School Districts, DC Watch (June 2001), <http://www.dccwatch.com/parents/pu0106.htm>.

¹⁴⁷ Id.

¹⁴⁸ Id.

¹⁴⁹ Id.

¹⁵⁰ Id.

¹⁵¹ Wash. Law. Comm., supra note 143, at 37.

¹⁵² Id.

¹⁵³ Parents United, The Blame Game: Searching for Financially Accountable Schools in the District of Columbia 3-4 (2001).

from the budgetary decision-making authority governing DCPS" and "continues to fail its students." ¹⁵⁴ The 2001 report recommended periodic public review sessions and the onboarding of an external auditor to ensure accountability. ¹⁵⁵

Meanwhile, the initial Unlevel Playing Fields report was followed up by three more, all of which continued to detail the abysmal and deteriorating state of funding for athletics and athletic facilities in the District. ¹⁵⁶ The DCPS athletics budget was just 60% of what it had been 10 years earlier by the 2002 update report. ¹⁵⁷ But there was some positive movement: coaching stipends had been increased by 10% since an analysis the prior year, though they remained lower than in neighboring districts. ¹⁵⁸ A capital project--the construction of a stadium by Anacostia High School--had been announced, and student participation remained steady. ¹⁵⁹ Private sector donations provided some repairs and facilities improvements, and Parents United and the Committee created the Level Playing Fields Foundation for [*191] outside support. The subsequent 2003 update described a proposed budget increase of over \$ 1 million. ¹⁶⁰

Two years into the Master Plan, however, threatened budget cuts prompted Parents United to publish *Leaving Children Behind: The Underfunding of D.C. Public Schools Building Repair and Capital Budget Needs* in July 2003. The report outlined how the proposed budget fell short for FY 2004 through FY 2009. To emphasize the vital importance of the repair work called for in the Master Plan, Parents United included photographs of some of the "less dire" schools that were not even slated for work in the first three rounds of construction. ¹⁶¹ The photos showed large holes in ceilings, walls, and floors throughout even these lower priority school buildings. ¹⁶² Plumbing was exposed, bathroom stalls did not close, and sinks and toilets were inoperable. Walls were unpainted and windows broken. Staircases were missing tile, leaving just wooden subfloor, and playgrounds were bare. ¹⁶³ This report was promoted through a press conference and a tour of schools for Congressional staff. ¹⁶⁴ Patton Boggs led efforts to combat budget cuts to the athletic trainer program and also covered school budget developments on Capitol Hill. ¹⁶⁵

The Committee and its partners Sidley Austin and Trainum, Snowdon & Deane also released another report in 2003, entitled "D.C. Public School Funding - Myth and Reality." ¹⁶⁶ The report's four main findings highlighted some of the key issues then facing public schools in the District. First, an increasing and overwhelming majority of

¹⁵⁴ Parents United, *Separate and Unequal: The State of the District of Columbia Public Schools Fifty Years After Brown and Bolling* 36 (2005).

¹⁵⁵ *Id.*

¹⁵⁶ Parents United, *Unlevel Playing Fields II: An Update on District of Columbia High School Athletic Programs, Facilities, and Funding* (2002); Parents United, *Unlevel Playing Fields Six Month Update* (2003); Parents United, *Unlevel Playing Fields IV: A Study of Athletic Programs, Facilities, and Funding in the District of Columbia Public Schools* (2008).

¹⁵⁷ [Parents United, *Unlevel Playing Fields II*, supra](#) note 156, at 4.

¹⁵⁸ *Id.* at 6.

¹⁵⁹ [Parents United, *Unlevel Playing Fields Six Month Update*, supra](#) note 156.

¹⁶⁰ *Id.*

¹⁶¹ Wash. Law. Comm., 9 Update 15 (2003).

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ Wash. Law. Comm., 9 Update 8 (2003).

DCPS students needed more support than the average pupil, given their limited English proficiency, special education needs and economic disadvantages.¹⁶⁷ Second, state and local funding for DCPS was lower than all but one of the surrounding suburban districts.¹⁶⁸ **[*192]** Third, contrary to popular perception, DCPS spent no more than many school districts on administrative functions.¹⁶⁹ And finally, 80% of funding increases that had been sought for FY 2004 were allocated to pay increases, emergency building programs, and other operationally non-discretionary system maintenance expenses, rather than to system educational quality improvement.¹⁷⁰

Parents United issued a seminal report, *Separate and Unequal: The State of the District of Columbia's Public Schools Fifty Years After Brown and Bolling*, in 2005. Prepared by the Committee, the law firms of Sidley Austin, Akin Gump, Foley & Lardner, Fulbright & Jaworski, Steptoe & Johnson, and others, *Separate and Unequal's* intensively researched analysis documented the dire failings still disabling the DC public school system. The report chronicled woefully insufficient funding, programming and course offerings that had deteriorated since the days of those Supreme Court rulings, salaries that hampered recruitment and retention of the most experienced teachers and principals, crumbling and unsafe school buildings, outdated and inadequate special education programming, deficient and treacherous athletics and extra-curricular opportunities, and deficient student health services.¹⁷¹ At the time of the report, funding for the Facilities Master Plan approved by Congress was so inadequate that the Superintendent was considering scrapping the plan altogether to focus only on repairing broken items such as HVAC systems and roofs, rather than on modernization of the system's vast array of outmoded and decaying schools.¹⁷² Recalling its "blame game" analysis from the 2001 report of that name, Parents United lamented that if the fragmentation of authority among the District's CFO, the Board of Education, the Mayor and Council is "left unchanged, this flawed system will continue to undermine both the fiscal soundness and educational quality of what is an already struggling public school system."¹⁷³

[*193]

E. Money, Mayor and Modernization Makes for Measured Movement

While the Committee and Sidley also worked together toward the passage of the D.C. School Modernization Financing Act of 2006, which guaranteed sorely needed bond funding of \$ 100 million and other revenues of \$ 100 million annually for building construction and renovation,¹⁷⁴ some estimates placed capital requirements alone for DCPS over the following 15 years at \$ 2.2 billion.¹⁷⁵ Despite years of committed and vigorous leadership and advocacy, and numerous incremental and sometimes "system-saving" victories, it had become increasingly evident to Committee leadership that the monumental change needed to transform DCPS into a quality educational

¹⁶⁷ Id.

¹⁶⁸ Id. This finding was re-confirmed in a later WLC report prepared by Sidley Austin, along with Akin Gump, Foley & Lardner, Fulbright & Jaworski, Steptoe & Johnson, and Covington & Burling, "Separate and Unequal, the State of D.C. Public Schools Fifty Years after Brown and Bolling," which also showed that DCPS principals and teachers were among the most poorly paid in the region; Wash. Law. Comm., 11 Update 1 (2005). Unfortunately, these disparities were nothing new. See Joseph M. Sellers, Public Education Legal Services Project: A Private Sector Initiative in the Area of Public Education, [27 Howard L.J. 1471, 1475, 1488 \(1984\)](#) (describing the gaps in funding between D.C. and other neighboring schools as of the early 1980s).

¹⁶⁹ Wash. Law. Comm., *supra* note 166.

¹⁷⁰ Id.

¹⁷¹ [Parents United, supra](#) note 153, at 2-5.

¹⁷² Id. at 20-28.

¹⁷³ Id. at 36.

¹⁷⁴ Wash. Law. Comm., 12 Update 11 (2006).

¹⁷⁵ Id.

experience across racial and economic lines would require an influx of funding that the School Board simply did not have the clout to deliver. As Parents United observed in the 2005 Separate and Unequal paper, "as long as this disjointed system of educational governance is in place, the promise of educational opportunity embodied in Brown and Bolling will remain out of reach in the District of Columbia." ¹⁷⁶

With the support of many Committee and educational community leaders, the District of Columbia Public Education Reform Amendment Act was enacted in 2007 under the leadership--and consistent with the campaign platform--of newly elected Mayor Adrian Fenty. ¹⁷⁷ The Act substantially restructured DCPS and fundamentally changed how District schools were to be funded and financed. ¹⁷⁸ Controversial because the Reform Act placed DCPS under the Mayor and removed power from the historically significant school board, the entity with operational responsibility for the schools would now no longer need to seek approval from others in order to fund operational needs or implement new initiatives. The Act also created the Office of Public Education Facilities Modernization ("OPEFM"), which sprang into action with a "Heating and Boiler Blitz" in 2007. ¹⁷⁹ The **[*194]** "Air Conditioning Blitz" followed in 2008. By 2010, a new Master Plan for rejuvenation of existing school buildings was in place. ¹⁸⁰

Even as these potentially game-changing developments evolved, however, Parents United issued a 2008 update on the state of the DCPS athletic program. ¹⁸¹ It reported that the athletic budget had been cut in half between 1993 and 2008, with the funding cuts impacting every facet of athletics: facilities could not be repaired or updated, coaches could not be paid, and some sports could no longer be offered. ¹⁸² Even some of the athletic trainers hired pursuant to court order had been laid off, reviving safety concerns about competitions unsupervised by medical personnel. The report also included a case study focusing on Cardozo High School's still "decaying athletic facilities." ¹⁸³ Most or all of the facilities issues mentioned in the 2001 report persisted and worsened, and new issues had arisen.

