

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON THE EDUCATION  
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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TO: All Councilmembers

FROM: Councilmember David Grosso, Chairperson  
Committee on Education

DATE: March 13, 2018

SUBJECT: Report on B22-594, “Student Fair Access to School Amendment Act of 2018”

The Committee on Education, to which Bill 22-594, the “Student Fair Access to School Amendment Act of 2018” was referred, reports favorably thereon, and recommends approval by the Council.

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**I. BACKGROUND AND NEED**

Bill 22-594, the “Student Fair Access to School Amendment Act of 2018,” was introduced as the “Student Fair Access to School Act of 2017” on November 21, 2017 by Councilmembers Grosso, Bonds, Cheh, and Nadeau, and co-sponsored by Councilmember Allen. The bill would require all local education agencies to establish discipline and related policies to promote safe and positive school environments; limit the suspension of students in kindergarten through grade 8 to the most serious cases; prohibit the suspension of students in grades 9 through 12 for minor incidents; require OSSE to provide supports to schools and establish a fund to provide resources for those supports; and establish annual reporting requirements for each local education agency on suspensions, expulsions and other related data.

The legislation builds on several years of work by the Education Committee to address overuse of exclusionary discipline and its connected problems of poor attendance and the achievement gap. While the United Nations Declaration of Human Rights<sup>1</sup> establishes access to education as a human right, the United States Constitution does not include an explicit guarantee of this right, unlike the vast majority of other countries in the world.<sup>2</sup> However, the 14<sup>th</sup> Amendment to the Constitution ensures equal access for all residents to public education. The implicit right to an education is laid out in key Supreme Court decisions of the last century, perhaps most explicitly in *Plyler v. Doe*, in which Justice William Brennan wrote for the majority, “We cannot ignore the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests.”<sup>3</sup> Chief Justice Brennan similarly noted in possibly the most important, and certainly most well-known, education-related case decided by the Court, *Brown v. Board of Education*, that “education is perhaps the most important function of state and local governments.”<sup>4</sup> Denying children access to education runs afoul of the explicit rights protected by the 14<sup>th</sup> Amendment, yet the Court has also effectively recognized the right to education as implicit in state policies that mandate, and provide, education for children within a certain age range. That decision came in a case, *Goss v. Lopez*, prompted by the actions at the center of B22-594—out-of-school suspensions.<sup>5</sup> Alongside the Court’s determination that due process procedural protections must apply to school administration discipline determinations, it made clear that out-of-school suspensions implicate both access to education and civil rights.<sup>6</sup>

The District of Columbia, in mandating school attendance for children aged 5 to 17,<sup>7</sup> clearly provides a similar right to students, and a number of laws passed by the D.C. Council have sought to ensure or create civil rights protections for students with regards to access to school. However, the D.C. Official Code is largely silent on the issue of school disciplinary procedures. Until recently, the only mentions in the Code of suspensions or expulsions were the federally mandated Expulsion of Students Who Bring Weapons Into Public Schools Act<sup>8</sup> and the School Reform Act.<sup>9</sup> Sometimes overlooked is that in 2007, while moving forward the Public Education Reform Amendment Act that would overhaul public education in the District of Columbia, the Council passed temporary legislation mandating that the then-School Board formulate uniform disciplinary standards for all schools in the District.<sup>10</sup> Starting in 2013, the Council began to

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<sup>1</sup> UN General Assembly. Universal declaration of human rights (217 [III] A), Article 26. Paris (1948).

<sup>2</sup> Stephen Lurie, “Why Doesn’t the Constitution Guarantee the Right to Education?” *The Atlantic*, October 16, 2013. <https://www.theatlantic.com/education/archive/2013/10/why-doesnt-the-constitution-guarantee-the-right-to-education/280583/>

<sup>3</sup> *Plyler v. Doe*, 457 U.S. 222 (1982).

<sup>4</sup> *Brown v. Board of Education of Topeka*, 347 U.S. 494 (1954).

<sup>5</sup> *Goss v. Lopez*, 419 U.S. 565 (1975).

<sup>6</sup> *Goss v. Lopez*, 419 U.S. 573.

<sup>7</sup> An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.*).

<sup>8</sup> Expulsion of Students Who Bring Weapons Into Public Schools Act of 1996, effective April 9, 1997 (D.C. Law 11-174; D.C. Official Code § 38-231 *et seq.*).

<sup>9</sup> The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800 *et seq.*), specifically at Section 2206(g).

<sup>10</sup> Law 17-8, Class Exclusion Standards Temporary Act of 2007, effective June 12, 2007, DCR Vol 54 Page 4097, expired on Jan 23, 2008. The Committee inquired with OSSE and the State Board of Education but was unable to find a copy of any final regulations issued as a result of this legislation. There is no record in the D.C. Register of

revisit the issue, first by mandating data collection. In 2015 the Council limited the use of out-of-school suspensions and expulsions in pre-kindergarten and mandated further data collection and reporting. B22-594 seeks to bring more cohesion to the discipline landscape across the District's current 67 local education agencies (LEAs), while ensuring the safety and civil rights of all students are protected.

### **The Problem of Exclusionary School Discipline in the United States and D.C.**

In school year 2013-14, the most recent year for which the U.S. Department of Education has published data, 2.8 million students were subjected to out-of-school suspensions throughout the country.<sup>11</sup> This represented about six percent of the national student body that school year. While an improvement over previous years, these suspensions disproportionately affected students who are already more likely to struggle in school—the “other side of the coin of the achievement gap” as some researchers have noted.<sup>12</sup> Nationally, Black students are three times as likely as their peers to be suspended, and students receiving special education services were twice as likely, as were students from low-income households.<sup>13</sup> Research shows that over the course of their school career, about 30 percent of students are subject to out-of-school suspension.<sup>14</sup> For Black boys, this number jumps to 70 percent.<sup>15</sup> Importantly, studies of relative discipline rates consistently have found that this racial disparity cannot be entirely accounted for by socio-economic factors or differences in behavior patterns—Black students are suspended more frequently for the same exact behavior as White students.<sup>16</sup>

Researchers have examined these issues for decades, tracking the steady increase in the use of out-of-school suspensions and expulsions. Significantly, the evidence shows that nationally most suspensions are for minor incidents, not actions that endanger the safety of students or school staff.<sup>17</sup> One prominent collection of research notes this reality—out-of-school suspensions are perceived as a key tool to make schools safer, but their use largely does not come in response to safety concerns.<sup>18</sup> Further, research has shown that other interventions make a bigger contribution

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any final, proposed, or emergency rulemaking for 2007 or 2008, implying that the law was not followed, perhaps due to the changes brought by the Public Education Reform Amendment Act of 2007.

<sup>11</sup> U.S. Department of Education, Office for Civil Rights, *2013-2014 Civil Rights Data Collection, A First Look*, Washington: October 26, 2016, 3. <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

<sup>12</sup> Anne Gregory, Russell Skiba, and Pedro Nogurea, “The Achievement Gap and the Discipline Gap: Two Side of the Same Coin?,” *Educational Researcher* Vol. 39, No. 1 (January 2010): 59-68.

<sup>13</sup> U.S. Department of Education, *2013-2014 Civil Rights Data Collection, A First Look*, 3.

<sup>14</sup> Tracey L. Shollenberger, “Racial Disparities in School Suspension and Subsequent Outcomes,” in *Closing the School Discipline Gap*, ed. Daniel J. Losen (New York: Teachers College Press, 2015), 41.

<sup>15</sup> *Ibid.*

<sup>16</sup> Kevin Mahnken, Report: When Black Students and White Students Fight, Blacks Receive Harsher Punishment, The 74, November 28, 2017. <https://www.the74million.org/report-when-black-students-and-white-students-fight-blacks-receive-harsher-punishments/>

<sup>17</sup> Emily Morgan, Nina Salomon, Martha Plotkin, and Rebecca Cohen, *The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System*, New York: The Council of State Governments Justice Center, 2014, 6.

<sup>18</sup> Kavitha Mediratta and M. Karega Rausch, “Introduction,” in *Inequality in School Discipline*, eds. R.J. Skiba et al. (New York: Palgrave Macmillan, 2016).

to school safety,<sup>19</sup> while overreliance on out-of-school suspension can actually degrade the safety of a school.<sup>20</sup>

These disturbing national statistics prompted the Council to take action, beginning by gathering local data. The Attendance Accountability Amendment Act of 2013<sup>21</sup> required the Office of the State Superintendent of Education (OSSE) to issue a report including findings and recommendations to aid LEAs in eliminating out-of-school suspension and expulsions, except for those students who pose a reasonable threat of death or serious bodily harm to themselves or others, or who violate the Expulsion of Students Who Bring Weapons Into Public Schools Act of 1996. In June 2014, OSSE released the report “Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public Schools and Public Charter Schools.”<sup>22</sup> Recommendations included that OSSE ought to finalize discipline-related regulations, which never happened, and support the expansion and centralization of the Positive Behavior Intervention and Supports (PBIS) framework. Interestingly, the OSSE report also recommended that LEAs and schools take advantage of professional development opportunities provided by the agency and improve data collection, but did not recommend that OSSE itself improve its training options or data collection. OSSE further recommended that LEAs and schools should:

- evaluate their discipline policies’ ability to reduce the likelihood of disparate systems and the overuse of out-of-school suspensions and expulsions;
- require a higher standard of recordkeeping and intervention before a student in elementary school is suspended or expelled;
- exclude pre-K students from out-of-school suspension and expulsion;
- develop and implement discipline policies and practices that take into account students’ developmental and individual needs; and
- involve families in the development and implementation of discipline policies.<sup>23</sup>

With regards to data, the OSSE report revealed that in school year 2012-13 there were nearly 10,000 D.C. students who were suspended at least once, Black students were almost six times more likely, and Latino students were more than twice as likely, to be disciplined than their White peers, and students who received special education services as well as students considered “at-risk for education failure” were also disproportionately suspended.<sup>24</sup>

The report also found that almost 200 pre-kindergarten students had been suspended for temper tantrums, classroom disruption, repeated vulgarity, and bathroom mishaps.<sup>25</sup> The National Library of Medicine indicates that these behaviors are considered normal for typically developing children

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<sup>19</sup> Jill D. Sharkey and Pamela A. Fenning, “Rationale for Designing School Contexts in Support of Proactive Discipline,” *Journal of School Violence*, Vol. 11, Issue 2 (April 2012), 95-104.

<sup>20</sup> Mary M. Mitchell and Catherine P. Bradshaw, “Examining classroom influences on student perceptions of school climate: The role of classroom management and exclusionary discipline strategies,” *Journal of School Psychology*, Vol. 51, Issue 5 (October 2013): 599-610.

<sup>21</sup> Attendance Accountability Amendment Act of 2013, effective September 19, 2013 (D.C. Law 20-17; D.C. Official Code § 38-201 *et seq.*).

<sup>22</sup> Office of the State Superintendent of Education, *Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public Schools and Public Charter Schools*, Washington: 2014.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*, 12-14.

<sup>25</sup> *Ibid.*, 19.

in this age group.<sup>26</sup> The Committee responded by passing the Pre-K Student Discipline Amendment Act of 2015,<sup>27</sup> which prohibited the use of out-of-school suspensions in these cases, as well as mandated more robust data collection to better understand how schools in the District of Columbia were using out-of-school suspension and expulsion. The Committee Report for B21-1 noted that Walter Gilliam, the director of the Edward Zigler Center in Child Development and Social Policy at the Yale University Child Study Center, had written that, “If you have a preschool program and you expel the children who need it the most, you’re sabotaging your rate of return. No child is more in need of school-readiness-boosting preschool experience than a child who is being expelled or suspended from preschool.”<sup>28</sup> The legislation was unanimously approved by the Council, in the wake of recommendations from the U.S. Department of Education and OSSE.

