



WASHINGTON LAWYERS' COMMITTEE
FOR CIVIL RIGHTS AND URBAN AFFAIRS

Testimony of the Washington Lawyers' Committee for Civil Rights and Urban Affairs
Education Budget Oversight Hearing
of the Committee of the Whole of the Council of the District of Columbia
June 3, 2021

The Washington Lawyers' Committee for Civil Rights and Urban Affairs urges the Council to take bold steps to invest in young people, to reverse the effects of generations of systemic racial discrimination and poverty, and to fund a racially just education system in DC.

The COVID-19 pandemic highlights the intrinsic value that our neighborhood public schools provide our communities. They are not only places of learning and relationship building; at their best, they also function as community centers providing food, health care and other wrap around services. Our budget choices must support school communities to be at their best. Yet, the legacy of a segregated and unequal education system is still the reality for many parents and students today. Black and Latino students are more likely to attend schools that are under-resourced, outdated, and over-policed. For example:

- DCPS neighborhood schools serving mostly Black and Brown students are more likely to be deprived of the funding necessary to retain staff including librarians, and school-based professionals to address mental health and other needs, such as psychologists, social workers and school counselors;
- DCPS neighborhood schools serving mostly Black and Brown students are less likely to have sufficient funding to provide high quality before/after care, and to less likely to have engaging, project-based, learner-centered education opportunities in the Arts, Music, Humanities, Civics, STEM and sports during school time, out of school time, and in the summer;
- DCPS school facilities in historically underinvested neighborhoods, particularly those East of the River, are more likely to be waiting for much-needed renovation than school facilities West of the River;
- These same schools are more likely to still be struggling with funding to provide enough digital devices, classroom technology resources, better broadband internet access at school and in homes, and technology training for students, teachers, staff and parents;
- School police and security guards are more prevalent in schools with high populations of Black students. 70% of the policed schools have student populations that are at least 50% Black. Where Black students make up <25%, there is one security guard every 312 students but for schools with 75% or higher Black student population there is one security guard for every 203 students.

The COVID-19 pandemic has only underscored the effects of decades of failures to invest in neighborhood schools, economic opportunities, and our health and mental health care systems. and will continue to have a profound impact on students of color, students who are

experiencing poverty, and students with disabilities. The negative effects of the pandemic have been extreme in certain DC communities. Racial and socioeconomic disparities in COVID-19 cases and deaths is increasing, as the vaccination rate of wealthier and white residents is significantly outpacing that of low-income residents and people of color.¹

The Council must rise to the challenge of reducing structural inequities in our schools by ensuring that the District's budget reflects our values as a community, including a commitment to provide all students with a high-quality education. The District's budget must reinvest money from criminalizing young people into supportive services for our school communities, students, and families.

Key things that DC needs to do to create greater equity in education are:

- Fully fund school budgets that preserve each school's ability to maintain the staff they need and that give to each school, especially those with high "at-risk" populations, the full base UPSFF funding and the full at-risk funding that their students deserve.
- Divert funding from the school security and policing budget and reinvest in increased support to address mental health needs of students, including trauma caused by the COVID-19 pandemic.
- Ensure that students have excellent, engaging before and after school programs and Safe Passage support to and from school to promote attendance, academic enrichment, parental support and safety.
- Dedicate sufficient funding to ensure that students with disabilities receive a free appropriate public education ("FAPE") throughout School Year 2021-2022 and funding to compensate all students with disabilities for any deprivation of FAPE during the COVID-19 pandemic.
- Provide funding to further close the digital divide at schools and in homes, including devices, broadband and tech training for students, teachers, staff and families.
- Help existing DCPS neighborhood schools of right flourish by freezing the opening of new charter schools and new DCPS schools—except where a DCPS neighborhood school is overcrowded or needed to complete a feeder pattern—so that we can evaluate system capacity and need.

¹ Lola Fadulu, Dan Keating, "Black residents now account for more than 8 in 10 D.C. coronavirus cases," Washington Post (May 25, 2021), available at https://www.washingtonpost.com/local/dc-coronavirus-blacks-vaccine/2021/05/25/1b6208da-bd6d-11eb-9c90-731aff7d9a0d_story.html.

(1) Every DCPS School Must Have Sufficient Funding to Maintain Staffing Level and Support Students' Return to In-Person Learning.

While the Mayor's Proposed Budget provides some stabilization and increases to local school budgets, the Council must act to ensure that all schools have enough money to maintain staffing levels and support students' return to in-person learning. Under the proposed budget, it has become clear that many schools are not able to keep necessary positions, like health teachers, librarians, and others. For example, under the current proposed budget, 37 schools do not have a full-time librarian, and 46% of those schools are in Wards 7 and 8. For those schools that can keep existing staff, it is not clear, whether they will be able to hire any additional staff that they believe would be needed to benefit their students, including academic specialists or additional counselors, social workers or psychologists.