Unfortunately, Parents United had gradually discontinued operations as a city-wide education and advocacy organization over the two years leading up to the publication of this last update report. ¹⁸⁴ Numerous factors played into this major change in the city's educational landscape. Prominent among them were the retirement in 2000 of Parents United's longtime and highly respected Executive Director, Delabian Rice-Thurston, and increasing challenges in securing adequate foundation support to fund a core staff. ¹⁸⁵ The departure of many parents who opted to send their children to charter schools in the early 2000's also reduced Parents United's base of support in certain sections of the city. ¹⁸⁶ In addition, with the changes in school governance leading to mayoral control of the

¹⁷⁶ [Parents United, supra](#) note 154, at 38.

¹⁷⁷ Sara Mead, The Capital of Education Reform, U.S. News (Apr. 20 2017), <https://www.usnews.com/opinion/knowledge-bank/articles/2017-04-20/michelle-rhee-set-national-example-of-education-reform-in-washington-dc>.

¹⁷⁸ District of Columbia Public Education Reform Amendment Act of 2007 § 104, [38 D.C. Code 173](#) (2018).

¹⁷⁹ Wash. Law. Comm., The State of the District of Columbia Public Schools 2010: A Five Year Update 1, 30 (2010).

¹⁸⁰ *Id.*

¹⁸¹ See generally Parents United, Unlevel Playing Fields IV: A Study of Athletic Programs, Facilities, and Funding in the District of Columbia Public Schools (2008).

¹⁸² *Id.* at 5-6.

¹⁸³ *Id.* at 14.

¹⁸⁴ Personal knowledge of author.

¹⁸⁵ Personal knowledge of author.

¹⁸⁶ The Urban Inst., Washington, DC: Our Changing City Chapter 2: Schools, urban.org, <http://apps.urban.org/features/OurChangingCity/schools/#enrollment> (last visited Sept. 9, 2018).

schools in 2007, significant increases in funding for DCPS removed one of the most pressing issues that had been at the center of Parents United's agenda throughout its history.

In 2010, the Committee released an updated report on the state of DCPS entitled, *The State of the District of Columbia Public Schools 2010: A Five Year Update*, prepared by Sidley Austin, Ballard Spahr, [*195] Beveridge & Diamond, Covington & Burling, Dickstein & Shapiro, Reed Smith, Steptoe & Johnson, and Sullivan & Cromwell.¹⁸⁷ This report praised the reorganized system's significant improvement in many areas, including funding and special education.¹⁸⁸ But it also emphasized that the gains were fragile--and dependent to a significant degree on the continued financial well-being of the District going forward--and that DCPS still lagged surrounding districts in many metrics.¹⁸⁹

II. THE COMMITTEE'S EARLY FOCUS ON THE ACADEMIC ENRICHMENT POTENTIAL OF CONNECTING VOLUNTEER LAWYERS WITH DCPS SCHOOLS AND PARENTS BROADENED, EXPANDED AND EVOLVED AS NEEDS CHANGED AND CREATIVITY SPARKED INNOVATION

As the Committee and Parents United continued the pursuit of adequate DCPS funding, the Education Project expanded its early initiative to "match" volunteer lawyers with parents of students attending needy schools in Anacostia by launching the School Partnership Program in the late 1980s.¹⁹⁰ The Committee recruited additional law firms to partner with DCPS elementary, middle, and high schools throughout the city to explore programs that would directly benefit school communities. The Committee has continued to support the Partnership Program by recruiting firms and schools annually, hosting quarterly luncheons for partners to report their activities, coordinating various city-wide initiatives, and publishing a newsletter twice a year. The Partnership Program has grown to be a model for public-private sector collaboration and empowerment in Washington, D.C. Recently, DCPS adopted this model, and is coordinating its efforts with WLC to recruit more businesses.

In the spring of 2011, while lauding the Program in a speech at the Committee's School Partnership recruiting luncheon, then DCPS Chancellor Kaya Henderson lamented that less than a quarter of the DCPS Title I schools were benefiting from partnerships, and challenged [*196] the Committee to double that number. In response, Committee staff initiated an effort to start six to seven new partnerships annually. By mid-2017, law firms, businesses, and other organizations were partnering with more than fifty schools.¹⁹¹ From its early efforts to broaden the connection between DCPS and the legal community, the Partnership Program has evolved to bring academic enrichment to students; encourage parental and broader community involvement in school programs; and foster indelible connections among DCPS students, the local legal and business sectors, and social organizations seeking to elevate children in underserved communities.

The Committee initiated the Parent Group Fund with just \$ 7,600. Before it lost momentum in the 1990s, the Parent Group Fund had funded over 600 enrichment projects, valuing over \$ 1 million, at 60 DC public schools.¹⁹² Drawing upon the successful financial empowerment experience of the 1980s and its ongoing support of parent/school fundraising efforts, the Committee's Public Education Project added the Parent Empowerment

¹⁸⁷ Wash. Law. Comm., *supra* note 179, at 64. As he had for the prior "Blame Game" and "Separate and Unequal" reports, Ron Flagg of Sidley served as the primary drafter of the Update. *Id.* at 1.

¹⁸⁸ *Id.* at 3.

¹⁸⁹ *Id.* at 4.

¹⁹⁰ See generally Wash. Law. Comm., Public Education Project, <https://www.washlaw.org/projects/public-education> (last visited Nov. 6, 2018).

¹⁹¹ *Id.* (follow "Partnerships" tab for listing of school partnerships).

¹⁹² This is according to internal records of the Committee.

Program to its Education Project portfolio of initiatives in 2016.¹⁹³ The Parent Empowerment Program incentivizes parents to raise money to support enrichment programs at their children's schools by matching their donations.¹⁹⁴ In barely a year of operation, more than ten DCPS parent groups, in collaboration with principals and teachers, have received funding for academic enrichment projects designed to increase parent participation and student enthusiasm in learning based on needs they perceive within the schools.¹⁹⁵ Participating law and accounting firms support the Parent Empowerment Program by applying for Committee matching funds, and assisting schools in making sound, equitable and informed decisions when choosing enrichment projects.

A. Lawyer Volunteerism and the Partnership Program

The Partnership Program currently marshals the energy and creativity of an active network of stakeholders. Students, teachers, administrators, parents, public service organizations, and law and business [*197] leaders share best practices for improving the experience and future prospects for DCPS students. The activities of each school partnership are unique and reflect the age and grade level of the students, the priorities of the school's principal and teachers, and the interests and background of the law firm or business participants. The Partnership Program also encourages citywide networking among sponsoring firms and businesses to share best practices, launch program-wide initiatives, develop relationships with other public school-supporting community organizations, and recruit new school, law firm and business participants into the program. Now, the Partnership Program fosters community, family and law and business sector involvement in the DC public schools.

1. Supporting and Enhancing Student Enrichment Initiatives

Since its earliest days, the key focus of the Partnership Program has been on student enrichment. Participating schools and external partners have furthered this goal through tutoring, mentoring and other traditional academic support. They have expanded their support as the Partnership Program has evolved. School partners have sponsored field trips, internships, arts programs, higher education counseling and scholarships and other experiential learning opportunities. Today, thousands of DCPS students and alumni have benefitted from enrichment programs created through the Committee's partnership initiative.

More than two dozen school partnership firms participate in tutoring, reading and literacy programs with DCPS students.¹⁹⁶ Some programs have been tailored to help students prepare for and improve on standardized testing.¹⁹⁷ Others have emphasized reading and literacy.¹⁹⁸ [*198] School partner firms have funded curriculum support materials to assist students needing additional help in targeted academic subjects.¹⁹⁹

¹⁹³ See Wash. Law. Comm., supra note 190.

¹⁹⁴ At the launch of the PEP program, Rick Rome, Vice Chairman of the Washington, D.C. office of the Savills Studley commercial real estate services firm and a long-time school partnership leader, provided the initial matching funds for the program, and BDO Consulting provided accounting advice and services to the parent-teacher organizations and the Committee.

¹⁹⁵ Wash. Law. Comm., Education Justice Parent Empowerment Program 2 (2018).