The focus brought to the issue of exclusionary discipline by the Committee and OSSE, along with resources added to OSSE and school budgets to support schools to decrease reliance on these approaches, showed some improvements. In school year 2016-17, according to the OSSE report released in January 2018, the total number of students receiving suspensions was down to about 7,800, which was well below the school year 2012-13 number, but only a minor decrease from school year 2015-16.<sup>29</sup> Just short of 40 percent of suspended students were suspended more than once. As in the past, suspensions were more frequent in the middle grades (6-9).<sup>30</sup> A slim majority of suspended students lost between 2 and 5 days of instructional time, with about 19 percent suspended for one day, 17 percent suspended for 6-10 days, and 10 percent lost more than 10 days of instructional time. The longer periods of instructional time lost were more common in grades 8-12.<sup>31</sup>

There were 99 expulsions in school year 2016-17, almost exclusively among public charter schools—this is due, in part, to the fact that while DCPS can and does expel students, they can also involuntarily transfer a student from one school to another in a way that most charter LEAs cannot.<sup>32</sup> This category of action, however, also is used for non-disciplinary reasons, requiring further parsing of the data. Indeed, in its report on school year 2015-16, OSSE noted that 94 percent of involuntary withdrawals were attendance-related, but 57 percent of those were at adult education LEAs or schools.<sup>33</sup> Disappointingly, OSSE did not continue this line of analysis in its school year 2016-17 report, so the true picture of expulsions is still incomplete. However, OSSE did include an important new level of analysis for the latest report, cross-checking discipline and attendance data, and found that a number of schools reported no in-school suspensions for school year 2016-17 yet marked dozens (and in the case of one LEA, hundreds) of students as subject to in-school suspension in their attendance logs.<sup>34</sup>

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<sup>26</sup> *Ibid.*

<sup>27</sup> Pre-K Student Discipline Amendment Act of 2015, effective June 23, 2015 (D.C. Law 21-12; D.C. Official Code § 38-273.03 and § 38-235.02).

<sup>28</sup> Christina Samuels, “Pre-K Suspension Data Prompt Focus on Intervention,” *Ed Week*, March 31, 2014. <http://www.edweek.org/ew/articles/2014/04/02/27ocrprek.h33.html#>

<sup>29</sup> Office of the State Superintendent of Education, *State of School Discipline: 2016-2017 School Year*, Washington: 2018, 5.

<sup>30</sup> *Ibid.*, 22.

<sup>31</sup> *Ibid.*, 24.

<sup>32</sup> *Ibid.*, 9.

<sup>33</sup> Office of the State Superintendent of Education, *State of School Discipline: 2015-2016 School Year*, Washington: 2017, 55.

<sup>34</sup> *Ibid.*, 82-84.

On February 2, 2017, the Committee on Education held a public roundtable on the state of discipline in public schools in the District of Columbia.<sup>35</sup> The Committee heard from public and government witnesses about their responses to the OSSE school year 2015-16 report and updates on efforts to address the problem of overuse of exclusionary discipline. That spring, the Committee continued its work to research best practices around the country with regard to reducing exclusion and in particular the disparities in its use against certain groups of students. After formulating a set of recommendations for legislative next steps, the Committee convened an open working group comprised of school leaders, government agencies, and student and family advocates to discuss the recommendations, with an initial meeting in July. Over the course of five meetings, many additional interested parties joined the working group, including representative of more than 20 LEAs, as well as charter advocacy and school reform advocates, restorative justice practitioners, and more. During the meetings, the group discussed a series of proposals for legal reform, providing feedback on the language that would eventually become the introduced version of B22-594. Additionally, the Committee visited or met individually with 19 LEAs, including 7 DCPS schools, across grade levels and student demographics, which ranged in their practices and opinions on the ideas in the draft legislation, from schools that effectively never use exclusionary discipline to schools for which it is an integral part of their philosophy.

### **Impact of a Suspension or Expulsion**

While there is no research that shows that an out-of-school suspension or expulsion improves a child's behavior, improves school climate, or makes a school safer, numerous studies have shown the negative impacts on students and communities.<sup>36</sup> The adverse effects of out-of-school suspension and expulsion on a student can be profound, particularly in the early years. The brain development of a child is greatly influenced by the relationships and experiences, both positive and negative, that they share with families, caregivers, teachers, peers, and their communities. Increasingly substantive brain research over the past decades has led to a much better understanding of the development of reasoning, impulse control, risk assessment and reaction, and other key behavioral skills.<sup>37</sup> Further, early exposure to trauma or other adverse childhood experiences inhibits this brain development as well as a young person's ability to learn.<sup>38</sup> In other words, the students most in need of educational and social-emotional instruction are the most likely to be suspended. This understanding of brain development is central to researchers' and advocates' arguments for placing limits on the usage of an out-of-school suspension or expulsions, due to their negative effects.

Students who are suspended or expelled experience academic failure, grade retention and hold negative attitudes toward school.<sup>39</sup> In fact, students who have been previously suspended score

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<sup>35</sup> Committee on Education, "Public Roundtable on State of School Discipline: 2015-2016 School Year," <http://dccouncil.us/events/education-public-roundtable6>. Video recording available at [http://dc.granicus.com/MediaPlayer.php?view\\_id=30&clip\\_id=3689](http://dc.granicus.com/MediaPlayer.php?view_id=30&clip_id=3689).

<sup>36</sup> American Psychological Association Zero Tolerance Task Force, "Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations," *American Psychologist* Vol. 63, No. 9 (December, 2008): 852-862.

<sup>37</sup> *Ibid*, 855.

<sup>38</sup> *Ibid*.

<sup>39</sup> Morgan, Salomon, Plotkin, and Cohen, *The School Discipline Consensus Report*, ix.

three grade levels behind their peers in reading skills after one year, and almost five years behind after two years.<sup>40</sup> While there is a belief that a suspension will alter student behavior, there is evidence that not only does a suspension or expulsion fail to correct behavior, but is likely to lead to repeated suspension or expulsion in later grades.<sup>41</sup> Particularly young children, but to some degree all students, are not able to fully connect their misconduct to their suspension or expulsion related consequence.<sup>42</sup> An out-of-school suspension restricts the opportunities for positive socialization and reduces feelings of school connectedness for the student who is put out of school, while worsening negative mental health outcomes such as alienation, anxiety, and rejection.<sup>43</sup> Research also indicates that students who experience out-of-school suspension and expulsion are 10 times more likely to drop out of high school than those who do not.<sup>44</sup> These student are also more prone to involvement in the criminal justice system.<sup>45</sup> New peer-reviewed research shows a clear causal connection between out-of-school suspension and arrest and incarceration.<sup>46</sup>

Suspending or expelling a student presenting challenging behavior is at direct odds with teaching the social or behavioral skills that student may lack. The importance of developing social and emotional skills within schools is gaining increasing recognition, with a recent meta-analysis revealing that incorporating social and emotional learning into classrooms boosts student academic achievement and improves behavioral health outcomes.<sup>47</sup> As noted in the Committee Report on Bill 21-1, Professor Walter Gilliam has said, “We would never send a child home because that child was struggling at reading. We would never send a child home if that child was struggling with math. Why would we send a child home for struggling with social-emotional skills?”<sup>48</sup> Indeed, suspensions and expulsion practices may also delay or interfere with the process of identifying disabilities or behavioral health issues a student may have.<sup>49</sup> The source of challenging behavior may be directly related to an undiagnosed disability or behavioral health issue that can be corrected or better managed, but if the student is simply suspended or expelled, she or he may not receive the evaluations or referrals needed to obtain services.

Behavior that leads to a suspension can also be an early warning that a student will get off-track academically—research looking at academic performance, suspensions, and school attendance for

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<sup>40</sup> Gregory, Skiba, and Nogurea, “The Achievement Gap and the Discipline Gap: Two Side of the Same Coin?”

<sup>41</sup> Kavitha Mediratta and M. Karega Rausch, “Introduction,” 6-8.

<sup>42</sup> Office of the State Superintendent of Education, *State of School Discipline: 2016-2017 School Year*, 19.

<sup>43</sup> American Psychological Association Zero Tolerance Task Force, “Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations,” 856.

<sup>44</sup> American Academy of Pediatrics, “Out-of-School Suspension and Expulsion,” February 25, 2013.

<http://pediatrics.aappublications.org/content/early/2013/02/20/peds.2012-3932.full.pdf+html>

<sup>45</sup> *Ibid.*

<sup>46</sup> Janet Rosenbaum, “Educational and Criminal Justice Outcomes 12 Years After School Suspension,” *Youth and Society* Vol. 50 (January 2018): 1-33.

<sup>47</sup> Rebecca D. Taylor, Eva Oberle, Joseph A. Durlak, and Roger P. Weissberg, “Promoting Positive Youth Development Through School-Based Social and Emotional Learning Interventions: A Meta-Analysis of Follow-Up Effects,” *Child Development*, Vol. 88, Issue 4 (July/August 2017): 1156–1171.

<sup>48</sup> Donna St. George, “Suspended from school in early grades,” *The Washington Post*, February 12, 2012.

[http://www.washingtonpost.com/local/education/suspended-from-school-in-early-grades/2012/02/02/gIQA3H0X9Q\\_story.html](http://www.washingtonpost.com/local/education/suspended-from-school-in-early-grades/2012/02/02/gIQA3H0X9Q_story.html)

<sup>49</sup> U.S. Department of Health and Human Services and the U.S. Department of Education, *Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings*, Washington: December 10, 2014, 3.

[https://www.acf.hhs.gov/sites/default/files/ece/expulsion\\_suspension\\_final.pdf](https://www.acf.hhs.gov/sites/default/files/ece/expulsion_suspension_final.pdf)

9<sup>th</sup> graders has found that substituting another intervention for suspension could prevent future absenteeism and course failure.<sup>50</sup> As D.C. schools struggle with high rates of absenteeism and course failure in 9<sup>th</sup> grade, suspending these students for minor infractions directly undercuts our efforts to see them succeed. Considering the broader challenge of students missing school in D.C., the OSSE report for school year 2016-17 findings on the impact of a suspension on a student's attendance is striking. After the first suspension, students had on average a 10 percent higher rate of unexcused absences—the longer the suspension, the higher that percentage increased.<sup>51</sup> New research from Chicago shows how efforts to reduce suspensions have brought an increase in attendance and academic performance.<sup>52</sup>

The negative effects of exclusionary discipline are not limited to the students who are suspended. Multiple studies have found that high rates of suspension are correlated with poor school climate and low student perceptions of safety—despite similar rates of misbehavior as schools with lower suspension rates and better school climates.<sup>53</sup> Conventional wisdom has posited that removing students from the classroom allows their peers who stay in the classroom to learn better, but new studies challenge that assumption.<sup>54</sup> Research also shows that the most effective interventions for responding to misbehavior are non-punitive, benefitting not only the students who would be suspended but also other students, teachers, and school climate.<sup>55</sup>

Considering that time spent in the classroom is one of the most consistent predictors of academic achievement, the loss of instructional time due to out-of-school suspensions and expulsions likely exacerbates the achievement gap—accounting for 20 percent of the gap in one recent study.<sup>56</sup> The demographics of students who are more likely to miss school due to out-of-school suspensions are largely the same as those who lag behind their peers in academic achievement: Black students, Latino students, and students with disabilities.

### **Racial and other Disparities in School Discipline**

Aside from the tremendous damage done to students and school climates by the use of exclusionary discipline, there is another reason for urgency—the tremendous disparities in application of suspension and expulsion. Nationally, Black students are suspended and expelled at 3.8 times the rate of white students—and they are suspended more often and for longer periods of time.<sup>57</sup> Black girls are suspended at higher rates than girls of any other race or ethnicity and

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<sup>50</sup> Robert Balfanz, Vaughan Byrnes, and Joanna Hornig Fox, *Sent Home and Put Off Track*, in *Closing the School Discipline Gap*, ed. Daniel J. Losen, (New York: Teachers College Press, 2015).

<sup>51</sup> Office of the State Superintendent of Education, *State of School Discipline: 2016-2017 School Year*, 50.

<sup>52</sup> Matt Barnum, “When Chicago cut down on suspensions, students saw test scores and attendance rise, study finds,” *Chalkbeat*, March 13, 2017. <https://in.chalkbeat.org/posts/us/2018/03/13/when-chicago-cut-down-on-suspensions-students-saw-test-scores-and-attendance-rise-study-finds/>

<sup>53</sup> Mitchell and Bradshaw, “Examining classroom influences on student perceptions of school climate.”