The Mayor's Proposed Budget increases are not enough to provide the critical support students need while transitioning back to in-person learning nor address the devastating impact of COVID-19 on school communities. Currently, the proposed budget increases the UPSFF by 3.6% and increases in the at-risk and English Language Learners weighting incrementally. This is an important step, but these increases on their own, at best, only support DCPS schools to maintain their current staffing level. In particular, the slight increase in the at-risk weighting from 0.2256 to 0.24 still falls short of the 0.37 weighting recommended by the 2013 Adequacy Study and emphasized by the DC Auditor in its 2019 Report that DC schools continue to shortchange students falling into that category.²

The Mayor's Proposed Budget also provides \$12.3 million in local stabilization dollars for DCPS schools and \$14 million pledged for stabilization from the federal American Recovery Plan. This one-time investment may be enough for almost every school can at least retain the staff they need at their schools. We ask the Council to preserve that necessary funding and provide additional funding to maintain staffing levels this fiscal year.

² The Finance Project, Cost of Student Achievement: The Report of the DC Education Adequacy Study, at Recommendations, pgs. 116-117: <https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/6%20RECOMMENDATIONS.pdf> Office of the DC Auditor 2019 Report, DC Schools Shortchange At Risk Students, June 26, 2019, at pgs. 3-4: <https://zd4l62ki6k620lqb52h9ldm1-wpengine.netdna-ssl.com/wp-content/uploads/2019/06/At-Risk.Funding.6.26.19-1.pdf>; The additional 0.06 "At-Risk" weight for high school students who are overage for their class is also helpful and appreciated, but it still leaves DCPS well short of the 0.37 weighting recommended by the Adequacy Study.

(2) Ensure that Every DCPS School Receives its Full Base Funding (UPSFF) and Full At-Risk Funding.

The DC school funding formulas provide supplemental funds for “at-risk” students – as defined by the law, students who fall into one or more of the following categories: (1) homeless; (2) in the District’s foster care system; (3) qualifies for the Temporary Assistance for Needy Families program or SNAP; or (4) a high school student who is one year older, or more, than the expected age for the grade in which the student is enrolled.³ However, instead of being reserved for their intended purposes, these funds seemingly supplant UPSFF base funding, meaning that overall, schools with the greatest need not receiving all of the funds to which they are entitled.

For example, in School Year 2020-2021 individual school budgets showed an average reduction of 40% of Base Funding to DCPS Schools with high at-risk populations.⁴ This means that those schools were forced to use 40% of their at-risk funding to supplant the Base Funding they lost. This underfunding of DCPS schools with high at-risk populations has been going on for years. In its June 26, 2019 Report, *D.C. Schools Shortchange At-Risk Students*, the DC Auditor examined several years of DCPS funding data and found significant evidence of supplanted at-risk funding for social workers and psychologists who should be fully funded by base funding. The DC Auditor also found that the misuse of at-risk funds was particularly high in schools with high concentrations of at-risk students:

- “23 schools with the largest projected concentrations of at-risk students (> 80 percent), received funding for only 63 percent of required social worker and psychologist positions, while 19 schools with the lowest projected concentrations of at-risk students (< 20 percent) received funding for 125 percent of their required positions.”⁵
- “33 out of 64 standalone elementary schools, with an average projected at-risk enrollment of 63 percent, were required to use at-risk funds to meet CSM [comprehensive staffing model] staffing requirements, while 31 other schools with an

³ D.C. Code § 38–2901(2A).

⁴ Mary Levy, March 9, 2021 Oversight Hearing for Education Agencies, Written Testimony before the Committee of the Whole of the District of Columbia Council at 3, available at <https://w6pspo.org/2021/03/09/mary-levy-testimony-oversight-hearing-for-education-agencies-march-9-2021/> (“At-risk funds too often supplant rather than supplement other funds. . . . in the current year about 40% of at-risk funding in the school budgets supplanted base funds, in contravention of governing law. The level at which supplanting occurs varies enormously from school to school, and those whose funds are used this way have less, sometimes almost no extra resources dedicated to at-risk students.”).

⁵ Office of the DC Auditor, *D.C. Schools Shortchange At-Risk Students*, June 26, 2019, at 16, available at <https://dcauditor.org/report/d-c-schools-shortchange-at-risk-students/>

average projected at-risk enrollment of 33 percent were fully funded or over-funded for the same requirements.”⁶

- “Schools with the lowest concentration of at-risk students had the most required related arts positions funded with base funds, while schools with the highest concentration of at-risk students had the fewest positions funded with base funds. Overall, just 77 percent of required related arts positions were funded with base funding while the rest were funded with at-risk funds.”⁷

The DC Council should make sure that at-risk funding supplements and does not supplant base UPSFF Funding, in compliance with the Fair Student Funding and School Based Budgeting Act ⁸ As an initial step, the DC Council should require DCPS to submit individual school budgets that clearly show how much Base Funding and At-Risk Funding each school should receive.⁹

(3) Divest from the School to Prison Pipeline & Invest in Students' Wellbeing

The budget should redirect funds from student criminalization to student support. The Washington Lawyers' Committee joins students, parents, educators, and organizers in demanding #PoliceFreeSchools and calling for the divestment of all forms of police from D.C. schools including Metropolitan Police Department officers, special police officers and security guards. The presence of police in schools fuels the school-to-prison pipeline, which preys on students of color, students with learning disabilities, and students from low-income areas. The school-to-prison pipeline is a form of systemic discrimination which brings the punitive approaches of the modern criminal justice system into our schools. Rather than focus on providing additional resources and support to these students, the school-to-prison pipeline criminalizes normal child and adolescent behavior and funnels children into the criminal justice system. The Council should instead invest in resources that will create a safer, healthier, and more equitable school environment.