¹⁹⁶ Among the school partner pairings with long-running tutoring programs have been Tyler Elementary School and Akin Gump Strauss Hauer & Feld LLP; Amidon Bowen Elementary School and McDermott Will & Emery; and J.O. Wilson Elementary School and the U.S. Courts. Traditionally, tutoring involved law firm attorney and staff volunteers traveling to meet students on campus on a weekly or monthly basis to tutor students in reading and math. As technology has advanced, tutoring also now occurs on-line via real-time interactive platforms. See generally John Tyler Elementary, Community Partners, www.tylerelementary.net/school/community-partners/. Volunteers from several law firms have utilized the software and curriculum materials that Chicago-based Innovations in Learning has developed to tutor students from their offices, including: Steptoe & Johnson with Thomas Elementary School; Paul Hastings with Garfield Elementary School; Crowell & Moring with Davis Elementary School; and DLA Piper with Thomas Elementary School.

¹⁹⁷ In 2013, then Tyler Elementary School Principal, Jennifer Frentress, reported improvements on the D.C. Comprehensive Assessment System ("D.C. CAS") standardized tests that she attributed, in part, to Akin Gump volunteers who had tutored Tyler students in reading and math. There were dramatic reductions in the numbers of students in the below basic category (from 27%

The Partnership Program also features activities designed to match students with private-sector professionals who provide mentorship in a variety of areas. One firm launched a mentorship program during the 2006-2007 school year to mentor high school seniors as they consider and prepare for college.²⁰⁰ Other mentoring programs have promoted financial literacy.²⁰¹ Several school partners participate in the Girls on the Run mentoring program that blends leadership training and self-worth programming with running, for girls in grades three through eight.²⁰² Squire Patton Boggs launched a girl's empowerment mentoring program designed to challenge girls in their partner school to think critically about their personal and academic success.²⁰³ Firms **[*199]** have also sponsored issue forums²⁰⁴ and roundtable discussions on critical social issues for students at their partner schools.²⁰⁵

Summer internships have enabled students to spend summers with partner organizations learning about aspects of the professional work environment. An internship program run by Eversheds Sutherland helped enhance computer, research and presentation skills, and introduced students to careers in human resources, technology and catering.²⁰⁶ Another law firm hires students to work in discovery and litigation technology as well as human resources. In some cases, high school graduates of internship programs have returned to the firm during college summers to resume their work.²⁰⁷ Among the more innovative programs is a Saturday Academy that Covington & Burling hosts during the school year to provide enrichment activities and prepare students for the working world.²⁰⁸

Many law school partner firms coach students preparing for moot court competitions sponsored by DC-based law schools. Georgetown Law Center's Street Law Clinic and the American University's Marshall-Brennan Constitutional Literacy Project feature students from DCPS high schools arguing mock-trial cases before actual judges. In both of these programs, the Education Justice Project coordinates all of the mentor attorneys and staff at area partner law firms who work with students, law school student teachers and school teachers **[*200]** throughout the year.²⁰⁹ Arent Fox hosts debates for high school students in a format resembling appellate advocacy.²¹⁰ Law firm partners also support the DCPS Inspiring Youth Program, where incarcerated male students between the ages

of students reading below basic last year to 12% this year; and from 38% of student performing below basic in math to 28% below basic in math). The principal noted continued steady gains in literacy and math with 46% of students meeting standards in reading up from 37% a year ago, a 9% improvement in composition, 9% improvement in meeting math standards. [This data is from files or communications of the author.]

¹⁹⁸ Goodwin Procter installed a "GoodRead" reading and literacy program at West Education Campus. When DLA Piper volunteers worked with third-graders at Thomas Elementary, participants earned improved scores in reading. Federal Highway Administration volunteers read with third-grade students for several years at Payne Elementary School, which likewise reported improved reading skills among its participating students. As part of its partnership with School Without Walls, Fried Frank has rewarded students for reading 25 or more books with book store gift cards and the top prize of a tablet computer for the student reading the most books. See generally Cammy Contizano, Our School Partnership, Wash. Law. Comm., (Oct. 3, 2014), <https://www.washlaw.org/news/381-our-school-partnership>; Fried Frank, Community Service, <http://friedfrank.com/index.cfm?pageID=62>.

¹⁹⁹ During 2016-2017, Akin Gump provided funding for on-line academic intervention materials for Tyler Elementary, which Principal Mitch Brunson attributes to improving English language and arts (ELA) scores (by 2%) and math scores (by 6%) and to reducing the number of students performing below basic standards (by 5% in ELA and 4% in math). [This data is from files or communications of the author.]

²⁰⁰ During 2006-2007, then Sutherland, Asbill & Brennan (now Eversheds Sutherland) launched Sutherland Junior College for students from Bell Multicultural High School to learn about, prepare for, apply to, get accepted by and attend four-year colleges.

²⁰¹ Akin Gump summer associates in 2009 taught Tyler Elementary students a day-long financial literacy program sponsored by Junior Achievement.

²⁰² Participating in Girls on the Run programming for third-fifth grade students are Goodwin Procter West Education Campus; Kirkland & Ellis with Marie Reed Elementary, Savills-Studley with Hendley Elementary, and Zuckerman Spaeder and BDO with Orr (renamed Boone) Elementary.

of 15 and 18 participate in the Street Law mock trial program.²¹¹ Zuckerman Spaeder volunteers help prepare third-graders for an annual Frederick Douglass Oratorical Contest.²¹²

School partner firms have often helped bridge the financial gap for public school children in the District by sponsoring trips--invaluable but expensive aspects of the traditional school experience--to locations that students may not otherwise have a chance to see or explore. Beveridge & Diamond sponsored a student boat trip along the Potomac and Anacostia Rivers to study ecology and hands-on environmental learning.²¹³ Other firms have sponsored school trips to nearby ski resorts and theme parks,²¹⁴ as well as to the U.S. Supreme Court and the Library of Congress.²¹⁵ Building on the arts curriculum that it has supported at its partner school, one firm transported the school's drama club to a Broadway show in New York City--the same show the club would be performing later that year.²¹⁶ Another partner [*201] firm funded the tuition for students to attend summer camp for a month in New York's Adirondack Mountains.²¹⁷ Dickstein Shapiro has sent students over the summer to a local school arts center for two weeks of specialty arts training.²¹⁸

2. Reinforcing and Strengthening School Communities

From early efforts to support parents looking to improve their children's overall academic experience, the Partnership Program has expanded over the decades to include programs benefitting entire school communities. School partners have invested in school refurbishment and beautification; hosted fairs, field days, and festivals; donated school supplies and technology; and supported the arts; in order to enhance the surroundings and collective experience of each school community.²¹⁹

Many law firm and business school partners participate in the DCPS's School Beautification Day, which is held each August prior to the first day of school.²²⁰ One law firm established a not-for-profit to raise and manage funds for construction and maintenance of a new outdoor classroom at its partner school, raised thousands of dollars to help refurbish the school's library as part of the Capitol Hill Community Foundation's School Libraries Project,²²¹

²⁰³ In 2010, then Patton Boggs (now Squire Patton Boggs) launched Girls Empowered as a pilot mentoring program for seventh-and eighth-grade girls at Francis Stevens Education Center.

²⁰⁴ Epstein, Becker & Green launched a six-week "Legend Program" created by the National Street Law organization to provide law-related education for students featuring "legal legends" in the D.C. community at Langley Elementary that included HUD Administrative Law Judge and two Epstein partners. Epstein also brought in Mary Beth Tinker to talk about her First Amendment case in which the Supreme Court where the Court ruled that "students do not shed their constitutional rights at the schoolhouse door." See [Tinker v. Des Moines Board of Education, 393 U.S. 503, 506 \(1969\)](#).

²⁰⁵ Dickstein Shapiro held roundtable discussions with the Duke Ellington School for the Arts regarding violence in the media, citizen action against violence and government safety regulations versus personal freedom.

²⁰⁶ Sutherland hosted four seniors from Columbia Heights Education Campus during the 2015 summer as part of its Junior College internship program.

²⁰⁷ Cleary, Gottlieb, Steen & Hamilton hired two seniors from McKinley Technology High School to work at its Discovery & Litigation Technology Department and its Human Resources Department, one of whom returned to work at Cleary while attending George Washington University. One Ellington School of the Arts summer internship program participant deferred college for a year to continue working in Dickstein Shapiro's Information Technology Department.

²⁰⁸ During these Saturday sessions, students learn interview skills and how to create resumes and complete job applications. Covington also hires summer interns from the academy and currently has several permanent employees who are Saturday Academy alumni. Cardozo High School students have participated for many years in Covington & Burling's Saturday Academy.