<sup>54</sup> Edward W. Morris, and Brea L. Perry, “Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools,” *American Sociological Review*, Vol. 79, Issue 6, (November 2014).

<sup>55</sup> Anne Gregory, James Bell, and Mica Pollock, How Educators Can Eradicate Disparities in School Discipline, in *Inequality in School Discipline*, eds. R.J. Skiba et al. (New York: Palgrave Macmillan, 2016), 39-58.

<sup>56</sup> Edward W. Morris and Brea L. Perry, “The Punishment Gap: School Suspension and Racial Disparities in Achievement,” *Social Problems*, Vol. 63, Issue 1 (February 2016): 68–86.

<sup>57</sup> U.S. Department of Education Office for Civil Rights, *2013-2014 Civil Rights Data Collection, A First Look*, 3.



most boys.<sup>58</sup> In D.C., those rates are even more alarming—in school year 2016-17, Black students were subject to out-of-school suspension at almost 8 times the rate of White students, and Black girls were almost 9 times more likely to be suspended than White girls.<sup>59</sup> Nationally, students with disabilities are suspended at roughly twice the rate of their peers, and D.C. rates are approximately the same.<sup>60</sup> However, that number is potentially distorted by incredible disparity between rates of suspension for Black versus White students with disabilities. In D.C., Black students with disabilities were suspended at approximately *36 times* the rate of White students without disabilities in school year 2015-16.<sup>61</sup>

These statistics are based on calculations that hold constant for other variables, such as socio-economic status, which often is labeled as the true cause of these disparities. To further explore these questions, including whether Black or Latino students are more likely to misbehave and therefore more likely to be suspended, numerous researchers have conducted rigorous analyses of school data in different jurisdictions.<sup>62</sup> The conclusion is consistent and clear—Black students, in particular, and Latino students, to a lesser degree, are punished more severely and more often for the same offenses as White students.<sup>63</sup> Perhaps even more compelling, and further challenging the logic of suspension as a way to keep schools safe, when researchers have looked at schools with similar demographic and socio-economic characteristics, there is tremendous variance in suspension rates.<sup>64</sup> This leads to the conclusion that among the causes of racial disparities in school discipline, leadership and school policies play a key role, alongside implicit and institutional bias.<sup>65</sup>

While race remains the biggest source of inequity in school discipline, two other factors are significantly associated with disparities: sexual orientation or gender identity/expression and disability. Of course, race, disability, and sexual orientation or gender identity/expression status are not mutually exclusive, and for students who hold more than one of these identities, the risk of exclusionary discipline is markedly higher. The rates of exclusionary discipline for students who are lesbian, gay, bisexual, transgender, or questioning their sexual orientation or gender identity or expression (LGBTQ) are not well documented, but what evidence exists is cause for alarm. Due in part to the lack of explicit federal protections for these young people, there also has been a lack of data collection on their experiences. As a result, schools and governments are only just beginning to understand how to document and examine the experiences of LGBTQ youth. The research that does exist points to LGBTQ students being between 1.5 and 3 times more likely to be suspended or expelled than their peers.<sup>66</sup> As with other disparities, there is

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<sup>58</sup> *Ibid.*

<sup>59</sup> Office of the State Superintendent of Education *State of School Discipline: 2015-2016 School Year*, 26.

<sup>60</sup> Office of the State Superintendent of Education, *State of School Discipline: 2016-2017 School Year*, 33.

<sup>61</sup> Office of the State Superintendent of Education *State of School Discipline: 2015-2016 School Year*, 37. OSSE did not repeat this analysis for SY16-17.

<sup>62</sup> Mediratta and Rausch, “Introduction,” 10-11.

<sup>63</sup> Morris and Perry, “The Punishment Gap: School Suspension and Racial Disparities in Achievement.”

<sup>64</sup> Tony Fabelo et. al. *Breaking School Rules*, New York: Council of State Governments Justice Center, July 2011. <https://csgjusticecenter.org/youth/breaking-schools-rules-report/>

<sup>65</sup> Russel J. Skiba et. al., “Where Should We Intervene?” in *Closing the School Discipline Gap*, ed. Daniel J. Losen (New York: Teachers College Press, 2015).

<sup>66</sup> Jennifer F. Chmielewski, Kimberly M. Belmonte, Brett G. Stroudt, and Michelle Fine, “Intersectional Inquiries with LGBTQ and Gender Nonconforming Youth of Color: Participatory Research on Discipline Disparities at the

evidence that this is the result of bias, not differential behavior patterns, and students who are subject to multiple stigmas, such as racism and homophobia, experience even worse disparities.<sup>67</sup> The addition of disparate treatment in the school discipline setting compounds the discrimination and victimization that these young people already face—while no study in D.C. has been made of LGBTQ students’ discipline rates, the higher rates of these young people’s negative mental health outcomes, experiences of bullying, and school disengagement are well documented.<sup>68</sup> A theme throughout the studies of LGBTQ students is the need for more research and data to better understand and transform their experiences with school discipline.

Students with disabilities also face pervasive societal bias, but their discipline rates have been closely tracked on the federal and local level, and federal laws give these students specific protections meant to guarantee their right to an education. Under the federal Individuals with Disabilities Education Act, or IDEA, students with disabilities are to be subject to the same code of conduct as other students.<sup>69</sup> However, students are not supposed to be suspended as a result of their special education needs not being met by the school—and the law requires that after 10 days of being suspended that the school hold a meeting to determine whether the behavior leading to the suspension(s) is a manifestation of the child’s disability. The U.S. Department of Education has issued guidance on the intersection of disparities for students with disabilities, particularly Black students, and conducts investigations into school districts that are suspected of different treatment or disparate impact for these students.<sup>70</sup> In late 2017, the U.S. Commission on Civil Rights held a public hearing on students of color with disabilities and the school-to-prison pipeline, which surfaced the on-going efforts to tackle this particular aspect of discipline disparities. The Commission convened the hearing based in part on reports submitted by state advisory committees in Indiana and Oklahoma on the topic. “The intersection of race, color, sex, and disability increases a student’s risk of being funneled in to the school-to-prison pipeline,” concluded the Indiana committee’s report, which included a number of recommendations for the Departments of Education and Justice to increase investigations into discipline disparities, mandate policy changes, and encourage more training in implicit bias and trauma-informed approaches.<sup>71</sup>

## Understanding the School-to-Prison Pipeline

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Race/Sexuality/Gender Nexus,” in *Inequality in School Discipline*, eds. R.J. Skiba et al. (New York: Palgrave Macmillan, 2016), 171-187.

<sup>67</sup> V. Paul Poteat, Jillian R. Scheer, and Eddie S. K. Chong, “Sexual Orientation-Based Disparities in School and Juvenile Justice Discipline Practices: Attending to Contributing Factors and Evidence of Bias,” in *Inequality in School Discipline*, eds. R.J. Skiba et al. (New York: Palgrave Macmillan, 2016), 61-75.

<sup>68</sup> Office of the State Superintendent of Education, *District of Columbia Youth Risk Behavior Survey 2017*, Washington: February 13, 2018.

<sup>69</sup> Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2700; 20 U.S.C. § 1400).

<sup>70</sup> U.S. Department of Education, *Dear Colleague Letter: Preventing Racial Discrimination in Special Education*, Washington: December 12, 2016.

<sup>71</sup> U.S. Commission on Civil Rights, *Civil Rights and the School to Prison Pipeline in Indiana*, Washington: Indiana State Advisory Committee, December 2016.

Researchers trace the increased use of suspensions and expulsion to the proliferation of zero tolerance policies in schools in the late 1980s.<sup>72</sup> These policies, analogous to the mandatory minimum laws around the same time, brought the “tough on crime” approach of the era into the educational setting. By the early 1990s, although overall crime was trending downward, the public perception of out of control youth violence led to enactment of the Gun-Free Schools Act. The bill required states to enact legislation requiring LEAs to expel any student, for at least one year, who brings a weapon to school regardless of whether the student is ultimately convicted of a criminal offense.<sup>73</sup> Failure to comply would result in the school district losing federal funding for programs like Title I, which aids school districts with a high number of students from low-income families.<sup>74</sup> However, states and school districts implemented zero tolerance policies above and beyond what was federally mandated.

By school year 1996-97, 79 percent of public schools reported that they had a zero tolerance policy for offenses beyond the Gun-Free Schools Act requirements.<sup>75</sup> These policies greatly limited the discretion of school administrators in individual school discipline cases, by requiring a certain response, such as suspension or expulsion, regardless of the circumstances. In certain instances, the consequences involve law enforcement personnel and mandate removing students from school.<sup>76</sup>

After the tragedy at Columbine High School in 1999, strict policies and practices regarding student conduct further expanded. Some school districts banned the use of bookbags and eliminated school lockers for fear that contraband could be easily hidden. Others ushered in school uniforms and higher consequences for disruptive behavior. The federal government and states offered schools and school districts millions of dollars for metal detectors, security guards, and school-based law enforcement officers.<sup>77</sup> Between school year 1996-97 and 2007-08, the number of public high schools with full-time law enforcement and security guards tripled.<sup>78</sup> Some politicians are responding to recent school shootings such as in Parkland, Florida, by suggesting that jurisdictions double down on these approaches.<sup>79</sup>

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<sup>72</sup> Aishatu R. Yusuf, Angela Irvine, and James Bell, “Reducing Racial Disparities in School Discipline: Structured Decision-Marking in the Classroom,” in *Inequality in School Discipline*, eds. R.J. Skiba et al. (New York: Palgrave Macmillan, 2016), 99-100.

<sup>73</sup> U.S. Department of Education, *Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act of 1994*, Washington: September 29, 2000.

[http://www.doe.virginia.gov/administrators/superintendents\\_memos/2001/inf118a.pdf](http://www.doe.virginia.gov/administrators/superintendents_memos/2001/inf118a.pdf)

<sup>74</sup> William Celis, “Schools Getting Tough on Guns in the Classroom,” *The New York Times*, August 31, 1994.

<http://www.nytimes.com/1994/08/31/us/schools-getting-tough-on-guns-in-the-classroom.html>

<sup>75</sup> Bureau of Justice Statistics and National Center for Education Statistics, *Indicators of School Crime and Safety 2002*, Washington: Jill Devoe et al., November 2002. <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2003009>

<sup>76</sup> Jacob Kang-Brown, Jennifer Trone, Jennifer Fratello, and Tarika Daftary-Kapur, “A Generation Later: What We’ve Learned about Zero Tolerance in Schools,” Washington: Vera Institute of Justice, December 11, 2013. <http://www.vera.org/pubs/zero-tolerance-in-schools-issue-brief>

<sup>77</sup> Stephanie Simon, “The Safety Lessons of Columbine, Re-Examined,” *The Wall Street Journal*, April 14, 2009. <http://www.wsj.com/articles/SB123965917072814735>

<sup>78</sup> Bureau of Justice Statistics and National Center for Education Statistics, *Indicators of School Crime and Safety 2002*, 140; Bureau of Justice Statistics and National Center for Education Statistics, *Indicators of School Crime and School Safety: 2012*, Washington: Simone Robers et al., November 2012, 171.

<http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2013036>

<sup>79</sup> Mark Berman and David Weigel, “NRA goes on the offensive after Parkland shooting, assailing media and calling for more armed school security,” *Washington Post*, February 22, 2018. <https://www.washingtonpost.com/news/post->

With blanket penalties and increased enforcement of student misconduct, the rates of out-of-school suspension dramatically increased in the United States—from 1.7 million in 1974 to over 2.8 million in 2014.<sup>80</sup> The majority of suspensions were for minor offenses that were subjective including willful defiance, insubordination, or disruptive behavior. By 2010, 1 in 9 secondary students experienced suspension in the previous school year, up 40 percent over the previous two decades.<sup>81</sup> A study of a national cohort of young people born in the early 1980s found that 35 percent were suspended at least once during their time in school.<sup>82</sup> Between 2002 and 2006, the student expulsion rate increased 15 percent.<sup>83</sup> In school year 2013-14, schools referred almost 200,000 students to law enforcement.<sup>84</sup> Increasingly, zero tolerance school discipline policies landed children in the hands of law enforcement and the criminal justice system. This reality was impressed upon the nation once again with the 2015 incident at Spring Valley High School in Columbia, South Carolina, in which a police officer grabbed, slammed to the ground, and dragged a young woman for refusing a teacher's order to leave the classroom after talking on her cell phone.<sup>85</sup>

Aside from the policies that directly refer students to law enforcement, research shows a clear correlation between exclusionary discipline practices and criminal justice involvement. The newest research, as noted previously, has even shown a causal connection—that suspensions directly lead to arrest and jail time. That is, when comparing two groups of students with similar behavior patterns and socio-economic backgrounds, in the five years following their suspension, the young people who were suspended were 40 percent more likely to have been arrested and almost four times more likely to have been convicted than students who were not suspended.<sup>86</sup> Taken together, these trends constitute what advocates, community activists, and scholars refer to as the school to prison pipeline.