A. Divesting from School Policing

When schools shifted to virtual learning, the COVID-19 pandemic paused the school-to-prison pipeline. Now with schools in the District set to fully reopen in the fall, the Council should not allow schools to go back to the status quo and allow the school-to-prison pipeline to restart. If

⁶ Id. at 14.

⁷ Id. at 14.

⁸ B20-309, Fair Student Funding and School Based Budgeting Act of 2013, codified at D.C. Code § 38–2907.01(b)(1) and (b)(3)

⁹ D.C. Schools Shortchange At-Risk Students, *supra* note 4, at Executive Summary and at 24. DCPS agreed with recommendations #1-3 and indicated it was working toward transparency and accountability in these areas. Id. at 37-38 and 40.

nothing changes, students returning to school in the District will face the reoccurring threat of police in their schools. Prior to the pandemic, 92% of school based arrests in DC were of Black youth.¹⁰ In the fall, Black students will be more likely to be arrested at school for normal adolescent behavior than their White counterparts.¹¹ This disturbing trend won't solely impact boys, as 60% of girls arrested in DC are under the age of 15.¹² Moreover, Black girls are five and a half times more likely to be suspended from school than white girls.¹³ Girls, especially girls of color are often the targets of harsh school disciplinary responses to their behavior are informed by stereotypes about gender and race.¹⁴

Over the last school year, our city spent close to \$20 million dollars¹⁵ on school security within DCPS alone, and about another \$13.9 million to MPD to patrol DCPS and charter schools.¹⁶ *Imagine if* that amount of money was instead invested into the growth and future of our students. This upcoming academic year will be critical to the future success of students in the District. Students are dealing with anxiety, demoralization, fear, and frustration on top of the stress of a full course load. The overall strain and uncertainty of these challenging times gives rise to increased levels of stress in students that school staff treat as criminal misbehavior instead of a cry for help.¹⁷

Mayor Bowser is proposing adding \$500,000 in American Rescue Plan funds for enhanced training for guards, SROs, and MPD's Youth and Safety Division. This is unacceptable. Federal

¹⁰ 2019 School Report Card indicates that there were 338 total arrests of students across the District – 312 of the arrests were of Black students and 26 of the arrests were of Latino students. (104 of the arrests were for students with disabilities).

¹¹ See, e.g., Goff, P.A., Jackson, et.al. "The Essence of Innocence: Consequences of Dehumanizing Black Children," *Journal of Personality and Social Psychology* (February 2014); Epstein, Rebecca, Jamilia J. Black & Thalia Gonzalez. "Girlhood Interrupted: The erasure of Black Girls' Childhood," Georgetown Law Center on Poverty and Inequality (2012), available at <http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/girlhood-interrupted.pdf>.

¹² Rights4Girls & Georgetown Juvenile Justice Initiative, *Beyond the Walls: A Look at Girls in DC's Juvenile Justice System*, 21-22, <https://rights4girls.org/wp-content/uploads/r4g/2018/03/BeyondTheWalls-Final.pdf>.

¹³ Adaku Onyeka-Crawford et al., Nat'l Women's Law Ctr., *Let Her Learn: Stopping School Pushout for Girls of Color* 1 (2017).

¹⁴ Rights4Girls & Georgetown Juvenile Justice Initiative, *Beyond the Walls: A Look at Girls in DC's Juvenile Justice System*, 9, <https://rights4girls.org/wp-content/uploads/r4g/2018/03/BeyondTheWalls-Final.pdf>.

¹⁵ MPD FY2021 Approved Budget for the District of Columbia Government, Schedule 30-PBB, Division 2300, https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/fa_mpd_tables_2021a.pdf.

¹⁶ Qubilah Huddleston, *What's in the Fiscal Year 2021 Approved Budget for PreK-12 Education?*, DC FISCAL POLICY INSTITUTE (Sept. 9, 2020), <https://www.dcfpi.org/all/whats-in-the-fiscal-year-2021-approved-budget-for-prek-12-education/>.

¹⁷ Jeana Bracey, *School Discipline during COVID-19: Inclusive and Supportive Strategies for Schools as they Re-open*, 77, THE CHILD HEALTH AND DEVELOPMENT INSTITUTE OF CONNECTICUT (Oct. 13, 2020), <https://www.chdi.org/index.php/publications/issue-briefs/school-discipline-during-covid-19-inclusive-and-supportive-strategies-schools-they-re-open>).

funds are limited and our students have much greater needs. The Council should reject Mayor Bowser's proposal and reinvest the ARP funds back into our students. Additionally, the allocation of \$3.4 million dollars into the MPD Cadet program should be partially reallocated to funding pathways to teaching through the Representation in Education Pipeline Project (REPPDC).¹⁸ The District should invest in programs that create pipelines for careers that enrich our communities in diverse and unique ways rather than promoting more pathways to policing.