²⁰⁹ In 2018, Williams & Connolly attorneys mentored the winning D.C. Street Law Mock Trial team from Dunbar High School, and Fried Frank coached the second place team from School Without Walls. In 2015, Paul Weiss attorneys mentored the winning Mock Trial team from Anacostia High School in defeating Banneker Academic High School. Since 2012 lawyers from Coburn & Greenbaum, Eaton Law and the Committee have helped to teach the year-long Street Law course and coached Mock Trial teams in the Incarcerated Youth Program. Law firm partners also host high school competitors as they prepare their cases

and currently funds posters and other signage to emphasize the school's annual school-wide mission statement.²²² Law firms and businesses also support a wide [*202] array of annual festivals at their partner schools, including seasonal celebrations, school registration carnivals, and family fun and field days.²²³ One firm donates the food, beverages and amusements for its school partner's annual field and fun day.²²⁴ Summer associates and other volunteers work alongside U.S. Marine volunteers from a nearby barrack.²²⁵ Another firm hosted a health fair, science fair and a career fair with its partner school.²²⁶

Over the years, school partners have invested heavily in school supplies and technology that school budgets may not cover. Several firms hold annual school supply drives to provide students with backpacks, book bags, notepads, writing instruments, art supplies, adhesive bandages, and re-closable storage bags.²²⁷ Another law firm, through its environmental practice group, converted recycled papers into brightly-colored notepads that it donated to its partner school.²²⁸ The Legal Department at Fannie Mae sponsored a series of book drives for its partner school to fill classroom libraries for teachers and to supply children with summer assignment and personal reading.²²⁹ One law firm deployed its information technology personnel to [*203] purchase and install wireless access points, network cards, and computers, and connect the school to the internet.²³⁰

Support for the arts has been a consistent element of the Partnership Program. A common collaboration among school partners involves annual holiday card contests. Art students create and submit designs. Then, partner firms select the annual holiday cards that are sent to clients and friends.²³¹ As part of its Landmark Arts Project, attorneys and staff at another partner firm taught lessons to students about historical Washington, D.C. landmarks. Afterwards, students created art work depicting the landmarks and the firm displayed the art in one of its conference rooms.²³² For the last several years, one law firm has donated the sound equipment--including wireless microphones--for the annual spring musicals at its partner school.²³³ Other firms provide meals at back-to-school nights,²³⁴ and participate in school community nights. Paul Hastings has introduced math games and science activities to family nights at its partner school, as firm volunteers [*204] collaborate with an educational non-profit that provides activities for the event.²³⁵

and legal arguments. In preparation for Street Law competitions, Fried Frank and Paul Weiss host students in pre-mock trial courtroom sessions.

²¹⁰ In 2015, Arent Fox hosted students from Eastern and McKinley Technology High Schools to debate subjects including whether college athletes should be paid and what library services are most beneficial to the public. Attorneys from the firm and the American Library Association served as debate judges.

²¹¹ See Wash. Law. Comm., *supra* note 190.

²¹² For many years, Zuckerman Spaeder volunteers with backgrounds in drama and recitation coached Orr (renamed Boone) Elementary students for the Frederick Douglass Oratorical Competition that the National Park Service hosts at the Frederick Douglass National Historic Site in Anacostia.

²¹³ Beveridge & Diamond volunteers teach a seven-week environmental course at Savoy Elementary School, culminating in boat trips sponsored by the Chesapeake Bay Foundation to evaluate water samples along the Potomac and Anacostia Rivers.

²¹⁴ Akin Gump and Perkins Coie are among the firms that have sponsored ski and theme park trips for their school partners, Tyler Elementary and Powell Elementary.

²¹⁵ During the 2007-2008 school year, volunteers from the former Howrey & Simon firm hosted fifth-grade students from Bancroft Elementary School on a morning visit to the Supreme Court, a picnic on the grounds of the Library of Congress, and an afternoon tour of the Library.

²¹⁶ Akin Gump provided bus transportation for the Tyler Elementary School Thespians to attend Willy Wonka on Broadway.

²¹⁷ For several summers, Akin Gump provided scholarships for Tyler Elementary School students to attend Camp Dudley on Lake Champlain in New York State. The law firm and school principal collaborated to identify potential candidates for the scholarship, focusing on children who were kind and natural leaders among their peers, yet who had never traveled beyond the boundaries of their local neighborhoods. To be in the mountains, swim in lakes and reside in a community of children from 35 states and 15 foreign countries that is committed to developing leaders and caring for others was transformative for these students, and for those in the camp community who got to know them.

3. Developing and Providing Academic Challenge for Students

While the Committee launched the Partnership Program primarily to connect DC public schools and professional-sector partners in pursuit of enrichment activities specific to those pairings, the Committee has also sponsored and encouraged a broader range of activities available to all participants in the school partnerships. In some cases, these city-wide programs evolved from the school partnership pairings themselves. In others, an array of non-profits has leveraged a growing relationship with the Committee's Partnership Program, participating law firms and businesses to introduce city-wide special programming for DCPS students.

In 2004, Arent Fox held a small American-states based geography tournament at Randle Highlands Elementary featuring a game-- GeoPlunge--that firm partner Alan Fishel had invented as a way for kids to have fun learning about geography.²³⁶ Two years later, Fishel recruited the Committee to coordinate the first annual GeoPlunge Geography Tournament featuring 4th-6th grade students from Randle and seven other DCPS elementary schools.²³⁷ Today, two LearningPlunge tournaments are held each year at the Smithsonian Institution's National Portrait Gallery, with 350-400 students competing and far more involved in GeoPlunge clubs at their local public schools. Volunteers from area law firms and businesses coordinate and underwrite the cost of the tournaments and help teachers and resource specialists coordinate clubs and prepare students to compete.

[*205] In addition to LearningPlunge and Girls on the Run DC²³⁸ related programs, and the Georgetown Law Center Street Law Clinic²³⁹ and American University's Marshall-Brennan Constitutional Literacy Project²⁴⁰ moot courts, for which the Committee's staff coordinates attorney mentors, other non-profits also collaborate with the Committee's Partnership Program, DCPS and participating law firms and business to bring additional city-wide literacy, mentoring and social/emotional learning programs to DC elementary schools. Law firms have sponsored the DC Scores organization at their partner schools, for example, introducing organized soccer, a poetry curriculum and community service opportunities in underprivileged neighborhoods.²⁴¹ Partnership Program law firm volunteers also work with Everybody Wins! DC, a non-profit devoted to promoting children's literacy and a love of learning through shared reading experiences.²⁴² Through Committee coordination efforts, programs such as

²¹⁸ Firms Get Creative with Fundraising and Other Resources, Partners Unlimited Bull. Board 5 (Fall 2008); Dickstein Shapiro LLP, Vault Guide to Law Firm Pro Bono Programs 186 (2012), <http://www.vault.com/media/3874589/6457.pdf>. Dickstein Shapiro sent Ellington School of the Arts students each summer to the Anderson Arts Center in Colorado for more than a decade.

²¹⁹ See [Wash. Law. Comm., Public Education Project, supra](#) note 190.

²²⁰ Teams of professionals help their partner schools by organizing classrooms, supplies and books, cleaning lockers and windows, setting up bulletin boards and hallway displays, planting and weeding garden beds, and painting and decorating doors and walls. See generally Mayer Brown Participates in District of Columbia School Beautification Day, Mayer Brown, (Sept. 11, 2007), <https://www.mayerbrown.com/publications/mayer-brown-participates-in-district-of-columbia-school-beautification-day-09-11-2007/>.

²²¹ Personal recollection of author.

²²² Akin Gump originally established a 501(c)(3)--the Akin Gump School Partnership Project, Inc.--to raise and expend funds in support of its partnership with Tyler Elementary School, subsequently forming a separate non-profit to raise and manage funds specifically for the outdoor classroom project at Tyler.

²²³ Paul Hastings volunteers have participated at Garfield Elementary School's Registration Carnival by staffing carnival amusements and giving away Giant gift cards at the registration tent as an extra incentive for parents to register their children early for the coming school year. Early registration can make a difference in the financial resources available to a school since enrollment is a major factor in determining budgets for individual schools.

²²⁴ For nearly two decades, Akin Gump has participated each June in the Fun Fair at Tyler Elementary School, often staffing with summer associates the amusements and food stations the firm donates to the event.

²²⁵ Personal knowledge of author.

Reading Partners, Literacy Lab, and Innovation for Learning's Tutormate have also been made available to students through the Program and its volunteers.

B. Fundraising and the Parent Empowerment Program

Building on the success of the Parent Group Fund in the early 1980s, the Committee recently launched the Parent Empowerment Program (PEP), which is designed to match funds raised by parent groups for programs and activities that principals, teachers and parents select, and in which school partners participate, with the goal of germinating lasting change within the schools. ²⁴³ Committee and Education Program staff developed a pilot "matching" program in 2016 as a means to empower parents with children in DCPS schools to improve their children's educational opportunities and have a greater [*206] voice in their public school communities and in public school education issues in the District. In the spring of 2016, with seed funding from law firm and corporate real estate brokerage and consulting firm Savills-Studley, the Committee provided grants to parent-teacher groups at four DCPS schools. The groups held fundraisers to support matching grants of \$ 1000 each, and the combined funds were used by each group to pay for an academic enrichment program that would also be supported by parent volunteers. ²⁴⁴ The unmistakable return on investment prompted The Morrison & Foerster Foundation to provide funding to enable the Committee to hire a Coordinator of the Parent Empowerment Program and the Parent Empowerment Program (PEP) Fund.