In light of the discriminatory results of over-application of exclusionary discipline, and the connection to the school-to-prison pipeline, students, parents, teachers, school leaders, community organizations, and national advocacy groups across the country have taken up the charge to dismantle the school-to-prison pipeline. In July of 2016, the National Education Association adopted a national policy statement on “Discipline and the School to Prison

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[nation/wp/2018/02/22/after-silence-on-parkland-nra-pushes-back-against-law-enforcement-the-media-and-gun-control-advocates/?utm\\_term=.27b89e1f4ca6](http://nation/wp/2018/02/22/after-silence-on-parkland-nra-pushes-back-against-law-enforcement-the-media-and-gun-control-advocates/?utm_term=.27b89e1f4ca6)

<sup>80</sup> U.S. Department of Education Office for Civil Rights, *2013-2014 Civil Rights Data Collection, A First Look*.

<sup>81</sup> Daniel J. Losen and Tia E. Martinez, *Out of School and Off track: The Overuse of Suspensions in American Middle and High Schools*, Los Angeles: UCLA, The Civil Rights Project/Proyecto Derechos Civiles, April 8, 2013. <https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools>

<sup>82</sup> Tracey L. Shollenberger, “Racial Disparities in School Suspension and Subsequent Outcomes,” 41.

<sup>83</sup> Advancement Project, *Test, punish, and push out: how ‘zero tolerance’ and high-stakes testing funnel youth into the School-to-Prison Pipeline*, Washington: 2010, 6.

<sup>84</sup> U.S. Department of Education Office for Civil Rights, *2013-2014 State and National Estimations: Referrals to Law Enforcement*, Washington: 2016.

<sup>85</sup> Richard Fausset, Richard Perez Pena, and Alan Blinder, “Race and Discipline in Spotlight After South Carolina Officer Drags Student.” *New York Times*, October 27, 2015. <https://www.nytimes.com/2015/10/28/us/spring-valley-high-school-sc-officer-arrest.html>

<sup>86</sup> Rosenbaum, “Educational and Criminal Justice Outcomes 12 Years After School Suspension,” 13.

Pipeline” with a leading principle of eliminating school discipline disparities.<sup>87</sup> The American Bar Association initiated a Joint Task Force on Reversing the School to Prison Pipeline, with an initial report published in February 2016 that included support for legislation to reduce suspensions and expulsions and eliminate disparities in their application.<sup>88</sup> Along with federal guidance and investigations, states and school districts are also increasingly taking action to address the problem—in the past five years, more than half of states have introduced or passed legislation aimed at curbing unnecessary use of exclusionary discipline.<sup>89</sup>

### Limits on Suspensions and Expulsions in Other Jurisdictions

While the consensus among researchers, and most educators, is that zero tolerance-style school discipline policies and exclusionary discipline are the wrong approach, there is disagreement about how to curtail these practices. Increasing resources to schools and improving data collection and analysis represent common ground, but perspectives diverge on the role of law-makers, school boards, or even superintendents in setting limits on when exclusionary discipline is not appropriate. In light of the evidence showing how implicit bias plays out in school discipline, the profound negative impact of exclusionary practices, as well as an understanding that pushing students out of schools does not actually improve safety, a growing number of states and municipalities are passing laws, changing regulations, or updating policies to limit the use of suspensions and expulsions. The specifics differ from place to place but a few constants emerge, aside from the need for more reporting and resources—more stringent limits are appropriate for the younger grades, a focus on subjective infractions, and making exclusionary discipline a last resort. In 2017, Texas, Denver, Maryland, Arkansas, and Tennessee all implemented restrictions on the use of out-of-school suspensions and expulsions.

Interestingly, in many states, there is already a mandate in law that schools must provide alternative instruction when students are excluded from school, something that exists in D.C. regulations that only cover DCPS, but for which charter schools are not responsible. New York state educational law requires, for example, that for a suspension of any length “immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act.”<sup>90</sup>

Who	Date of the Change	Grade range, limit, any exceptions, or other policy change
State of Texas	Passed July 2017	K through 3 <sup>rd</sup> , out-of-school suspensions; exceptions for violence, weapons, and drugs. <sup>91</sup>

<sup>87</sup> Brenda Álvarez, “NEA Takes a Stand on the School-to-Prison Pipeline,” January 6, 2016. <https://ra.nea.org/2016/07/06/nea-takes-stand-school-prison-pipeline/>

<sup>88</sup> ABA School to Prison Pipeline Task Force, *School to Prison Pipeline: Preliminary Report*, February 2016. [https://www.americanbar.org/content/dam/aba/administrative/diversity\\_pipeline/stp\\_preliminary\\_report\\_final.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/diversity_pipeline/stp_preliminary_report_final.authcheckdam.pdf)

<sup>89</sup> The Council of State Governments Justice Center, *Realizing the Full Vision of School Discipline Reform: A Framework for Statewide Change*, New York: September 2017.

<sup>90</sup> New York State Consolidated Laws, Education, Chapter 16, Title IV, Article 65, Part I, Section 3214(2)(e). <http://www.p12.nysed.gov/ssr/lawsregs/3214.html>

<sup>91</sup> An Act relating to the suspension of a student enrolled in a grade level below grade three from public school and to a positive behavior program for public schools, 85th Leg., R.S., Ch. 696 (H.B. 674), eff. June 12, 2017; Jennifer

Denver School Board	June 2017	Pre-K through 3 <sup>rd</sup> , suspensions and expulsions. <sup>92</sup>
State of Arkansas	Passed April 2017	K through 5 <sup>th</sup> , out-of-school suspension or expulsion; exceptions for students who pose a physical risk to themselves or others, or who cause a serious disruption that cannot be addressed through other means. <sup>93</sup>
State of Maryland	Passed March 2017	Pre-K through 2 <sup>nd</sup> , suspension or expulsion; exceptions for suspensions lasting no longer than five days if experts determine there is an imminent threat of harm to other students or staff. <sup>94</sup>
State of Tennessee	Passed April 2017	Pre-K and K, suspension or expulsion; exception if the student's behavior endangers the safety of other students or school personnel. Suspension may not last longer than three days. <sup>95</sup>
State of Michigan	Passed January 2017	Before suspending or expelling a student, school must consider the following factors: age, disciplinary history, disability status, the seriousness of the violation and whether a lesser intervention would address the violation properly — among other considerations. <sup>96</sup>
State of New Jersey	Passed September 2016	K through 2 <sup>nd</sup> , expulsion and out-of-school suspension; except when based on conduct that endangers others. <sup>97</sup>
State of Rhode Island	Passed June 2016	Prohibits out-of-school suspension of students unless the student “failed to respond to corrective and rehabilitative measures

Childress, “New Law Limits Suspensions for Young Students,” *Texas School Administrators’ Legal Digest*, July 31, 2017. <https://www.legaldigest.com/new-law-limits-suspensions-for-young-students/>

<sup>92</sup> Ann Schimke, “Denver’s student discipline policy will limit suspensions and expulsions in early grades,” *Chalkbeat*, June 20, 2017. <https://www.chalkbeat.org/posts/co/2017/06/20/denvers-student-discipline-policy-will-limit-suspensions-and-expulsions-in-early-grades/>

<sup>93</sup> An Act to amend Title 6 of the Arkansas Code concerning discipline of students in public schools, and other purposes (S.B. 609), eff. April 7, 2017.

<http://www.arkleg.state.ar.us/assembly/2017/2017R/Pages/BillInformation.aspx?measureno=SB609>

<sup>94</sup> An Act Concerning Public Schools – Suspensions and Expulsions, Enacted under Article II, Section 17(c) of the Maryland Constitution - Chapter 843 (S.B. 651), eff. July 1, 2017.

<http://mgaleg.maryland.gov/2017RS/bills/sb/sb0651T.pdf>

<sup>95</sup> An Act to amend Tennessee Code Annotated Title 49, Chapter 1; Title 49, Chapter 10; Title 49, Chapter 2; Title 49, Chapter 5 and Title 49, Chapter 6, relative to discipline of students in pre-kindergarten through kindergarten, Pub. Chap. 204 (S.B. 871), eff. April 27, 2017. <http://www.capitol.tn.gov/Bills/110/Bill/SB1394.pdf>

<sup>96</sup> An Act to amend 1976 PA 451 by adding section 1310d (H.B. 5618), eff. August 1, 2017.

[http://www.legislature.mi.gov/\(S\(jgwm4zvjb3vat5zi55ryzgz\)\)/mileg.aspx?page=GetObject&objectname=2016-HB-5618](http://www.legislature.mi.gov/(S(jgwm4zvjb3vat5zi55ryzgz))/mileg.aspx?page=GetObject&objectname=2016-HB-5618)

<sup>97</sup> An Act concerning expulsions and suspensions for young students, supplementing chapter 37 of Title 18A of the New Jersey Statutes, and amending P.L. 1995, c.426. [http://www.njleg.state.nj.us/2016/Bills/PL16/45\\_.HTM](http://www.njleg.state.nj.us/2016/Bills/PL16/45_.HTM)

		presented by staff, teachers, or administrators” or a demonstrable threat. <sup>98</sup>
State of Connecticut	Passed June 2016;	Pre-K through 2 <sup>nd</sup> , out-of-school suspension and expulsion; with exceptions for students whose conduct is violent or sexual in nature, for students who possess weapons, and for students who sell or distribute controlled substances. <sup>99</sup>
State of Illinois	Passed June 2016	Defines long term (4-10 days) and short term (1-3 days) suspensions; requires that prior to imposing long term suspensions, expulsions and disciplinary removals to alternative schools, all “appropriate and available behavioral interventions” must be exhausted; requires appropriate services during long term suspension.
Houston Independent School District, Board of Education	January 2016	K through 2 <sup>nd</sup> , out-of-school suspension; exceptions for violence, weapons, and drugs. Suspensions are limited to maximum of 3 days. <sup>100</sup>
State of Oregon	Passed May 2015	Pre-K through 5 <sup>th</sup> , out-of-school suspensions and expulsions; exceptions for violence. <sup>101</sup>
Chicago Public Schools Board of Education	June 2014	Pre-K through 2 <sup>nd</sup> , suspensions; exception where behavior poses an imminent danger – in these cases, suspensions are limited to one day, require Network Chief approval, must be preceded by restorative efforts, and the principal must develop a support plan. <sup>102</sup>
Minneapolis Public Schools	Sept. 2014	Pre-K through 1 <sup>st</sup> , prohibits suspensions for nonviolent behavior. <sup>103</sup>
Baltimore Public Schools	July 2014	Principals are required to consult with the central office before they suspend pre-kindergarten and kindergarten students for any

<sup>98</sup> An Act relating to education--School Committees And Superintendents (H 7056), Rhode Island P.L. 2016, ch. 186, § 1, eff. June 28, 2016. <http://webserver.rilin.state.ri.us/BillText16/HouseText16/H7056.pdf>

<sup>99</sup> An Act concerning out-of-school suspensions and expulsions for students in a preschool program or grades kindergarten to two Connecticut State Legislature (S.B. 1053), Public Act No. 15-96, eff. July 1, 2015. <https://www.cga.ct.gov/2015/ACT/pa/pdf/2015PA-00096-R00SB-01053-PA.pdf>

<sup>100</sup> Houston Independent School District, *Board of Education Policy Manual, Section F*. <https://pol.tasb.org/Policy/Section/592?filter=F>