B. Invest in Safety & Mental Health of DC Students

Defunding police in schools provides an opportunity to invest in critical supports for education in the form of college counselors, social workers, school nurses, and behavioral health professionals. The Committee supports the recommendations of the Strengthening Families Coalition regarding school-based mental health. This year, in particular, students need increased access to mental health professionals to address the trauma caused by the pandemic, police violence, and racism. The full impact of COVID-19 on students' mental health in DC isn't known, but even before the pandemic, a large share of the District's children and youth up to age 17 had been exposed to traumatic events with the potential to impact their mental health: 22.8 percent had been exposed to one adverse childhood experience (ACE) and 21.3 percent had been exposed to two or more.¹⁹ Exposure to these incidents is much higher among the city's Black and Latino children and youth: 16.6 percent of white students have been exposed to an ACE, in contrast to 58.7 percent of Black students and 38.7 percent of Latino students.²⁰

The Mayor's proposed budget allocates \$5.8 million to the Department of Behavioral Health for School-Based Mental Health practitioners in schools. This is intended to ensure that every public school in DC has at least one behavioral health clinician, as it is meant to fund the addition of staff to 83 schools to be included in the School-Based Mental Health Program. However, the Strengthening Families Coalition has determined that the actual cost of putting at least one behavioral health clinician in every school is \$6.67 million. The Committee joins with

¹⁸ REPPDC is a campaign of EmpowerEd to promote the growth of a pipeline of educators to strengthen the recruitment and retention of educators of color in DC. More information is available at <https://www.weareempowered.org/reppdc.html>.

¹⁹ DC Policy Center, State of the DC Schools Report 2019-202 at 12, available at <https://www.dcpolicycenter.org/publications/state-of-dc-schools-19-20/>. (" Adverse childhood experiences, or ACEs, undermine a child's sense of safety and stability. They include abuse, neglect, exposure to violence at home or in the community, substance misuse, and instability due to parental separation. They also include social factors such as economic hardship, homelessness, and discrimination. Decades of research link ACEs to lifelong negative health and social outcomes.

²⁰ Id. at 12

the Strengthening Families Coalition in requesting that the Council fully fund this program with an additional \$841,000.

Another \$2.2 million is allocated to OSSE to fund School-Based Mental Health capacity building, cover costs for a few schools in existing SBMH cohorts, and fund crisis response costs. As the Mayor explained, however, a significant portion of this money will be used to supplement provider grants. So that this money can be used for its intended purposes, the Council should instead allocate \$1.5 million in American Rescue Plan federal dollars to support the increased cost for SBMH providers.

The Committee also supports an increased investment in safe passage programs to support students' ability to attend school. Creating a safe pathway for students to get to and from school by foot, metro and bus will require citywide man-power and messaging that enforces safe structures to make a difference. The mayor needs to develop a plan to implement a campaign to recruit willing community groups and partners to enact strong safety measures for students to joyfully feel safe as they arrive and exit school. Developing and implementing citywide safety protocols will ultimately have an impact in the classroom and will allow students to want to come to school and be prepared to learn without distractions.

The Mayor's proposed budget allocates \$13.3 million for programs like Safe Passage and Man the Block that help students get to and from school safely. It is unclear at this point whether this will be enough to address all of the safe passage programs needed for students.

Finally, students need safe, renovated buildings in which to learn. The \$1.5 Billion earmarked by the Mayor to modernize DCPS schools is critical, as schools East of the River have not been modernized at the same rate as those West of the River. While there are several schools West of the River that also have been delayed in modernization, the spending should prioritize Schools East of the River that have been postponed for years as West of the River schools were modernized first and ran up cost overruns. Those cost overruns postponed desperately-needed improvements for so many students of color living in historically underinvested neighborhoods.

(4) Increase Summer, After-School and Other Out of School Time Learning Opportunities So Students Can Flourish

The pandemic has exacerbated barriers to learning that some students in the District, were experiencing prior to March of 2020. Given pre-existing disparities, the pandemic's impact has likely been even greater for students of color and students from low-income families compared to their peers, and the pandemic is expected to widen learning and opportunity gaps.²¹

²¹ DC Policy Center, State of the DC Schools Report 2019-202 at 20, available at <https://www.dcpolicycenter.org/publications/state-of-dc-schools-19-20/>

By some estimates, DC students on average have lost nearly four months of learning in math and one month of learning in reading due to the pandemic.²² That number is higher for students of color, students in low-income households, students with special education needs, and English language learners. For example, students falling in at-risk categories have lost 5 months of learning in math and 4 months of learning in reading.²³

DCPS needs to expand opportunities for out of school time opportunities that would benefit tens of thousands of students. The Committee strongly believes that out of school time and summer programming for the next several years should primarily focus on providing content-rich, immersive experiences in the Arts, Music, Theater, STEM, Civics and the Humanities for as many students that want them. While opportunities for individual students to work on literacy and math skills should be available – such as small book clubs in elementary schools or debate clubs in middle or high schools -- large scale English and Math skill boot camps should be avoided. Instead, high quality out of school time programs can help improve and integrate English and Math skills with critical thinking, analysis and self-expression in a more engaging way. Students need additional extra-curricular activities that move beyond the classroom walls. Increasing and enhancing the learning experience through programming outside of the classroom will allow students to release stress from the pandemic, and meet their social needs to be emotionally healthy and socially equipped to learn each day at school.