Even before the establishment of the PEP, the Committee had long crusaded for tangible private contributions to parent organizations and the school partnerships--leadership and encouragement that has taken many forms. A few of the school partnerships had worked with their schools' parent-teacher organizations, initially providing food, advice and sometimes programming for meetings. In addition to hosting annual celebrations and fundraising activities, the Committee has also suggested that participating law firms and businesses hold auctions and raffles to benefit school partnerships. And various Partner law firms have advised parent-teacher associations and organizations as they seek to establish and operate their own [*207] 501(c)(3) charities to conduct fundraising on behalf of schools. ²⁴⁵ Among the most notable Committee-inspired fundraisers are the Celebration of Song,

²²⁶ In 2011, in addition to catering dinner for students and parents at Science Night at Garfield Elementary School, Paul Hastings brought a team of 20 professionals - including partners, associates, legal assistants, a billing supervisor and librarian - to Garfield's Career Education Week to discuss their careers. From among clients and friends, the firm also invited an art dealer, personal trainer, radio DJ, secret service agent and NIH medical researcher to present at the event. See generally Elinor Hart, Program Perspective, Partners Unlimited Bull. Board, Fall 2011, at 2.

²²⁷ In 2015, 200 volunteers from Hogan Lovells raised funds to purchase backpacks and fill them with supplies, ultimately donating a total of 500 well-stocked backpacks to its school partner, Kimball Elementary School, and to nine other Washington, D.C. public schools, donating a total of more than 9,000 backpacks full of supplies. See generally Backpacks Provided Hogan Lovells for Kimball and Other Schools, Partners Unlimited Bull. Board, Fall 2015, at 7.

²²⁸ Teachers at Savoy Elementary School used these colorful notepads that partner firm Beveridge & Diamond donated as incentives and rewards for students. See generally Firms Provide School Supplies, Partners Unlimited Bull. Board, Fall 2009, at 6.

²²⁹ The Legal Department at Fannie Mae sponsored book drives for its school partner, Marie Reed Learning Center, both to increase book supplies for the school's main library and in-classroom libraries.

²³⁰ This was the result of a three-year collaboration between Akin Gump, Tyler Elementary and technology professionals at DCPS to address technology concerns at the school.

²³¹ Dickstein Shapiro featured an Ellington School student-designed holiday card for nearly two decades, awarding prizes to the winners at a reception each December and making a donation each year to Ellington's Visual Art Department. See Community Impact: Finalist, Dickstein Shapiro LLP (May 18, 2009, 1:55 PM), <https://www.bizjournals.com/washington/stories/2009/05/18/tidbits8.html>. The winning design appeared on over 20,000 holiday cards members of the firm sent out during the holidays. Blank Rome has now taken over that partnership, including the holiday card program. Pepper Hamilton, which sponsors a similar holiday card contest, selects both a winning design and 12 "runners up" to appear in a calendar that is later sold to raise money for the school. Pepper Hamilton conceived of the calendar

featuring student choirs from partner schools singing alongside celebrity voices about civil rights and other meaningful themes,²⁴⁶ and an annual city-wide Cooking for Kids Bake Sale and Taste-Off competition, in which partnership firms hold bake sales and tasting competitions to raise funds for their school partners.²⁴⁷

At the suggestion of Beveridge & Diamond, the Committee formed a School Nonprofit Working Group in late 2014 to develop a resource for parent teacher organizations based on the growing expertise of those firms, as well as that of attorneys from Squire Patton Boggs, Hogan Lovells, and Dentons.²⁴⁸ The Guide to Nonprofit Vehicles for Fundraising to Assist District of Columbia Public Schools²⁴⁹ is a toolkit intended to make it easier for firms to support parent groups as they organize, fundraise and establish new enrichment activities at the schools.²⁵⁰ Since

recognizing how many outstanding drawings Stanton Elementary students submitted each year during the firm's annual holiday card contest. Among the longest running collaborations in the WLC Partnership Program, Pepper Hamilton has partnered with Stanton for nearly 30 years.

²³² Arent Fox has sponsored the Landmark Arts Project at Randle Highlands Elementary School, which has assigned each grade a D.C. landmark - e.g., the White House, Washington Monument, Frederick Douglass' home, Mary McLeod Bethune's home and Council House, Union Station, the U.S. Capitol and Supreme Court. Arent Fox attorneys and staff then visited each

the Committee's Guide was published in January 2016, more than 200 copies have been distributed to parent teacher organization members, and hundreds have accessed the electronic version of the Guide available on the Committee's website.

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III. THE COMMITTEE CONTINUES TO WORK TO SUPPORT AND IMPROVE EDUCATIONAL OPPORTUNITY FOR PUBLIC SCHOOL STUDENTS IN THE DISTRICT THROUGH THE ENCOURAGEMENT OF MORE PARTNERSHIPS, MORE PARENT EMPOWERMENT, AND MORE ANALYSIS, ADVOCACY AND LITIGATION

The Committee's support for greater educational opportunity for public school students in the District of Columbia--while varying over time in reaction to evolving political and practical realities--has continued to be in recent years as diverse and unwavering as it has been since the civil rights organization initially ventured into the new space to fill

classroom to teach a lesson on the landmark assigned to the class, after which students create art work depicting the landmarks to be displayed at the law firm.

²³³ Akin Gump has donated wireless microphones and other sound equipment for spring musical performances at Tyler Elementary School, including *The Lion King*, *Aladdin* and *Willy Wonka*.

²³⁴ Covington & Burling and Akin Gump regularly provide refreshments for back-to-school nights at Cardozo High School and Tyler Elementary School, respectively. Steven Pearlstein, *Charities That Defies Economics*, Wash. Post, (Dec. 24, 2014), <http://www.washingtonpost.com/wp-dyn/articles/A23722-2004Dec23.html>; John Tyler Elementary Community Partners, <http://www.tylerelementary.net/school/community-partners/> (last visited Sept. 7, 2018). Tyler Elementary School hosts several community nights during the school year, at which students, families, faculty and school staff gather in community over a meal donated by law firm partner Akin Gump.

²³⁵ Attorneys and staff from Paul Hastings have participated in Math and Science Night at Garfield Elementary School, collaborating with Turning the Page, which engages parents and other family members to improve their children's educational experiences and school communities. See Bulletin Report, Wash. Law. Comm., *Paul Hastings Brings Math Games to Garfield Family Night*, (Spring 2016), <http://www.washlaw.org/pdf/pubbspring2016.pdf>.

²³⁶ Bulletin Report, Wash. Law. Comm., *New Geography Game a Big Hit With Learners of All Ages*, (Fall 2005), <https://www.washlaw.org/pdf/PUBB/Fall2005.pdf>.

²³⁷ Bulletin Report, Wash. Law. Comm., *Partner Schools Score GeoPlunge Wins*, (Spring 2007), <https://www.washlaw.org/pdf/PUBBNewsletter-Spring2007FINAL.pdf>. Alan and Arent Fox later formed LearningPlunge, a 501(c)(3), with GeoPlunge as its flagship initiative, to develop educational games for igniting children's passion for learning through thinking, knowledge, teamwork, sportsmanship and fun. See generally LearningPlunge, <http://www.learningplunge.org/>. (last visited Sept. 08, 2018). In 2016, LearningPlunge teamed up with the American Geographical Society to take GeoPlunge to cities throughout the United States, and successful GeoPlunge events have since been initiated several other cities. In November 2017, The National Geospatial Intelligence Agency used GeoPlunge to launch its Partners in Education program at the elementary school level.

²³⁸ See generally *Girls on The Run* Wash. D.C., <https://www.gotrdc.org/our-organization>. In 2014, Goodwin Proctor, which worked with a team of 15 third-through fifth-grade girls at West Education Campus, ultimately entered 10 attorneys into the final Girls on the Run 5K race in Anacostia Park. Cammy Continzano, *Our School Partnership*, Wash. Law. Comm., (Oct. 3, 2014), <https://www.washlaw.org/news/381-our-school-partnership>.

²³⁹ See Georgetown Street Law Program, Georgetown Law, <https://www.law.georgetown.edu/academics/academic-programs/clinical-programs/our-clinics/street-law-program/>. (last visited Sept. 8, 2018).

²⁴⁰ See Marshall-Brennan Constitutional Literacy Project, Am. U. Wash. C. of L., <https://www.wcl.american.edu/impact/initiatives-programs/marshallbrennan/>. (last visited Sept. 8, 2018).

²⁴¹ See D.C. Scores, <https://www.D.C.scores.org/>. (last visited Sept. 8, 2018).