<sup>101</sup> An Act relating to school disciplinary policies; creating new provisions; amending ORS 339.250; and declaring an emergency (S.B. 553), Chapter 237, 2015 Laws, eff. July 1, 2015. <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB553/Enrolled>

<sup>102</sup> Chicago Student Code of Conduct Revisions, June 2014, [http://cps.edu/News/Press\\_releases/Pages/PR1\\_06\\_23\\_2014.aspx](http://cps.edu/News/Press_releases/Pages/PR1_06_23_2014.aspx)

<sup>103</sup> Alejandra Matos, “MPS ends suspensions in pre-K, kindergarten and first grade for nonviolent behavior issues,” *Star Tribune*, September 5, 2014. <http://www.startribune.com/minneapolis-schools-ban-suspensions-of-youngest-students/274043091/>

		length of time. <sup>104</sup>
State of California	September 2014	K through 3 <sup>rd</sup> , out-of-school suspensions and expulsions, expulsions are also no longer allowed for students above 3 <sup>rd</sup> grade for offenses described as “willful defiance.” <sup>105</sup>
New York City Department of Education	2012 & 2017	K through 2 <sup>nd</sup> , out-of-school suspensions; except behavior that is repeatedly violent or could cause serious harm, can’t be more than 5 days. <sup>106</sup>
Buffalo Public Schools Board of Education	April 2013	K through 12 <sup>th</sup> , no suspensions for disciplinary problems like truancy, cutting class, running in the halls, smoking, and dress code violations. <sup>107</sup>
Commonwealth of Massachusetts	Passed August 2012	Law requires the principal or headmaster to notify the superintendent in writing of the out-of-school suspension of a student enrolled in kindergarten through 3 <sup>rd</sup> grade, the alleged misconduct, and the reasons for out-of-school suspension, before the suspension takes effect. <sup>108</sup>
Syracuse City School District	Passed Sept. 2014	Pre-K through 2 <sup>nd</sup> , out-of-school suspensions; except for injury or safety. Schools must consult the District and those students cannot be suspended for longer than 2 days. <sup>109</sup>
Prince George’s County School District	Changed 2013	K through 5 <sup>th</sup> , short term suspension (1-3 days) limited to most serious incidents, long term suspensions limited to grades 6-12. <sup>110</sup>
Rochester School District	2008	Short-term suspensions apply only to K-12 students and long-term suspensions apply only

<sup>104</sup> Erica L. Green, “City seeks to curb pre-K and kindergarten suspensions,” *The Baltimore Sun*, July 9, 2014, [http://articles.baltimoresun.com/2014-07-09/news/bs-md-ci-suspension-changes-20140709\\_1\\_suspensions-principals-union-school-year](http://articles.baltimoresun.com/2014-07-09/news/bs-md-ci-suspension-changes-20140709_1_suspensions-principals-union-school-year)

<sup>105</sup> An act to amend Section 48900 of the Education Code, relating to pupil discipline (A.B. 420), Chapter 660, Statutes of 2014, eff. September 27, 2014.

[https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB420](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB420)

<sup>106</sup> Advocates for Children of New York, *Summary of Changes to the New York City Discipline Code, Effective April 2017*, New York: May 2017.

[http://www.advocatesforchildren.org/sites/default/files/library/discipline\\_code\\_changes\\_apr2017.pdf?pt=1](http://www.advocatesforchildren.org/sites/default/files/library/discipline_code_changes_apr2017.pdf?pt=1)

<sup>107</sup> Citizen Action of New York, Alliance for Quality Education, Public Policy and Education Fund, and Advancement Project, *Restoring Justice in Buffalo Public Schools: Safe and Supportive Quality Education for All*, Albany: July 2015.

<http://www.aqeny.org/wp-content/uploads/2015/07/Buffalo-Report-Restoring-Justice-FINAL-WEB.pdf>

<sup>108</sup> An Act Relative to Student Access to Educational Services and Exclusion from School (H.B. 4332), Chapter 222 of the Acts of 2012, eff. August 6, 2012. <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter222>

<sup>109</sup> Syracuse City School District, *Code of Conduct, Character, and Support*, Syracuse: September 2014.

<http://www.syracusecityschools.com/districtpage.cfm?pageid=1352>

<sup>110</sup> Prince George’s County Public Schools, *Student Rights and Responsibilities Handbook, Section II*, Upper Marlboro: 2013. [http://www.pgcps.org/student\\_rights\\_responsibilities.htm#SECTION 2: Rights & Responsibilities](http://www.pgcps.org/student_rights_responsibilities.htm#SECTION 2: Rights & Responsibilities)



		to 3-12 students. <sup>111</sup>
State of Washington	2007	No student in grades K through 4 <sup>th</sup> shall be suspended for more than a total of 10 school days a semester or a single incident; no student in grades 5 <sup>th</sup> through 12 <sup>th</sup> shall be suspended for more than 15 days a semester. <sup>112</sup>
State of Virginia	Pending legislation Jan 2018	Preschool through 3 <sup>rd</sup> , suspensions or expulsions; except for drugs or firearms. <sup>113</sup>
State of Pennsylvania	Pending legislation April 2017	K through 5 <sup>th</sup> , suspension; except cases dealing with violence. <sup>114</sup>
State of Ohio	Pending legislation Feb 2017	Pre-K through 3 <sup>rd</sup> , suspensions and expulsions. <sup>115</sup>

### The Need for Better Data Collection

While D.C., via OSSE and based on legislation advanced by this Committee and passed by Council, collects and reports a fairly robust set of data on school discipline, there are a number of gaps. As mentioned above, to date no data has been gathered or analyzed on the rates at which students who are LGBTQ are suspended or expelled. Additionally, there are long standing concerns about schools not properly documenting suspensions, which was highlighted in media reports in 2017.<sup>116</sup> This practice had long been alleged by parents and advocates and was also documented in a state complaint made to OSSE, and the resulting Letter of Decision.<sup>117</sup> The articles and state complaint concerned DCPS, however, in early 2017 the Government Accountability Office issued a report on disciplinary practices at D.C. public charter schools, noting concerns about failure to report partial-day suspensions.<sup>118</sup> Along with students being told not to return to school until accompanied by a parent, the Committee has heard consistently from

<sup>111</sup> [http://www.rochesterteachers.com/Rochester\\_Teachers\\_Association/Forms\\_files/regs\\_of\\_intervention.pdf](http://www.rochesterteachers.com/Rochester_Teachers_Association/Forms_files/regs_of_intervention.pdf)

<sup>112</sup> Wash. Admin. Code § 392-400-245. <http://apps.leg.wa.gov/WAC/default.aspx?cite=392-400-245>

<sup>113</sup> Justin Mattingly, “Lawmakers introduce bills aimed at curbing school-to-prison pipeline,” *Richmond Times-Dispatch*, January 29, 2018. [http://www.richmond.com/news/virginia/government-politics/general-assembly/lawmakers-introduce-bills-aimed-at-curbing-school-to-prison-pipeline/article\\_8a965ad6-3ab4-547f-aa50-be0408e5fcel.html](http://www.richmond.com/news/virginia/government-politics/general-assembly/lawmakers-introduce-bills-aimed-at-curbing-school-to-prison-pipeline/article_8a965ad6-3ab4-547f-aa50-be0408e5fcel.html)

<sup>114</sup> Matt Heckel, “Bill to eliminate out-of-school suspensions for elementary school students introduced in House,” *ABC 27 News*, April 4, 2017. <http://abc27.com/2017/04/04/bill-to-eliminate-out-of-school-suspensions-for-elementary-school-students-introduced-in-house/>

<sup>115</sup> Jessie Balmert and Hannah Sparling, “How young is too young? 36,000 elementary school suspensions,” *Cincinnati.com*, February 14, 2017. <https://www.cincinnati.com/story/news/politics/2017/02/13/ohio-schools-could-banned-suspending-expelling-young-students/97406154>

<sup>116</sup> Alejandra Matos and Emma Brown, “Some D.C. high schools are reporting only a fraction of suspensions,” *Washington Post*, July 17, 2017. [https://www.washingtonpost.com/local/education/some-dc-high-schools-reported-only-a-small-fraction-of-suspensions/2017/07/17/045c387e-5762-11e7-ba90-f5875b7d1876\\_story.html?utm\\_term=.61c3f2094ef0](https://www.washingtonpost.com/local/education/some-dc-high-schools-reported-only-a-small-fraction-of-suspensions/2017/07/17/045c387e-5762-11e7-ba90-f5875b7d1876_story.html?utm_term=.61c3f2094ef0)

<sup>117</sup> Office of the State Superintendent of Education, *Letter of Decision for State Complaint No. 016-015*, October 13, 2017.

<sup>118</sup> United States Government Accountability Office, *District of Columbia Public Charter Schools: Multi-Agency Plan Needed to Continue Progress Addressing High and Disproportionate Discipline Rates--GAO-17-165*, Washington: February 9, 2017. <https://www.gao.gov/products/GAO-17-165>

parents about schools sending students home early for disciplinary reasons, but not classifying it as a suspension.

The annual discipline reports by OSSE have also not explored the reasons for expulsions or examined the entire world of disciplinary removals from schools—a student who is subject to an involuntary transfer from one DCPS school to another may not be categorized as “expelled” but nonetheless faces the same disruption to learning and school environment as a student who is expelled. This is data that is already collected but can be presented in a more meaningful way. Similarly, D.C. schools report on incidents of law enforcement referral and arrests at schools to the U.S. Department of Education, but this data is not disaggregated on the local level.

Further improving the District’s data collection on student discipline would increase overall transparency and ensure data consistency; help the District of Columbia and LEAs ensure that the student discipline practices and policies do not lead to disparate treatment among students; and allow for better research and analysis of the true impact of student discipline practices on student achievement and educational outcomes.

### **The Committee Print**

The committee print for Bill 22-594 contains several changes from the introduced bill. A description of the committee print, with explanations for substantive changes, follows.

#### *Definitions*

School leaders have been consistent in asking for more uniformity in definitions regarding discipline policies and practices, and OSSE has similarly stated in reports and other settings that D.C. needs a set of uniform definitions. The introduced version of the legislation sought to accomplish this, while leaving flexibility for OSSE and LEAs to develop additional definitions for business rules of data collection. Most of the definitions, where appropriate, align with federal definitions regarding data collection to prevent confusion. Others draw on existing definitions in the D.C. Code. One significant definition is “out-of-school suspension,” which the Pre-K Student Discipline Amendment Act of 2015 established in the D.C. Code as a removal from school for more than a school day. The Committee heard compelling reasoning for changing this definition to encompass the removal of a student from school for any portion of the day, in order to make clear that being sent home early due to misbehavior shall be considered an out-of-school suspension. This has not changed in the committee print, however, additional language was inserted into this definition to bring it more into line with the federal definition, particularly with regard to students with disabilities and changes of placement.

The definition for “in-school suspension,” however, is changed in the committee print to align it with the federal reporting definition. The committee print adds a definition for “disciplinary unenrollment” in an effort to address the functional impact on a student or family being the same whether the student is removed from a school via expulsion or involuntary transfer. The committee print adds a definition for “involuntary dismissal” as a sub-category of out-of-school suspension, in order to better gather data on this practice and understand its use and effects. The committee

print also adds a definition of “willful defiance” to reflect a change in the listing of minor reasons for which high school students may not be subject to out-of-school suspension.

Based on the extensive testimony and other feedback that the Committee received regarding the limit on out-of-school suspensions for students in Kindergarten through grade 8, the committee print adds a definition for “bodily injury” while removing “significant bodily injury” and amending “emotional distress.” These changes are to address the concern that the standard for physical harm was too high, while the standard for emotional harm was too low. They are now aligned in their definitions at a fairly low standard of requiring “more than *de minimus*” treatment. The Committee settled on this definition because it will include the vast majority of harm. There is a degree of interpretation that is unavoidable, no matter the standard, but which allows schools to have some discretion in application.