Furthermore, many parents are unable to afford before and after school programs because of the current financial crisis. Besides immensely benefiting students and accelerating their learning, parents need before care and extended day services so that they can return to full-time work. Critical investments like these at schools can dramatically influence economic recovery of entire households and communities. The Mayor's proposed budget allocates \$13 million to OSSE to support "high-impact" tutoring efforts city-wide to accelerate student learning. This amount will be helpful if it is used, as we indicated above, for robust, student-centered, project-based, engaging learning opportunities for students. It should not be used for "high impact" math and English tutoring boot camps that we and so many teachers oppose.²⁴

However, the \$13 million allocated in the Mayor's proposed budget may not be enough. Analysts have indicated that DC needs to invest closer to \$18 million to reverse historic cuts

²² Empower K12, Covid-19's Impact on Student Achievement and Academic Growth in DC, Dec. 2020, available at <https://static1.squarespace.com/static/5f9857f027d55d2170cd92ac/t/5fdb6d5dc70d2641e55ff244/1608215913800/COVID-19%27s+Impact+on+DC+Student+Achievement+--+EmpowerK12+Initial+Findings+Dec+2020.pdf>.

²³ Id.

²⁴ There are also some additional funds for Out-of-School Time programs funded by the Learn 24 office, but the amount and the purpose is unclear in the released budget books.

made to grants to providers of out-of-school time opportunities, and invest additional funds to greatly expand those opportunities.²⁵

(5) Close the Digital Equity Gaps Among Students at Schools and at Home

The digital divide continues to disproportionately impact students of color, those in poverty and students with disabilities.²⁶ Just before the pandemic started, approximately one in every eight District residents did not have access to a computer or tablet in their household, and 24 percent of children in DC lacked access to broadband internet. This share was higher in Wards 7 and 8, where 37 percent of children lacked access.²⁷ Importantly, 5,122 students experienced homelessness, continuing into the 2020-2021 school year, which complicated distance learning, as these students were less likely to have reliable access to internet.²⁸

The digital divide in DC strongly correlates with inadequate income. 18.5% households in DC still lack high-speed home Internet. Over 40% of households with annual income below \$25,000 lack high-speed home Internet. 7.8% of households do not have a computer. Wards 7 and 8 have significantly lower percentages of high-speed Internet home adoption compared to other wards (around 60% compared to over 90% for Wards 2 and 3).²⁹

²⁵According to a recent DC Education Coalition for Change FY2022 Budget + Federal Funding Priorities, the funding can come from a combination of the DC budget and federal stimulus funds. Funds are available under ESSER, Section 2001(e)(1), which requires at least 20 percent of funds received by an LEA to be used to address learning loss through evidence-based interventions that respond to students' academic, social, and emotional needs and address the disproportionate impact of student subgroups and students experiencing homelessness, children in foster care. This includes enrichment programming that can take place during regular school hours, before school and extended day hours, comprehensive after school programs, and summer learning. Funds are also available through the the federal American Recovery Act, which mandates that states must use at least 5% to address learning loss; use at least 1% to implement summer enrichment programs; and use at least 1% to implement comprehensive after school programs. More information is available at <https://www.deccdc.com/>. and use at least 1% to implement comprehensive after school programs. More information is available at <https://www.deccdc.com/>.

²⁶ See, e.g., National Education Association, Digital Equity for Students and Educators, September 2020, https://www.nea.org/sites/default/files/2020-10/NEA%20Report%20-%20Digital%20Equity%20for%20Students%20and%20Educators_0.pdf; K-12 Dive, Decoding the Divide: The struggle to make 21st century learning equitable for all students, May 25, 2021, <https://www.k12dive.com/news/decoding-the-divide-the-struggle-to-make-21st-century-learning-equitable-f/600717/>

²⁷ DC Policy Center, State of the DC Schools 2019-2020 at 16; see also U.S. Census Bureau, American Community Survey Public Use Microdata, 2014-2018, available at <https://www.census.gov/programs-surveys/acs/microdata.html>

²⁸ DC Policy Center, State of the DC Schools 2019-2020 at 7; Office of the State Superintendent for Education 2020, "FY19 Performance Oversight Questions." available at <https://osse.dc.gov/page/fy19-performance-oversight-questions>.

²⁹ Digital Equity in DC. <https://www.digitalequitydced.com/about> (last visited June 23, 2021).