²⁴² See Everybody Wins D.C., <http://www.everybodywinsDC.org/>. (last visited Sept. 8, 2018).

what it saw as a glaring void. What Committee staff observed forty years ago was a starkly segregated school system that was short on funds, subject to disabling political infighting, treating local schools unequally, failing to focus on adequately serving its students, distancing itself from the surrounding business community, and not being held accountable by parents. In response, the Committee sought to develop strong supportive partnerships between law firms and businesses and parents, students and schools; to accumulate and evaluate data in order to understand the system's operational difficulties and performance flaws; to press government and school leaders for adequate funding and change to force the system to better serve its various constituencies; and to teach, train and empower parents of children in the system's schools so they could exercise their influence as parents and citizens of the District to demand better education for their children. Committee activities continue to serve these foundational objectives.

In addition to spearheading, organizing, supporting, encouraging and coordinating participation in the Partnership Program, the Committee holds regular networking and recruiting events intended to expand the Program and to reinforce important connections among participating and prospective school, firm and business and community partners. Three times a year, networking luncheons hosted by area law firms feature updates from DCPS Community Partnership leaders from the Office of Family and Public Engagement, programming developments from Lawyers' Committee staff, updates from academic programming and community partners, and the renowned "lightning round," in which attendees share developments about school partnership activities and encourage prospective school, law [*209] firm and business attendees to explore new partnerships. The sessions serve as a laboratory for partnership participants to share best practices, consider new activities and encourage participation in the city-wide and community partner activities. The Committee's Spring Luncheon also involves a recruitment effort specifically directed toward schools and professional sector prospects considering whether and how to launch new partnerships.

²⁴³ See Parent Empowerment Program, Wash. Law. Comm., <http://www.washlaw.org/projects/public-education>. (last visited Sept. 8, 2018).

²⁴⁴ By the end of 2017, the PEP Fund had distributed more than \$ 12,000 to parent-teacher groups, and looked to distribute at least \$ 10,000 more in 2018 and to increase the total amount of grants available in subsequent years. The value of the activities funded in PEP's brief period of existence speaks to the significance of the developing "matching" program. A parent-teacher organization at one school used PEP funds to produce a Family Fun Night featuring crafts and games for families, an event that nearly doubled the number of parents who signed up to volunteer for school activities, including a PEP-sponsored literacy program that would involve students and parents. Zuckerman Spaeder supported the Orr Elementary School PTO's successful Family Fun Night fundraising efforts. Another law firm helped its school partner organize a PTO fundraising and recruiting carnival to raise funds--and obtain matching funds--for a summer family reading program. Hogan Lovells helped Kimball Elementary School organize its PTO recruiting carnival. Another firm helped the PTA at its partner school plan an enrollment carnival to sign up PTA members and volunteers, a mindfulness program introducing families to the benefits of yoga and meditation, and a Career Day Bazaar involving parents and students in activities illustrating parents' careers and professional experiences. Akin Gump collaborated with the Tyler Elementary School PTA to identify and support fundraising for these PEP-inspired programs. One elementary school, with the assistance of Buckley Sandler, organized a Coding Club Program where parents and students participated in a Code with Your Kids event in which student experts introduced their parents and classmates to computer coding. Buckley Sandler assisted Cleveland Elementary School with organizing a successful Code with Your Kids fundraising event.

²⁴⁵ Guide to Nonprofit Vehicles to Assist District of Columbia Schools, Wash. Law. Comm., (Jan. 2016), http://www.washlaw.org/pdf/wlc_school_nonprofit_toolkit_and_appendix.pdf. Among the D.C.P.S. schools where PTAs/PTOs have established 501(c)(3) are: School-Within-School at Goding (Elementary), Brent Elementary, Capitol Hill Cluster School (PK3-8th grade - 3 campuses), Janney Elementary, Lafayette Elementary, Maury Elementary, Tyler Elementary, Eaton Elementary, School Without Walls and Orr (renamed Boone) Elementary. Akin Gump, Fried Frank, Zuckerman Spaeder and Perkins Coie had gone further by helping to draft bylaws or forming 501(c)(3) nonprofit organizations to assist in fundraising to benefit their schools.

²⁴⁶ See 5th Annual Celebration of Song Benefit Raises \$ 80,000 for Washington Lawyers' Committee Programs, Wash. Law. Comm., (Dec. 12, 2013), <https://www.washlaw.org/news/457-5th-annual-celebration-of-song-recap-and-photos>. In advance of

The Education Justice Project has similarly expanded the work of the Parent Empowerment Program to go beyond the financial support of academic enrichment programs at schools. It is now also supporting Know Your Rights clinics on housing and employment issues. Moreover, spurred by recent publicity regarding the vast difference between what affluent public school parent teacher organizations raise each year for their schools and what is available for most DCPS schools, several affluent parent teacher groups in DC have begun donating regularly to the PEP Fund, and parents are beginning to network more among each other to share knowledge and resources regarding fundraising techniques, event planning and academic enrichment programs.²⁵¹

The Committee's expanding connections among parent teacher groups have also enabled it to introduce additional parent and teacher leaders to a District-wide public education advocacy group called the Coalition for DC Public Schools and Communities ("C4DC"). Formed in 2014, the C4DC includes parents and members of Ward Education Councils in every part of the city, as well as policy and advocacy organizations including the Committee, the 21st Century Schools Fund, the DC Fiscal Policy Institute, the Senior High Alliance of Parents, Principals and Educators, Teaching for Change and We ACT Radio. The over-arching goal of the C4DC is to have a network of excellent neighborhood DCPS schools in every Ward, complemented by a reasonable number of strong charter school options.²⁵²

The Committee's Public Education Project has also hosted forums to raise awareness and stimulate discussion on issues and concerns facing the broader DC public school community. In 2017, for instance, the WLC co-hosted with the Coalition for DC Public Schools **[*210]** and Communities and Teaching for Change a free screening of the documentary Backpack Full of Cash.²⁵³ The feature-length film, narrated by Actor Matt Damon, explores the growing privatization of public schools and the resulting impact on America's most vulnerable children. Filmed in Philadelphia, New Orleans, Nashville and Union City (NJ), Backpack addresses the realities and impacts of education reform policies such as vouchers and charter schools on traditional public school systems.²⁵⁴

each Celebration event, the Committee and participating firms have sold raffle tickets and donated lavish prizes to raise funds for the Partnership Program.

²⁴⁷ See 2018 Cooking for Kids Bake-Sale and Taste-Off Benefits DC Public Schools, Wash. Law. Comm., (Mar. 13, 2018), <https://www.washlaw.org/news/704-2018-cooking-for-kids>. The winning entries are sent to the Committee's offices for a city-wide taste-off featuring celebrity chefs as judges. The Annual Bake Sale and Taste-Offs raise \$ 8,000-10,000 each year for the D.C.P.S. schools whose partners participate.

²⁴⁸ See Wash. Law. Comm., *supra* note 245. The participating law firms included Beveridge & Diamond, which chaired the effort, as well as Akin Gump Strauss Hauer & Feld; Dentons; Fried, Frank, Harris, Shriver & Jacobson; and Squire Patton Boggs.

²⁴⁹ See generally *id.*

²⁵⁰ *Id.* The Committee in 2016 published a Guide to Nonprofit Vehicles for Fundraising to Assist District of Columbia Public Schools that analyzes and compares different tax-exempt organization options for D.C.P.S. schools and their parent organizations. It provides practical advice on establishing and maintaining fundraising mechanisms for schools and/or their parent organizations, and includes specific resources, forms and contacts for getting started.

²⁵¹ Pushing Back Against the Racial Wealth Gap and Inequity in Schools, Wash. Law. Comm., (Apr. 3, 2018), <http://www.washlaw.org/news/713-pushing-back-against-the-racial-wealth-gap-and-inequity-in-schools>.

²⁵² See, Home Page, Coal. for D.C. Pub. Sch. and Communities, <http://www.c4dcpublicschools.org>. (last visited Sept. 8, 2018).

²⁵³ See *id.*; Backpack Full of Cash, <http://www.backpackfullofcash.com/> (last visited Nov. 06, 2018).

²⁵⁴ Following the film screening, WLC Executive Director Jonathan Smith moderated a discussion among Leslie Fenwick, Dean Emeritus and Professor at Howard University School of Education; Joshua Starr, CEO of Phi Delta Kappa International, and former Superintendent of Montgomery County Public Schools; and Stanley Sanger, former Superintendent of Union City Schools, NJ. The panel also responded to questions from the audience. DC Councilmember David Grosso, Chairman of the

Certainly, some charter schools in DC and elsewhere provide certain students with good educational foundations and opportunities. However, nationwide studies comparing traditional schools to charter schools have found that "students perform similarly across the two settings in most locations."²⁵⁵ Further, on average, charter schools are even more racially and economically segregated than traditional public schools, according to several studies, including one by the Civil Rights Project at U.C.L.A.²⁵⁶ The findings of these studies raise important questions about the role of charter schools in an equitable public education system.