For bodily injury, “more than *de minimus*” means something more than a band-aid or ice pack, but does not require a doctor’s visit. Some have asked whether a black eye would be covered under this definition—that would depend on the circumstances, as a relatively minor incident can result in a black eye but a black eye can also be a very serious matter requiring much more than an ice pack. For emotional distress, “more than *de minimus*” means something beyond a brief check-in or positive encouragement. Again, there is clearly a great deal of room for interpretation here—being called “stupid” would likely not meet this standard while being called a racial slur likely would, though the former could rise to requiring more than *de minimus* care depending on the context: if it is part of a pattern, accompanied by other actions, connected to bullying, and so on. The Committee believes that instances of bullying would certainly meet this standard. To some degree, school discipline policies can fill in the details of what a particular LEA considers to fall within the definition. It is important to note that just because an out-of-school suspension is allowed in these cases does not mean that it will always be appropriate, which is where school policies will also play a role.

Other additional definitions are meant to lend clarity to the text of the bill or to simplify wording, so that a phrase or concept that is repeatedly referred to can be described with a word.

#### *Parameters for school discipline policies*

The committee print makes significant changes to section 203 regarding school discipline and other policies. However, much of the new language does not change the substance but rather improves the flow and logic of the section, while aligning it more with language used by U.S. Department of Education and OSSE in guidance on school discipline. The Committee makes this change in the hopes that that language is already more familiar to schools and LEAs. This section now also refers to the provisions relating to out-of-school suspension or expulsion for unexcused absences or late arrival or for Pre-K students that are already in the D.C. Code.

Two new subsections also utilize language consistent with U.S. Department of Education guidelines: calling on schools to not turn to law enforcement unnecessarily and requiring schools and LEAs to proactively evaluate and reassess their policies and practices periodically, with a particular emphasis on avoiding disparities in discipline.

*Limits on the use of out-of-school suspensions and expulsions*

Changes to this section are some of the most substantive in the committee print. In response to testimony from teachers and school leaders that certain provisions in the introduced version of the bill were overly restrictive, the committee changed a number of the limits on the use of exclusion. Due to concerns over the limit on expulsion, the committee print strikes this provision, recognizing that it would affect only a small portion of students. Nonetheless, the extreme racial disparity in the use of expulsion (99 percent of students expelled are Black) the Committee remains extremely concerned about the use of this practice. Changes to the data reporting section should help to further illuminate the patterns and show options for change in the future.

As mentioned previously, the committee print also realigns the standards of harm required for a student to be subject to an out-of-school suspension in grades K through 8. While the Committee is concerned that a standard of harm requiring more than *de minimus* care might be too permissive, the new standard will nonetheless dramatically reduce the use of out-of-school suspensions in cases when no harm is done or attempted, or when the threat of harm is not present. To further allay the concerns about schools' ability to reduce reliance on exclusionary discipline, the committee print phases implementation of this section—the restrictions for grades K through 5 will become effective immediately, for grades 6 through 8 in school year 2019-2020, and for grades 9 through 12 in school year 2020-2021.

While the Committee believes that the standard for emotional distress clearly covers sexual harassment, some witnesses raised concerns about perceptions of incongruance with federal law on this topic. Sexual harassment and violence present serious barriers to education for K-12 students. Title IX of the Education Amendments of 1972 requires schools to address all forms of sex discrimination, including sexual harassment and violence. Like B22-594, which seeks to ensure access to education by eliminating unnecessary suspensions and expulsions, Title IX seeks to ensure access to education for survivors of sexual harassment and violence by eliminating the hostile environment they face at school and preventing it from recurring. At times, in order to eliminate a hostile environment and prevent its recurrence, a school may decide to remove a student who has harassed or assaulted a classmate from campus for a period of time in order to protect the survivor's right to equal access to education. To that end, the Committee added new qualifying language, "Except where otherwise required by federal or District of Columbia law," to ensure that a school's options and obligations to a student who brings a complaint under Title IX are not limited by and do not conflict with the school's obligations under this bill. The Committee remains concerned about how LEAs are responding to instances of sexual harassment or assault based on testimony provided by DCPS during the agency's FY17 Performance Oversight Hearing which seemed to imply that students subject to sexual assault or harassment are blamed for the incidents. Unfortunately, this paralleled anecdotes from families and schools, and therefore warrants further discussion and perhaps legislative action, though it is beyond the scope of this bill.

The Committee has also created an exception to the limit on the cumulative number of days that a student may be subject to out-of-school suspension. Notwithstanding that Washington State has had for many years a hard and fast limit on cumulative suspension days that is very similar to

what was included in the introduced version of B22-594, schools in D.C. will now have a way to exceed the cap. If a school feels there is no other choice but to subject a student to out-of-school suspension due to an imminent threat to safety, they may go beyond the 20 day cap with the approval of the LEA leader, as well as written documentation. This documentation must be given to the student and parent, as well as kept on file for reporting purposes. If reporting reveals that schools are abusing this leniency, the Committee will revisit it.

The Public Charter School Board Executive Director testified strenuously against these provisions, as well as the entire bill, stating that a better approach would be to give schools more resources and continue data reporting. However, when asked during the agency's Performance Oversight Hearing about what particular changes in practice or policy resulted in charter schools being able to reduce suspensions of students with disabilities by a significant percentage, the Executive Director stated that he could not name any particular practice or policy, but rather that it was "pressure from the Board" that resulted in the reduction in suspensions. If schools can effectively decrease their reliance on exclusionary discipline as a result of pressure from the Public Charter School Board, the Committee feels confident that they can do the same in response to pressure from the D.C. Council in the form of legislation.

Since the committee print limits individual suspensions to 10 days at most, and the case law standard that a suspension in excess of 10 days is "long term", the committee print includes a new threshold of 6 days or more as a long term suspension. This is meant to provide guidance for the Office of Administrative Hearings with regard to appeals of long term suspensions. This is also the reason for the Committee retaining the language adjusting when a manifestation determination review must be held for a student with a disability. Under the committee print, most suspensions will be 5 or 10 days at most, which would largely eliminate the efficacy of the due process protections under federal IDEA, which requires a manifestation determination review after 10 days of suspension. The Committee rewrote this section in an attempt to be very specific about the additional protections the legislation will provide to students with disabilities. In addition to shifting the manifestation determination review—and all accompanying procedural protections—from the 10 day mark to the 5 day mark, the committee print also clarifies that a review must take into account all of a student's disabilities, and not only the primary one. Although OSSE testified in opposition to this provision on the grounds that schools would have difficulty complying with it, the Committee also heard compelling testimony about the need to make this change. In an effort to seek further insight into the agency's opposition, during the agency's FY17 Performance Oversight Hearing Chairperson Grosso asked the State Superintendent about this and she stated that she felt it was mainly a question of capacity. Accordingly, the Committee delayed by a year the shift of the manifestation determination review from 10 days to 5 days of suspension, to become effective for school year 2019-2020.

In response to the testimony from parents about being called to pick up their children from school in the middle of the day but being told it was not a suspension, and the media coverage of "do not admit" lists and other hidden disciplinary tactics, the committee print explicitly states that any instance of exclusionary discipline must be documented and reported.

*Support for positive school climates*

The committee report consolidates and streamlines some of the supports that OSSE must provide to LEAs. In addition to the training and support on trauma, school climate, and behavior management, the committee print also requires OSSE to provide more targeted support for schools in responding to or preventing misbehavior by students with disabilities. This includes training or other technical assistance in conducting high quality functional behavioral assessments, behavior improvement plans, and manifestation determination reviews. The Committee felt this was needed in light of concerns raised by OSSE and practitioners that meeting the new standards laid out in the section on protections for students with disabilities would be difficult for schools to achieve with fidelity.

Based on testimony from experts in education research and policy changes, the committee print also includes a multi-year evaluative report that OSSE must conduct (or contract for) within year of the bill's enactment, and every five years thereafter. The report will consider the effects of barriers to implementation of the bill, any unintended consequences, the fidelity of data reporting, the quality of school interventions to prevent and correct student misbehavior without relying on exclusion, and areas for further research.

The committee print also includes a non-lapsing fund that will be used to fund the OSSE supports, as well as school-level implementation or additional training. Despite repeated requests from the Committee for a suggested dollar amount that would be necessary to help schools transition away from reliance on exclusionary discipline, neither DCPS nor the Public Charter School Board provided any estimates. Over the years, the Committee has added a significant amount of funding to OSSE for professional development and grant programs for community schools and restorative practices and will continue to do so. Further, the Committee is deeply engaged in an effort along with the Committee on Health, to increase the behavioral health supports in schools, which will likely result in a significant influx of dollars in the coming fiscal year.

### *Reporting Requirements*

The introduced version of B22-594 made some minor updates to the reporting requirements currently in D.C. law, mainly requiring disaggregation on the local level of data already reported to the federal government about school-related arrests and referrals to law enforcement. It also required reporting on instances when students are sent home in the middle of the day—although this is clearly a suspension under the definition in this bill, the Committee felt there is value to gaining further insight into this practice. The committee print retains those changes and makes additional ones, including a requirement that OSSE gather and report data on the discipline experiences of lesbian, gay, bisexual, or transgender students and students who may be questioning their sexual orientation or gender identity or expression.

The committee print also requires more reporting and analysis of why students are expelled or involuntarily transferred and the use of functional behavior assessments, behavior improvement plans, and manifestation determination reviews for students with disabilities. Due to a change in the definition of in-school suspension, the committee print includes a provision for schools to report on what instruction or intervention is provided during an in-school suspension, so that schools do not feel that their actions are inaccurately portrayed to the public. Increased data

collection and reporting has helped schools to improve their practices over the past three years, and the Committee expects these changes to help continue that trend.

For the reasons explained above, the Committee supports this bill as amended.

## II. LEGISLATIVE CHRONOLOGY

November 21, 2017	Bill 22-594, the “Student Fair Access to School Act of 2018” is introduced by Councilmembers Grosso, Bonds, Cheh, and Nadeau, and co-sponsored by Councilmember Allen.
November 21, 2017	Bill 22-594 is referred to the Committee on Education.
November 24, 2017	Notice of Intent to act on Bill 22-594 is published in the <i>District of Columbia Register</i> .
December 15, 2017	Notice of Public Hearing is published in the <i>District of Columbia Register</i> .
January 26, 2018	Notice of Public Hearing is published in the <i>District of Columbia Register</i> .
January 30, 2018	The Committee on Education holds a public hearing on Bill 22-594.
March 13, 2015	The Committee on Education marks-up Bill 22-594.

## III. POSITION OF THE EXECUTIVE

The following witnesses testified on behalf of the Executive or independent agencies.

**Hanseul Kang**, State Superintendent of Education, Office of the State Superintendent of Education (OSSE), testified in opposition to B22-594. Superintendent Kang testified on the efforts of her agency to address concerns about exclusionary discipline. She noted that although in school year 2016-17 fewer students received suspensions, the report showed that students receiving those suspensions were already struggling with school attendance and that the suspension made it worse. She stated that OSSE works with other agencies to provide trainings in trauma-informed care and non-violent crisis prevention. Superintendent Kang noted the non-regulatory guidance issued by OSSE in 2016, and described OSSE’s school year 2015-16 launch of the Restorative DC initiative, resulting in schools reporting improvements in school culture. She stated support for the definitions in the bill and asked that there be further changes to in-school suspensions. She stated opposition to shortening the required timeline for a manifestation determination review for students with disabilities to 5 days from 10 days, because IDEA already grants procedural safeguards for students with disabilities and is very prescriptive.

In response to questions from Chairperson Grosso, Superintendent Kang stated that she is also troubled by practices that result in harm to students. She expressed that she shares the Chairperson's sense of urgency and impatience with the status quo. She testified that OSSE and school system data has continued to get stronger every year, both because of guidance to LEAs, and ability to cross-check with LEAs. She cautioned that banning certain things can push them underground, and muddle the data. Chairperson Grosso responded that that is a bigger problem that must be addressed but not a legitimate reason to delay the bill in his mind. Superintendent Kang acknowledged this, but noted that structural factors like laws can make integrity more or less likely. Chairperson Grosso expressed his dissatisfaction with being told simultaneously by school leaders, "we are already doing this work" but "don't tell us what to do," and that Superintendent Kang's testimony about the numbers of schools participating in restorative practices or other capacity building activities gives the impression that very few schools are actually taking the issue seriously.