While schools and families had to adjust quickly to a distance learning environment in the spring of 2020, there were countless times during the 2020-2021 school year where lack of access to devices and high-speed internet prevented students from fully participating in distance learning, especially in households with multiple students or with parents also working remotely, where many needed to use internet and devices at the same time. Many students were still using cell phones often for classes and homework during the 2020-2021 school year.³⁰ The raw numbers of available and distributed devices³¹ and internet access points to all DC public school students indicate that significant shortfalls for at least hundreds, and perhaps thousands of students likely still exist now.³²

Device procurement and distribution efforts by DCPS central administration and schools during the first six months of the pandemic were a marked improvement, but they were not nearly enough. DCPS, Digital Equity in DC Education and WLC representatives met regularly in the Spring and Summer of 2020 to try to streamline tech delivery to students for the Fall. Nevertheless, from late Spring into the early Fall of 2020, DCPS schools contacted the Committee and many of our law firm School Partnerships with DCPS Title I schools to help fill gaps in available tech hardware – more than \$75,000 in laptops, tablets, keyboards, cases and headphones purchased at wholesale prices – for students and for teachers. In some instances, notifying DCPS central administration tech leads of the immediate needs of schools helped fill the gap, but in just as many instances our School Partners had to step in to do so.

³⁰ According to the DC Policy Center's State of the Schools 2019-2020 Report, there are no precise data points to represent the digital divide in the spring of 2020 in DC. See DC Policy Center, State of the DC Schools Report 2019-2020. The Deputy Mayor for Education's "Public School Family Engagement Survey Review" presented coverage as of June 2020, but these data points are likely biased as completing the survey required access to a device and internet. See Deputy Mayor for Education "Public School Family Engagement Survey Review: Full Results" available at <https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/DME%20Survey%20Deck.pdf>

³¹ At the start of school year 2020-21, a survey of LEAs conducted by the Office of the Deputy Mayor for Education (DME) showed that there were an estimated 74,250 devices ready for distribution to students in the fall of 2020 compared to an estimated 93,987 public school students. Out of these devices, 45,000 of these were available to DCPS students, and by February of 2021, 32,000 devices had been distributed. DC Policy Center, State of the DC Schools 2019-2020 Report, Distance Learning in the Spring of 2020, and endnote [li]; Office of the State Superintendent of Education, "The Bowser Administration Releases Preliminary DC Enrollment Numbers for the 2020- 21 School Year." available at <https://osse.dc.gov/release/bowser-administration-releases-preliminary-dc-enrollment-numbers-2020-21-school-year>

³² An estimated 63,390 internet access points were available through the city's Internet for All, LEA WiFi hotpots, LEA cell-enabled devices, and LEA home broadband packages. These access points do not provide the same quality of internet service most would expect. Most of the internet access points were available through the city's Internet for All initiative, and as of February 2021, 9,000 students had agreed to participate in the initiative (with 25,000 allocated spots). DC Policy Center State of the Schools Report for 2019-2020, March 16, 2021 at 43-44; see also PAVE DC. September 2020. "PAVE Coffee Chat: Back to School Survey," available at https://www.dropbox.com/s/108939nqds8pohd/Back%20to%20School%20Survey%20Results_Final.pdf?dl=0.

A. The Council should designate specific funding to DCPS to reach a 1:1 student-device ratio, a 1:1 teacher-device ratio, and vastly improve teacher technology.³³

The Committee supports Digital Equity in DC Education's repeated demands to meet these ratios, which several other school districts in the region and some charter LEAs in DC supported for the 2020-2021 school year. Contrary to what the DCPS Chancellor stated recently, DCPS's Empowered Learners initiative was not a comprehensive plan. It just focused on in-school student computers for grades 3-12, had a target of 2022 to get to 1:1, and did not constitute a comprehensive plan that outlined expected costs and funding sources as recommended by the DC Auditor in 2017.³⁴ While we appreciate that the Mayor's proposal provides \$13.2 million meant to reach a 1:1 student device ratio for Grades 3-12, it leaves grades Pre-K to 2 with a 3:1 ratio funded by federal COVID relief funds.

Additionally, DCPS needs to ensure that teachers have sufficient instructional technology. During distance learning, many teachers relied on their personal computers, some of which are not optimal for online instructional demands, either because their school could not afford to buy them a computer or because the school-issued computer was not in good working condition. The Mayor's proposal uses \$5.7million in federal COVID relief funds meant to ensure that every teacher has an updated, dedicated device. But schools will receive teacher devices based on the number of teaching staff after accounting for centrally purchased staff devices in Fall 2019 and recent modernization purchases, so it will not be clear whether there are enough devices for teachers until later in the Fall.³⁵

B. Practical technology education for students, families and teachers is needed.

Students, families and teachers indicate they need practical, high-quality training on everything from basic computer use and e-mail to online platforms. Pre-recorded webinars are not enough help for many parents and teachers. Many need hands-on, real-time help, which costs more to provide. The Mayor's budget does not establish a budget figure for this, but we have

³³ A 1:1 ratio may in fact require more than a computer for every student and teacher. Several DCPS individual school technology leads have reported that schools should have at least 5-10% more devices available than their enrollment population at the start of the school year, so they can issue devices quickly to students that arrive mid-year, as well as to quickly swap out working devices for students and teachers who have broken or malfunctioning devices.