[*211] Charter initiatives were conceived by union teachers and were initially lauded by advocates on both the left and the right as a means for experienced teachers and administrators to find alternative approaches to teaching and learning in small, "lab school" settings that could be shared with entire school districts.²⁵⁷ The better charter schools can live up to this promise, and can have a role in a comprehensive public education system. But not all charter schools have honored their commitments to the public; the District has suffered from a few charter school financial scandals that enriched individuals running the schools while students, teachers and their communities suffered the consequences.²⁵⁸

The large charter school sector in the District, which operates without any significant coordination with DCPS, presents new challenges for educational equity, which the Committee has worked to address. For example, starting in 2014 the Committee worked with the law firms of Lewis Baach, Dickstein Shapiro and Gilbert to represent members of the C4DC as amicus to oppose a charter school lawsuit²⁵⁹ **[*212]** against the District that claimed that charter schools were underfunded.²⁶⁰ Had the charter plaintiffs prevailed, nearly \$ 100 million could have been taken from DCPS schools and reallocated to charter schools each year.

The case involved interpretation of the DC School Reform Act of 1995 (the "SRA"), which authorized the opening of charter schools in DC and the development of the funding formula, which was then devised by local experts, including representatives of Parents United.²⁶¹ The court ultimately ruled against the charter plaintiffs, holding that

Education Committee, attended, as well as members of the DC State Board of Education, representatives of the DC Ward Education Councils, other DC education advocates, parents, DCPS administrators and teachers, and business leaders. Employees of the Public Charter School Board and Friends of Choice in Urban Schools, a charter advocacy organization, also attended.

²⁵⁵ See, e.g., Ron Zimmer, Brian Gill, Kevin Booker, Stephane Lavertu, & John Witte, Examining Charter Student Achievement Effects Across Seven States, 31 *Econ. of Ed. Rev.* 213, 222 (Issue No. 2, 2012); see also Stephanie Lavertue & John Witte, *The Impact of Milwaukee Charter Schools on Student Achievement*, Brookings, (Mar. 25, 2009), <https://www.brookings.edu/research/the-impact-of-milwaukee-charter-schools-on-student-achievement/>. In particular, charter schools emphasizing online instruction or blended learning do considerably worse than traditional public schools. *Online Charter School Study*, at 23, Center for Research on Ed. Outcomes, (2015), <https://credo.stanford.edu/pdfs/Online%20Charter%20Study%20Final.pdf>.

²⁵⁶ See, e.g., *Choice Without Equity: Charter School Segregation and the Need for Civil Rights Standards*, UCLA Civ. Rts. Project, (2009), <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/choice-without-equity-2009-report/>; Emmanuel Felton, *Nearly 750 Charter Schools are Whiter than the Nearby District Schools*, *Hechinger Rep.*, <http://hechingerreport.org/nearly-750-charter-schools-are-whiter-than-the-nearby-district-schools/>, (June 17, 2018).; Gordon Laffer, *Do Poor Kids Deserve Lower-Quality Education than Rich Kids? Evaluating School Privatization Proposals in Milwaukee*, *Wisconsin, Econ. Pol'y Inst.*, (Apr. 24, 2014), <https://www.epi.org/publication/school-privatization-milwaukee/>.

²⁵⁷ Richard D. Kahlenberg & Halley Potter, *The Original Charter School Visionary*, *N.Y Times*, (Aug. 30, 2014), <https://www.nytimes.com/2014/08/31/opinion/sunday/albert-shanker-the-original-charter-school-visionary.html>.

²⁵⁸ For example, Options Public Charter School received more than \$ 41,000 per student, but it paid its administrators exorbitant salaries and its management companies exorbitant fees. Investigators discovered that administrators were using school funds to buy million dollar properties in Virginia and Florida. The CFO of the Public Charter School Board approved the grossly inflated management and transportation contracts for Options, then quit the PCSB and became the CFO for Options' management company. See Emma Brown, *New Claims Surface in Options Charter School Case*, *Wash. Post*, (Jan. 3, 2014), https://www.washingtonpost.com/local/education/new-claims-surface-in-options-charter-school-case/2014/01/03/c02d1f5e-74a4-11e3-8b3f-b1666705ca3b_story.html?utm_term=.f8b0ae5498a1.

the Council did not violate the SRA with its decisions concerning supplemental and emergency appropriations to DCPS to cover budget shortfalls, contributions to the Teacher's Retirement Fund, and appropriations to the Department of General Services - categories that were not included as part of the Per Student Funding Formula in the first place. ²⁶²

The Committee, as amicus, noted that when the SRA had passed, both the DC Council, which drafted most of the initial legislation, and Congress, which slightly altered it before it passed, expressed concern that the process might create a two-tiered and unfair system where more active parents and generally less challenging students would migrate to charter schools, leaving to DCPS neighborhood schools the task of educating students needing greater educational and social-emotional supports. Yet the Committee contended that statistics show that is exactly what has happened. Charter schools in the District teach nearly 46% of the 90,000 public school students in DC as of the 2016-2017 school year, ²⁶³ but DCPS has by far the larger number of **[*213]** schools that educate school populations that have large concentrations - 70% or more - of the lowest-income students who are below grade level or who need significant special education, English language, or social/emotional guidance. ²⁶⁴ All of the DCPS schools serving this category of students who deserve more supports have populations that are more than 93% students of color. ²⁶⁵

The Committee's involvement in the Charter School Funding lawsuit is just one example of the Education Justice Project's work in policy analysis and advocacy, and even litigation when necessary, over the past few years, with a focus on improving racial equity and eliminating the harmful effects of discrimination and poverty. The Education Project also provided testimony in support of legislation that the DC Council recently passed severely restricting the use of out-of-school suspensions in both DCPS and DC charter schools. This limitation should significantly reduce the school-to-prison pipeline in DC, particularly for students of color who were disproportionately affected by suspensions. ²⁶⁶ The Project also provided research for a DC study by Mary Levy and a UCLA Civil Rights Project symposium demonstrating that the DC federal voucher system does not improve educational outcomes for low-

Dorothy Height Community Academy Public Charter Schools distributed \$ 13 million (\$ 2 million a year) to a for-profit management company owned by the founder Kent Amos, yet little of it benefited the school. Moriah Costa, Charter School Founder Pays \$ 3 Million in Settlement, Watchdog, (May 12, 2015), <https://www.watchdog.org/issues/education/charter-school-founder-pays-million-in-settlement/article> 50003fde-b42d-5257-9c3e-895ced485318.html.

Lawrence Riccio, CEO of School for the Arts in Learning, regularly used school funds to pay for apartments and his lavish traveling lifestyle in Scotland and France. See Jeffrey Anderson, Charter School Pioneer Gets FBI Scrutiny, Wash. Times, (May 5, 2010), <https://www.washingtontimes.com/news/2010/may/05/charter-school-pioneer-gets-fbi-scrutiny/>.

For more on nationwide charter school financial scandals, waste and fraud, see generally Charter School Vulnerabilities to Waste Fraud and Abuse, Ctr. for Popular Democracy, (May 2017), <http://educationvotes.nea.org/wp-content/uploads/2017/05/Charter-School-Fraud> Report 2017 rev1a.pdf.

²⁵⁹ See Emma Brown, D.C. Charter Schools Sue City, Alleging Unequal Funding, Wash. Post, (July 30, 2014), <https://www.washingtonpost.com/local/education/dc-charter-schools-sue-city-alleging-unequal-funding/2014/07/30/b19f88ca-1759-11e4-9e3b-7f2f110c6265> story.html?utm_term=.baccf26bed67. Washington Latin and Eagle Academy. Each charter school organization, whether it operates one school or many in D.C., is considered a separate Local Education Agency or LEA; D.C.P.S is also considered one LEA, so there are a total of 67 LEAs in D.C.