The Committee also sent a follow-up letter to OSSE after the hearing with additional questions, but did not receive a response.

**Antwan Wilson**, Chancellor, D.C. Public Schools (DCPS), testified in opposition to B22-594. Chancellor Wilson stated that while DCPS aligns itself with the goals of the bill, ultimate decisions about use of exclusionary discipline must remain at the local education agency and school level. He described DCPS efforts to address school climate, discipline, and student satisfaction, including through the new strategic plan and other initiatives. He reiterated his goal to have every student feel loved, challenged, and prepared, and will continue to strengthen and deepen supports to reach that goal. He stated that in order to eliminate the achievement gaps, educators need different training and DCPS is committed to that change, including for social-emotional learning and restorative practices. Chancellor Wilson stated that the proposed legislation would undermine school safety and positive school environments. Specifically, he stated his opposition to provisions in the bill that would place limits on the numbers of days a student can be suspended or the reasons for suspensions.

In response to questions from Chairperson Grosso, Chancellor Wilson responded that he appreciates the urgency, but that the jobs of teachers and school leaders are hard. He described his experience working in Oakland on this issue, stating that if school districts have not done the intentional work to help educators understand the shift in approach, and have not made sure the supports were in place, then those schools would become worse actors. In Oakland, he said, when others rushed to change their discipline policies and practices, they went slower. He testified that as a result, they did not have the increase in concerns about school safety or teacher turnover. He stated that all DCPS schools are not where they need to be for such a change to be successful, and if he had thought they were, here would not have put such a focus on social-emotional learning. Chancellor Wilson described 37 DCPS schools implementing restorative justice practices, but that only 8 are implementing it fully and embedding it into the discipline approaches. He expressed his concern that many schools take a piece of the work, and implement it, when in reality it is critical that this work be pursued in a school holistically.

The Committee also sent a follow-up letter to DCPS after the hearing with additional questions, the response to which is attached to this report.

**Scott Pearson**, Executive Director, DC Public Charter School Board (PCSB), testified in opposition to B22-594. Mr. Pearson testified that the Council should not take action on the bill but



instead allow LEAs to continue their own approaches to the problem of overuse of exclusionary discipline. He stated that the focus of the PCSB on the issue has produced meaningful results, starting with the creation in 2012 of a team at PCSB “focused exclusively on non-academic matters” in order to improve school quality. He described the initiatives of the PCSB over the past 5 years—publishing discipline data, creating equity reports, implementing audits and board-to-board meetings. He stated that this work has resulted in out-of-school suspensions in the charter sector having decreased from almost 15 percent in school year 2012-13 to 9 percent in school year 2016-17, and predicted that the rate for school year 2017-18 would further decrease to about 7 percent. Mr. Pearson testified that his team is focused on the outliers that have high rates, particularly with disparities among subgroups. He disputed the characterization that current discipline rates represent a status quo, arguing that they have dropped and will continue to drop. He stated that the Council should support LEAs to address students’ needs by providing more funding not by passing laws like B22-594.

In response to questions from Chairperson Grosso, Mr. Pearson testified that proper implementation of restorative justice practices takes time and resources, and that it is not the only approach. Chairperson Grosso responded that he is fully supportive of adding more funding, but does not see the action being taken or change happening fast enough. Mr. Pearson stated that he respectfully disagreed, with trends going in the right direction. He alleged that B22-594 also represents the most intrusive legislation proposed by the Council in the 20 year history of the charter school sector in the District of Columbia.

The Committee also sent the PCSB a follow-up letter after the hearing, the response to which is attached to this report.

**Joyanna Smith**, Ombudsman, Office of the Ombudsman for Public Education, testified in support of B22-594, stating that it seeks to solve an equity problem in our public schools. Ms. Smith described her office’s experience hearing from parents about unnecessary and undocumented suspensions of students, including students with disabilities whose needs went unmet. Noting the persistent disparities in application of exclusionary discipline, Ms. Smith rejected the notion that Black students, comprising 67% of public school students but 95% of suspensions, behave differently and therefor merit different treatment. She also noted that arguments concerning school safety fall short, since the bill still allows for students to be suspended if they cause harm or represent a threat. Ms. Smith expressed her sympathy for educators who feel they lack other options, and stated that additional resources are critical for the legislation to be successful, particularly with regard to mental health. Considering that other educators may think that suspensions are effective, she cited research that refutes this, and pointed to more effective responses to misbehavior, such as restorative justice practices. Ms. Smith stated that the excessive and discriminatory use of exclusionary discipline sends a message that many students have heard before—we don’t care about you. She described one case that her office handled, which is hardly unique:

“A second grade African-American boy was illegally disciplined because his principal said that she could not figure out any other way to help him learn without disrupting his peers. Consequently, for several weeks, the young boy missed critical instruction time as he sat in unofficial suspension. Not only did he miss the learning that came from being absent from his class, causing him to fall behind academically, but he also experienced firsthand what it feels like to be abandoned by his school.”

In response to questions from Chairperson Grosso, Ms. Smith stated that they have dealt with cases regarding “safety transfers” at DCPS to move students from one school to another,

which do not seem to be well-documented or have effective safe-guards in place. She also stated that not only are students and parents unaware of what rights they have to education during an out-of-school suspension, but even schools are not sure, including with regards to due process and appeals. She noted that students sometimes do not get assignments, or get work packets that are unrelated to the work happening in class. For students with an IEP, no effort is made to ensure they can understand or process the work packets.

**Faith Gibson Hubbard**, Chief Student Advocate, Office of the Student Advocate, testified in support of B22-594, as long as it is accompanied by significant resources to support schools. Ms. Hubbard spoke of the challenges families and students face in navigating the school choice environment and that they often feel baffled by the variety of policies and implications. She said that one of the areas where the education landscape is particularly complex for families is school discipline. Ms. Hubbard noted the pervasive disparities in the use of exclusion in local public schools, based on OSSE reports—she observed that, based on the OSSE report for school year 2016-17, 1 in 10 African-American students in D.C. were suspended during that school year.

Her office has done a field scan of LEA discipline policies, which vary widely in their clarity and availability. She stated that generally LEAs have improved but it is still difficult for parents and students to understand that each one is different, as they seek to understand school approaches to discipline in their quest to choose the best school for their needs. Her office looked at the discipline policies laid out in 57 LEA handbooks with the help of the Education Rights Center at Howard University School of Law, analyzing student/parent rights and responsibilities, statements of infractions and penalties, due process, zero tolerance or positive behavioral intervention policies, alternative education for students excluded from school. Based on this analysis, Ms. Hubbard testified that the rights and responsibilities are not consistently presented or easy to access or comprehend, and that about 20 percent of handbooks analyzed had little or no mention of discipline policies. She said that among the LEAs that do list infractions and consequences, many are vague and lack definitions. Roughly a third of LEAs did not have good statements of basic due process, half failed to lay out an appeals process, and only about 20 percent included appellate decision makers who hold a position with some degree of impartiality. Just under half of LEAs maintain some form of zero tolerance policy, Ms. Hubbard stated, and roughly half make little or no mention of trauma-informed or positive behavioral intervention disciplinary practices. Further, about half of LEAs make no mention of alternative education for students who are suspended, she said, and when LEAs do describe this such efforts, they fall short.

Ms. Hubbard noted that her office's research found a lack of collaborative efforts in the development of the policies. She stated her hope that B22-594 would spur a more collaborative approach for LEAs, which is in the best interest of students and families. She noted the serious challenges that teachers and school staff face in addressing student misbehavior, which requires a greater emphasis in training, professional development, and additional staffing in schools. She recommended ensuring the success of B22-594 by significantly increasing the funding for this. She also recommended that OSSE play a better role in fostering collaboration and oversight, while also providing more professional learning for educators. She suggested that a state advisory panel comprised of parents and LEA staff be formed at OSSE to review and provide recommendations on LEA discipline policies, and that OSSE continue to develop communities of practices for LEAs to share with and learn from each other. Ms. Hubbard also reiterated a number of recommendations from her office's school year 2016-17 annual report, located at [studentadvocate.dc.gov](http://studentadvocate.dc.gov), including better promotion of school equity reports, increased efforts by LEAs to ensure students and

families understand and know how to easily locate school discipline policies, and creation of discipline advisory committees at LEAs.

**Seema Gajwani**, Special Counsel for Juvenile Justice Reform at the Office of the Attorney General, submitted written testimony regarding Attorney General Karl Racine's support of B22-594. Ms. Gajwani noted the study by the Council of State Government's that showed that students who are suspended demonstrate weaker academic skills, higher drop-out rates, and higher rates of involvement in the juvenile justice system. She described the disproportionate impact of suspensions and expulsions on students of color, which contributes to the school-to-prison pipeline. As the prosecutor for juvenile crime in D.C., Ms. Gajwani stated that her office takes seriously its charge of holding young people accountable for their actions, while also seeking to get the bottom of what caused their actions and resolve it. It is this perspective that prompts her agency to support the legislation and the potential sea change in how schools deal with conflict and interact with schools and families. She noted the importance of restorative justice practices, which the Attorney General has actively fostered, including a new Restorative Justice Program. Ms. Gajwani recommended that the Council and Mayor allocate more resources to support schools and teachers in implementing the law. She commended the inclusion in B22-594 of new data collection and reporting requirements, but cautioned that care must be taken to ensure accuracy of the data. She also stated the Attorney General's explicit support for gathering data on school-related arrests and referrals to law enforcement.

#### **IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS**

The Committee received no testimony or comments from Advisory Neighborhood Commissions.

#### **V. SUMMARY OF TESTIMONY AND STATEMENTS**

The Committee on Education held a public hearing on Bill 22-594 on Tuesday, January 30, 2018. The testimony summarized below is from that hearing as well as from individuals who submitted written testimony for the record. A copy of all written testimony received is attached to this report and the video recording of the hearing is available online at [http://dc.granicus.com/MediaPlayer.php?view\\_id=30&clip\\_id=4320](http://dc.granicus.com/MediaPlayer.php?view_id=30&clip_id=4320). The Hearing Record is on file with the Office of the Secretary of the Council.

The following witnesses testified at the hearing or submitted statements outside of the hearing:

**Miranda Johnson**, Director of the Education Law and Policy Institute at the Loyola University Chicago School of Law, testified in support of bill B22-594 based on her experience as an attorney working with young people suspended in New York and Illinois and their parents. She discussed the negative outcomes for these students as a result of their being suspended or expelled. Mr. Johnson testified that the bill is aligned with national research and recommendations on school discipline reform—a research consensus that supports a shift toward positive and prevention-oriented approaches to discipline and the use of instructional and corrective and restorative

responses to student misbehaviors. She stated that the bill is consistent with U.S. Department of Education guidance to take into account the various stages of childhood and adolescence. She has seen first-hand the importance of providing educators training in the areas targeted in the bill, including trauma-informed approaches, classroom management, restorative practices, and implicit bias. She testified that policy changes in Illinois and Chicago during recent years have resulted in reductions in suspensions and expulsions.

In response to questions from Councilmembers, Ms. Johnson noted that although parents may initially want the student who caused conflict to be suspended, in the long term that does not resolve the conflict or repair the harm done. She described how parents are often not entitled to know disciplinary response of a school, so when student comes back they may think nothing has happened. That is why she, and others, believe that restorative practices hold potential to improve this dynamic, by bringing more communication and understanding, while also repairing harm, for the individual students involved but also the broader student body. She stated that if a parent is facing a school bullying issue, we need to address the climate in the school, and look at it from the perspective of what the adults are or are not doing, thinking about resources and interventions and how they utilized, as well as understanding the underlying issues.

**Pamela Fenning**, Professor in the School Psychology Program at the Loyola University Chicago, testified in support of B22-594, based on her experiences as a school psychologist. She noted that the same students struggling in school are the ones suspended for minor incidents. She stated that many students that are disciplined for minor offenses are Black and Brown; lesbian, gay, bisexual, transgender, or questioning their sexual orientation or gender identity; and students with disabilities. She testified that, as documented since the 1970s, students of color, particularly African-American boys, are not suspended because they misbehave more often.