³⁴ Planning, Buying and Implementing New Information Technology in DC, A Report of the Office of the DC Auditor, Feb. 9, 2017: https://zd4l62ki6k620lqb52h9ldm1-wpengine.netdna-ssl.com/wp-content/uploads/2018/07/DCBC.Final_.Report.2.8.17.pdf

³⁵ Id.

been informed that the DCPS Office of Teaching and Learning has started planning for staff training, although there are no public details yet.³⁶

Families also need robust and effective technology support. More robust tech support is needed at the school level, because much of the burden for handling problems still fell on school staff who have demanding full-time jobs and who are not fully trained to provide tech support. Technology solutions should assist teachers, instructional specialists, library/media staff and assistant principals in doing their jobs; it should not be an additional, uncompensated job. Both the Office of Chief Technology Officer (OCTO) and Department of General Services (DGS) need to have dedicated teams focused solely on addressing DCPS' hardware, software and broadband needs in a much more rapid and fully responsive manner. Digital Equity in DC Education called to improve the current IT staffing ratio of 1 technician per 857 users, which is inadequate for daily support and is below industry standards. The Mayor's proposal provides \$16.7 million for DCPS payment to OCTO for tech services, increasing prior years' funding to provide 85 technicians for in-school tech support. This would make the new IT staffing ratio 1 technician per 705 users, which is not sufficient. bg

Regarding school infrastructure and improving broadband capacity and speeds, the Mayor's proposal targets \$2.45 million in the capital budget, which would fund upgrades for 15 schools. In addition, about 8 schools will receive IT infrastructure upgrades this summer, and \$1.5 million will refresh Smartboard/audio-visual technology in classrooms. However, it is likely that many more DCPS schools need similar upgrades.³⁷

C. DC needs to prioritize better broadband speed and bandwidth for households & develop a sustainable citywide Internet solution.

The pandemic has taught us that faster and more reliable broadband access and affordability is needed in more DC households, especially those with students, and the need is most acute for low-income households. OCTO's Internet for All program and the FCC Emergency Broadband Benefit program are temporary, and there is no any concrete plan or timeline proposed in this budget for ensuring every DC resident has access to high-quality, reliable internet.

The lack of reliable internet impacts on student learning and implicates DCPS' budget. More than 30% of parents who completed the Digital Equity in DC Education technology survey said their students often experience Internet connectivity issues such as slow-downs and disconnections.³⁸ Students require adequate Internet download/upload speeds for online

³⁶ Id.

³⁷ Id.

³⁸ Digital Equity in DC, "Testimony & Police Recommendations, <https://www.digitalequitydced.com/testimony> (last visited June 23, 2021).

learning, which requires videoconferencing and other bandwidth-heavy applications. Current low-cost Internet options provide speeds not sufficient for multiple Internet users in a household.³⁹ And, inadequate and delayed outreach on OCTO's Internet for All program led to program undersubscription. Even today, many families and school staff are not aware of free and low-cost Internet options in their area. The lack of high-quality Internet access throughout the city forces DCPS to continue spending significant funding on monthly data plans for hotspots and LTE-enabled devices.

The Deputy Mayor of Education's recent testimony that less technology will be needed once students return to in-person classrooms could not be more wrong. We joined with Digital Equity in DC Education to advocate to close the digital divide years before the pandemic started, because students and teachers were trying to use computers and classroom technology like Smartboards in school every day, but the devices, broadband access and training were woefully inadequate. Many DCPS schools have been trying to use blended learning models for years, which requires rotating between online learning on laptops and small group, teacher-led instruction and assistance for students, all of which require adequate tech devices and broadband access.

The Mayor's proposed budget does not contemplate (or fund) the comprehensive, long-range technology planning that is needed, and DCPS is unlikely to prepare and execute the kind of comprehensive plan needed unless it is directed to do so. This advance planning should address gaps in student and teacher resources, including improving broadband speed and reliability in schools, and also address tech training needs of students, teachers, staff and other school community members. It must be informed by regular engagement with parent and community organizations like Digital Equity in DC Education. Great examples of truly comprehensive school tech plans have been prepared and are being executed by Seattle and Atlanta school districts.⁴⁰ In addition to Seattle and Atlanta, states like California, Illinois and Texas all established Digital Divide task forces in the summer of 2020.⁴¹ Until DCPS has a funded, multi-year comprehensive

³⁹ Landmark Study Calls for Increased Bandwidth for At-home Learning, The Journal, May 5, 2021, available at <https://thejournal.com/articles/2021/05/04/landmark-study-calls-for-increased-bandwidth-for-at-home-learning.aspx>; Comcast, Under Pressure from Politicians and Advocates, Raises Speed of Internet Essentials Service, Baltimore Sun, Feb. 2, 2021, available at <https://www.baltimoresun.com/politics/bs-md-ci-van-hollen-comcast-internet-20210202-drxyymiqavh23iwa4ksyreq63i-story.html>; Why 25/3 Broadband is Not Sufficient, Community Networks, February 13, 2020, available at <https://muninetworks.org/content/why-253-broadband-not-sufficient>.