²⁶⁰ [D.C. Ass'n of Chartered Pub. Schs. v. District of Columbia, 277 F. Supp. 3d 67, 73 \(D.D.C. 2017\).](#)

²⁶¹ DC School Reform Act of 1995, D.C. Code ch. 18 § 38. See [D.C. Ass'n of Chartered Pub. Schs., 277 F. Supp. 3d at 74.](#)

²⁶² [D.C. Ass'n of Chartered Pub. Schs., 277 F. Supp. 3d at 78.](#) The Committee, along with Steptoe & Johnson and Lewis Baach Kaufmann Middlemiss, represented the C4DC amicus group in briefing the appeal during the Summer of 2018.

income students of color. ²⁶⁷ Further, it worked with C4DC members to challenge the Public Charter School Board's reversal of a decision, without prior notice to the public, which originally denied expansion to certain charter schools that a recent [*214] GAO Report found were suspending 20% to 30% of their students of color each year. ²⁶⁸

The Project worked with the DC Office of the Attorney General to provide guidance to all DC public school personnel regarding the rights of immigrant students and parents with respect to changing federal immigration policy. ²⁶⁹ On the heels of a series of scandals that culminated in the resignation of DCPS Chancellor Wilson and Deputy Mayor for Education Niles in February 2018, Project Director Kent Withycombe and eight other individual members of the C4DC met with Council members and their key staff members on several occasions to advocate for more equity in DC public schools, greater coordination between the public school sectors, and greater transparency in the school systems. ²⁷⁰ Finally, to increase the reliability of the data and the transparency of the public school systems in DC, the Committee most recently joined with C4DC in supporting DC Council proposed legislation promoting a University of Chicago-style consortium of DC-area independent academic institutions to evaluate the progress of the DC public schools every year.

²⁶³ Rebecca David, Kevin Helsa, & Susan Aud Pendegrass, A Growing Movement: America's Largest Public School Communities, Nat. All. for Pub. Chartered Schs., (Oct. 2017), <https://www.publiccharters.org/publications/growing-movement-america-s-largest-charter-public-school-communities> (last visited Sept. 10, 2018). As of SY 2017-2018, there are 120 charter school campuses in D.C. See 2018 Annual Report, D.C. Pub. Charter Sch. Bd., <https://www.dcpsb.org/report/pcsb-annual-reports> (last visited Sept. 10, 2018). As of the same school year, there are 115 D.C.PS school campuses. See Enrollment, D.C. Pub. Schs., <https://D.C.ps.D.C.gov/page/D.C.ps-glance-enrollment> (last visited Sept. 10, 2018). The total of 235 school campuses in D.C. is more than what Fairfax County has, and it is one of the largest school districts in the country, with more than twice as many students as D.C. Fairfax County Pub. Schs., <https://www.fcps.edu/about-fcps> (last visited Sept. 10, 2018).

²⁶⁴ See Enrollment Audit, D.C. Office of the State Superintendent of Ed., Audit and Verification of Student Enrollment for the 2016-2017 School Year, at 1-3 (Feb. 13, 2017), <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2016-17%20School%20Year%20Enrollment%20Audit%20Report%200.pdf>. See also At-Risk Funds, <http://atriskfunds.ourDCschools.org/> (last visited Nov. 06, 2018).

²⁶⁵ Enrollment Audit, D.C. Office of the State Superintendent of Ed., Audit and Verification of Student Enrollment for the 2017-2018 School Year, at 101 (Feb. 15, 2018), <https://osse.dc.gov/sites/default/files/dc/sites/osse/page/content/attachments/2017-18%20School%20Year%20Audit%20and%20Verification%20of%20Student%20Enrollment%20Report%20-%20Feb%202018.pdf>; See generally At-Risk Funds, <http://atriskfunds.ourDCschools.org/> (last visited Nov. 06, 2018). "At Risk" is defined in legislation by the D.C. Council to include students who are homeless, in the foster care system, on TANF or SNAP, or more than a year older than their classmates. [D.C. Code § 38-2901](#).

²⁶⁶ Steptoe & Johnson researched and helped prepare the testimony.

²⁶⁷ Mary Levy, Washington, D.C. Voucher Program: Civil Rights Implications, <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/washington-d.c.s-voucher-program-civil-rights-implications/Levy-D.C.-VOUCHER-PAPER-FINAL-TO-POST-030218C.pdf> (2018). The Committee staff and Hogan Lovells provided the research and drafting.

²⁶⁸ The Committee's Public Education Project, Coalition for DC Public Schools & Communities: June 19 Reversal Approving DC Prep Enrollment Petition Violated the Law, Wash. Law. Comm., (Sept. 01, 2017), <https://www.washlaw.org/news/632-coalition-for-dc-public-schools-communities-june-19-reversal-approving-dc-prep-enrollment-petition-violated-the-law>. The DC Office of Open Government found that the PCSB violated the DC Open Meetings Act. While it required further training for PCSB office personnel, it did not require PCSB to reverse its decision.

²⁶⁹ Mayer Brown provided the research and drafting. Id.

²⁷⁰ The Committee and the C4DC Advocate with D.C. Councilmembers for More Equity in D.C. Public Schools, Wash. Law. Comm., (Mar. 12, 2018), <http://www.washlaw.org/news/703-the-committee-and-the-c4D.C.-advocate-with-D.C.-councilmembers-for-more-equity-in-D.C.-public-schools>.

CONCLUSION

The Lawyers' Committee has served a unique role in supporting quality equal public education in the District since it helped enlist volunteer lawyers to represent local school boards looking to obtain more autonomy in operating their schools in the late 1970s. The Education Project drew on the private litigation approach that the Committee and its law firm lawyer recruits had been employing successfully to enforce civil rights in employment, housing and public accommodations to devise a program of direct immediate support for parents in their local schools combined with longer term policy analysis, advocacy and litigation. The Committee enlisted and fostered [*215] relationships with a diverse array of individually-interested constituencies, educated and informed them concerning the broader concerns and issues impacting DC public education, empowered and encouraged each of them to apply their highest and best effort(s) toward commonly developed goals, planned and coordinated their activities to achieve optimal overall impact, and sought to keep their focus on the best approaches to fixing problems going forward rather than wasting energy re-arguing about mistakes of the past. Over the past forty years, the Committee has evolved a vibrant and effective model for public interest organizations intent on seeing reform in public educational systems in the future.

But the Committee's own work is cut out for it as it continues to pursue its mission of improving DC's public education system in the years to come. While the DC Public School Partnership Program has demonstrated its ability to work with and empower parents and schools to enrich the academic lives of students, the program currently reaches only about two thirds of the 85 DCPS schools. Committee staff is committed to increasing the numbers of schools, parent groups and students able to receive the broad array of proven benefits such partnerships can provide in the years to come. This massive recruitment and coordination effort will demand ongoing investment of the limited resources available to the Committee itself, as well as continued and expanded legal and business community resources and support and the sustained interest and desire of school communities and families.

The Parent Empowerment Program and PEP Fund has garnered significant recent publicity, and appears poised as well to strengthen and expand significantly in the coming years as annual donations to the Fund have begun to increase. Further, as the parent teacher groups grow and School Partnerships become more involved in supporting them, the Education Project will look for opportunities to expand the scope of Program activities to serve the interests of the parent groups and their school communities. Among the broadened initiatives currently contemplated are a variety of "know your rights" educational clinics and legal matter intake and referral services. Again, fulfillment of these ambitions to both grow funding and expand opportunities will depend on both school community and family demand and committed and generous legal and business support.

Finally, the recently renamed Education Justice Project is looking to broaden its mission to achieve racial justice in education and eliminate [*216] the harmful effects of discrimination and poverty by expanding its critical litigation and policy advocacy work in the District, and elsewhere as there is need. Seeing the C4DC as a potentially powerful and diverse force of educational equity leadership in the District in the years to come, the Project expects to continue to play a key role through its participation in and support and promotion of the District-wide public education advocacy organization.

One area that will demand the attention of the Committee and other experts and leaders going forward will be the better coordination of the public/charter school systems in the District to ensure better outcomes for all students, regardless of whether they attend charters or DCPS schools. For example, as of School Year 2016-2017, there were more than 21,000 empty public school seats, with DCPS and the charter sector roughly splitting that total.²⁷¹ Funding is another concern. District taxpayers provide 83% of the total funding for charter schools each year;

²⁷¹ Public Education Supply and Demand for the District of Columbia CityWide Fact Sheet, SY2016-17, at 9, Off. of Dep. Mayor of Ed., [https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/SY16-17 Citywide%20School%20Fact%20Sheet 10.06.17.pdf](https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/SY16-17%20Citywide%20School%20Fact%20Sheet%2010.06.17.pdf).

federal taxpayers provide another 9-10% of that total. ²⁷² The District also needs to hold charter schools accountable for performance. To what extent is the shifting of funds from DCPS schools to charter schools justifiable based on outcomes? And how should limited public education funds be managed to best serve the goal of quality education for all students in the District? These are all questions that need critical, informed and fair analysis leading to honest answers, and action.

As has been demonstrated repeatedly since it ventured into the public education space forty years ago, the Committee's objective in analyzing and advocating on this and other issues of critical educational importance--as in its support of the school partnership, parent empowerment and education justice programs--will be to ensure that each child in the District receives equal access to quality public schooling regardless of their level of need or the race, neighborhood or income level of their family. Unfortunately, while progress has been made, much more work remains to be done to achieve this goal.

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²⁷² See 2016 Financial Audit Review Report, Sources of Revenue Report, D.C. Pub. Charter Sch. Bd., (July 13, 2017). <https://www.dcpccb.org/2016-financial-audit-review>.