⁴⁰ Seattle Public Schools Tech Plan 2019-2023, available at https://www.seattleschools.org/UserFiles/Servers/Server_543/File/District/Departments/Technology/Technology%20Plan%202019-2023.pdf; Atlanta Public Schools Technology Plan, available at <https://www.atlantapublicschools.us/domain/10194>.

⁴¹ Education Commission of the States, Response to information request, July 1, 2020, available at https://www.ecs.org/wp-content/uploads/State_Information_Request_Digital_Divide_Task_Forces.pdf

tech plan that includes all these elements, technology will continue to be managed in an inequitable, unpredictable, costly, and inefficient manner.⁴²

(5) Providing FAPE for All Eligible Students

The District's obligation to provide a FAPE to students with disabilities has not changed due to COVID-19.⁴³ Conversely, the needs of the District's students have increased as a result of the trauma caused by COVID-19 and the fact that they have missed appropriate, necessary educational services during the pandemic. In order to ensure that our students with disabilities have a meaningful opportunity to make educational progress, the District's budget should allocate funding to address both students' mental health needs and to compensate all students with disabilities for the educational and related services of which they were deprived of during school closures caused by the COVID-19 pandemic.

The Committee also supports fully funding DC Law 23-191, *Addressing Dyslexia and Other Reading Difficulties Amendment Act of 2020* in the FY 2022 budget as well as in future years. Passed by the DC Council unanimously and in light of the pandemic and the subsequent further widening of the achievement gap, it is even more essential now to fund this legislation, as many struggling readers and students with dyslexia have struggled greatly with distance learning. This law costs \$272,000 in fiscal year 2022 and will cost a total of \$9.28 million from FY 2022 to FY 2024.

(6) DC Must Pause Opening Citywide Charter Schools and DCPS Magnet Schools

DC is still perpetuating inequitable education opportunities for students of color in DCPS neighborhood schools located in historically underinvested areas. The Deputy Mayor of Education has repeatedly expressed concern about the growing overcapacity of schools.⁴⁴ DC is spreading too many of its education dollars across more school buildings and school

⁴² Pending legislation like the DCPS Technology Equity Act of 2021 (B24-0077) and the Internet Equity Amendment Act of 2021 (B24-0200) will also help address the lack of a comprehensive technology and internet plan.

⁴³ The U.S. Department of Education declined to request waiver authority for "any of the core tenets" of the IDEA, including FAPE. See Report to Congress of U.S. Secretary of Education Betsy DeVos, Recommended Waiver Authority Under "Cares Act", April 27, 2020: <https://www2.ed.gov/documents/coronavirus/cares-waiver-report.pdf>.

⁴⁴ Deputy Mayor for Education, Memorandum to the PCSB regarding A Facilities Assessment of New Public Charter Applications, Spring 2019, May 15, 2019, at 4-5, <https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/School%20system%20capacity%20assessment%20new%20public%20charter%20applications%20FINAL%20051519.pdf> ; Deputy Mayor for Education, Memorandum to the PCSB regarding 2020 Charter Application Need Analysis (March 12, 2020) at 1-2. <https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/School%20system%20capacity%20assessment%20new%20public%20charter%20applications%20FINAL%20051519.pdf>.

administrations than Fairfax County, which educates twice as many preK-12 students as DC.⁴⁵ The wasteful arms race between the charter sector and DCPS schools of right is hurting the students most in need of greater educational opportunities.⁴⁶ DC should pause opening citywide charter schools and DCPS magnet schools, except in very limited instances where a neighborhood DCPS school is needed to relieve overcrowding or complete a neighborhood feeder system, so that we can evaluate system capacity and need.

The Committee, along with all of the community advocates, are ready to work with the Council to address these inequities, so DC's students and schools will be on fiscally and educationally sound paths. Even more so now, it is time to strengthen, invest, and grow our neighborhood system of by-right DCPS schools

Next school year will be critical to re-engage families and students in a safe, healthy, and supportive school environment. Families – especially Black and Brown families – have borne a disproportionate share of the burdens of COVID-19 and the stress and anguish of police violence in their communities. Investing and prioritizing high-quality neighborhood schools that have the resources they need to flourish is a vital part of addressing racial inequity in our systems.

⁴⁵ Fairfax County Public Schools, "About Us," available at <https://www.fcps.edu/index.php/about-fcps> (last visited June 16, 2020).

⁴⁶ Office of the DC Auditor, "New Research Finds DC School Choice Results in Declining Resources for High Poverty Schools," Press Release Jan. 9, 2020, http://zd4l62ki6k620lqb52h9ldm1.wpengine.netdna-cdn.com/wp-content/uploads/2020/01/DC.My_School.Data_Enrollment.Study_Press_Release.1.9.20.pdf; The Center for Research and Reform in Education, "Enrollment Projections in DC Public Schools: Controls Needed to Ensure Funding Equity," A Report for the Office of the DC Auditor, Jan. 9, 2020, <http://dcauditor.org/report/enrollment-projections-in-d-c-public-schools-controls-needed-to-ensure-funding-equity/>.