In response to questions from Councilmembers, Dr. Fenning noted the need for Tier 1 interventions in the entire school systems, which are prevention-oriented, focused on school climate, and emphasize the importance of reteaching expectations to students. She noted that even when a strong climate is built it does not eliminate all instance of challenging behavior, so there will remain the need for Tier 2 and 3 supports. She testified that the probability of a child being harmed at school is less than at home and that, relatively speaking, schools are safe, but we still need to address behaviors that cause problems. She stated that experts estimate that 20 percent of the school age population requires some form of mental health services, but only 20 percent of those get what they need.

**Johanna Lacoe**, Researcher at Mathematica Policy Research, testified on the school discipline reforms efforts tried by other cities and how D.C. can learn from their experiences to improve outcomes for students. She noted the ongoing racial disparity and that low-level offenses continue to make up a large proportion of reasons for suspensions. Ms. Lacoe described her work researching Philadelphia's policy changes, which had two goals--to reduce minor offense suspensions and provide more discretion to school leaders on major issues. She stated that most schools did not properly implement the changes and that those not implementing were mostly schools with low-income students. She testified that these schools did not get appropriate guidance or financial support from the school district along with the policy change. Based on her research, the change in policy change did result in a decrease in suspensions for low-level offenses for previously suspended students, and it improved attendance but did not have a substantive effect on academics. She noted that in schools that properly implemented the policy change, her research

found no negative effect on peers, but that in those schools that did not properly implement the policies, there was a negative effect on peers. She further noted that suspension rates for minor offenses for African-American students went down relative to White peers, however, for major offenses, the disparity went up, which prompted her to ask whether schools reclassified minor incidents as more serious ones. Ms. Lacoe advised the Committee that data collection should include how alternatives are used and evaluate their efficacy. She stated her belief that changes to policy are needed, but that D.C. must equip teachers and administrators with skills to do so.

In response to questions from Councilmembers, Ms. Lacoe reiterated that high suspension rates do not result in students feeling safe. Therefore, she stated, keeping the status quo does not make students safe, and change is warranted.

**Kristen Harper**, Director for Policy Development at Child Trends, testified that the central goal of B22-594 is consistent with a wide body of research on keeping students in schools, in particular, two studies—one by the Council of State Governments ("CSG") and a new 2018 study on causal outcomes. She stated that both studies make it clear that suspensions are highly detrimental to students, resulting in the decreased likelihood of graduation, and an increased likelihood of grade retention and contact with criminal justice. The new Rosenbaum study showed that students suspended subsequently had a 30 percent greater likelihood to experience arrest and prison within 12 years following the discipline incident. The CSG study found vast disparities in application of discipline for discretionary low-level offenses. Ms. Harper stated that perhaps the most important finding from the CSG study was that the use of suspension and expulsion varies widely across schools, even those with similar populations, making such disparities attributable to differences in suspensions to school leadership and culture, rather than specific student behavior or socio-economic status. She testified that a sense of urgency is warranted, but that as a nation we are still at the beginning of using policy-based solutions, like bans and limits, to tackle these problems, so she advised the Committee to look at the research in determining the way forward. She stated that immediate bans on most suspensions for elementary and middle schools, and limits for high schools, are ambitious. Ms. Harper stated that the role of OSSE is key but emphasized the importance of providing school-level staff with appropriate supports. She recommended building into the bill an assumption that unanticipated results will happen and advised that the Committee consider how to add safeguards for data, explicitly forbid informal types of discipline, and provide for a multi-year evaluation. In response to a question from Chairperson Grosso about how to better safeguard data, Ms. Harper suggested that multi-year study of implementation would reveal things that would not show up in a trend analysis. She noted the lack of research about informal discipline practices such as sending a student home early or not allowing students to come back without a parent, and that a qualitative component could inform how D.C. could develop a cost-effective auditing process.

**Jon Valant**, Fellow with the Brown Center for Education Policy at the Brookings Institute, testified that while he had no stance on the bill, he could speak to reasons why a centralized policy on suspensions has benefits. First, he stated, such a change could reduce disparities in discipline and limit opportunities for discriminatory punishment. He testified that research that he co-authored compared the length of suspensions for African-American and White students who got in fights with each other in Louisiana found differential treatment despite holding constant other factors. He noted the expanding body of research on implicit bias, which sheds light on the patterns of unconscious discrimination, which includes research indicating that limiting the use of

exclusion can limit discrimination. Mr. Valant testified on the experience of schools in New Orleans, which created a central discipline policy despite a context of choice. He stated that this change gave parents a greater sense of due process, and has improved system-wide data collection, although it has not centralized inspection policies. He testified that the Committee should encourage schools to address the causes of discipline incidents, noting that OSSE shows 38 percent of students suspended were suspended more than once, revealing that suspensions are not addressing the cause of the behavior problem. Mr. Valant noted that solely limiting schools' ability to suspend does not address these causes either.

**Dr. Lauren Caldwell**, Director of the Children, Youth, and Families Office at the American Psychological Association, testified in support of B22-594 and its use of research to propose changes to the use of suspensions and expulsions in schools. She stated that suspensions and expulsions increase student alienation, rejection, and isolation while breaking healthy bonds with adults. She noted that these approaches distance students from healthy peer communities, increase contact with delinquent peers, and reduce adult supervision. She stated that such actions are not applied equitably, with an over-representation of African-American students among those suspended. Dr. Caldwell testified that there are approaches to behavior management that are more effective at reducing misbehavior while improving mental health and academic outcomes, including approaches that are instructive, not punitive, building positive relationships with adults, and strengthening a sense of community. She advised that the Committee support an increase in training and professional development for school staff, specifically on cultural responsive techniques. She stated that decades of research reveal the best practices in tackling this issue, many of which are included in the legislation.

**Byron McClure**, a member of the D.C. Association of School Psychologists, testified on his perspective as a school psychologist in support of the bill. He stated that one of the most significant problems in education today is disproportionality, with Black boys at heightened risk to be referred for disciplinary actions. He stated that school administrators must use evidence-based alternatives to tackle this. Dr. McClure testified that his research has shown specific social and emotional learning interventions work and that at Anacostia High School, they have used a pilot that is promising with restorative justice. He stated that the challenge is in how to practically implement alternatives across all schools. He advised the Committee of the need to provide technical assistance and professional development resources.

**James Allen**, Poet Ambassador, Free Minds Book Club and Writing Workshop, testified in support of the bill based on his belief that if the legislation had been in place when he was in elementary school, his life might have taken a different path and he might not have gone to prison. He stated he was suspended many times for many reasons, from fighting to not being in compliance with the dress code. He testified that he had a lot of anger that was never addressed, which would have actually helped his behavior rather than simply pushed him out of school. He stated that being suspended made him fall behind on school work and discouraged him when he returned back to class. He emphasized the importance of taking a trauma-informed approach, of asking "What happened?" instead of "What is wrong with you?" He stated that the first time he was asked "what is going on with you" was during a visit in jail.

**Sabrina Bishop**, public witness and a parent, testified on behalf of her ten-year-old son in support of B22-594. She stated that he is in 4th grade but should be in 5th grade. He started getting suspended in kindergarten and was getting sent home at least once a week. She stated that she didn't think that he had a disability, but once he got into 1st grade, he got suspended more often—three days one week, one or two the next. She stated this resulted in him reaching 2nd grade without knowing the basics of literacy or math, which led him to act out because he was embarrassed. Ms. Bishop testified that her son got so used to being suspended that he wanted it. She described how after getting lawyers involved, the suspensions stopped, and her son started to advance academically. She stated that the suspensions created bullying for her child—other students teased him, and he reacted.

**Judith Sandalow**, Executive Director of Children's Law Center, testified in support of B22-594. She testified that her organization regularly works with students who are put out of school. She stated we all bring assumptions to the discussion and that she has been surprised to uncover her own implicit bias. She noted that almost 40 percent of children suspended last year in D.C. were in elementary school and that more than 4,700 suspensions were for minor incidents, which changes the picture about who is being suspended. She described examples of clients who were suspended—a 4th-grade boy stealing snacks from snack closet or a middle schooler with the cognitive ability of a 3-year-old for coloring on the wall. She testified that research shows suspension provides momentary relief but doesn't stop the underlying problem. She stated that current subjective suspension policies disproportionately affect African-American and Latinx students and that the Student Fair Access to School Act reduces inequity by reducing subjective reasons. She stated that students with disabilities in particular need to be in school learning from teachers and professionals, with the achievement gap that they face. Ms. Sandalow stated that parents, teachers, and advocates have been calling for reform for years and that it is the Council's role to set priorities for the District. She advised that the Committee ensure that the bill includes resources directly for schools, as well as looking into further policy possibilities including more universal appeals mechanisms, ensuring instruction when students are subject to out-of-school suspension, and better data collection.

In response to questions from Committee members, she stated that she was surprised by OSSE's opposition to adjusting the timeline for manifestation determination reviews. She said that the question of whether a child's disability caused the behavior incident seems like a reasonable one to ask earlier. She noted that on the question of shortening the timeline to trigger a manifestation determination review that the difference between 5 and 10 days may not seem like a big difference from an administrator's perspective, but for a child it is a major difference.

**Jamila Larson**, Executive Director of Homeless Children's Playtime Project, testified in support of B22-594. Ms. Larson stated that she was once a school social worker and saw firsthand the damage to students caused by suspensions. At her organization, every year they see the harm to students who are homeless being put out of school. She stated that D.C. should do all it can to dismantle the school-to-prison pipeline. From her perspective, critics of the bill prioritize the adults' rights to respond as they want over the children's need to be in school learning. She shared a story of a former client who was suspended starting at an early age. Her client told her that the more she got suspended, the easier it was for them to suspend her. She was diagnosed with ADHD, her mom was maligned, and she was eventually put out of school altogether. Teachers didn't know she was a child sexual abuse victim. She stated that we rarely know the root causes of children's

behavior, we just respond to their behavior and that being trauma-informed means learning to help rather than pushing out.

In response to questions from Councilmembers, she said she did not understand how it makes developmental sense to suspend students for longer than 5 days. She said she has seen so many students who were behind academically and acted out as a way to get out of school, so they would not feel embarrassed or dumb.

**Eduardo Ferrer**, Policy Director at Georgetown Juvenile Justice Initiative and founding member of the Every Student Every Day Coalition, testified, on his own behalf and not representing the university, in support of B22-594. Mr. Ferrer thanked Chairperson Grosso for continuing his leadership on this issue. He said that exclusionary discipline has been going on for far too long. He cited the disturbing disparities in use of suspensions based on race and other factors, including the fact that 19% of students suspended in SY16-17 were under the care of CFSA. He stated that schools are suspending scores of Black children who have suffered trauma or have disabilities, most of whom are not even teenagers, despite the fact that school exclusion does not make schools safer and they have done nothing violent. Mr. Ferrer stated that as a result of suspensions, students are more likely to be held back, drop out, and end up in the criminal justice system, which he sees firsthand representing young people accused of delinquency or in need of supervision. He described a suspension as a missed opportunity to intervene positively in a young person's life. He recommended additional funding for schools and OSSE to support the policy shift and called on the Council to act quickly.

**Tarek Maassarani**, Restorative DC, thanked Chairperson Grosso for responding to what many see as a crisis. He said that much of the testimony sharpens the picture of this crisis, with tens of thousands of days of instructional time lost each year. He stated that the bill encourages the use of alternatives, but does not provide for resources to implement. He described restorative justice as shared practices that share equitable relationships and accountability for the human aspect of harm. He stated that creating an environment of restorative justice requires years of support, but there is a shortage of staff and resources. In response to questions from Committee members, he described how the Oakland school district has about 15 years of developing restorative practices with 30 people on full time staff dedicated to it. He testified that funding is not just for support organizations, but also for infrastructure for schools to increase capacity. He also noted how the changes in approaches to discipline can actually save money.

**Ramona Edelin**, Executive Director of the DC Association of Chartered Public Schools, testified that she agreed with others' remarks in opposition to B22-594. She said that the city needs to address the problem, but that schools need more resources. She expressed her agreement that in 2018 we need to address race and class. She asked whether centralization can do it or autonomy and innovation, which she believes is the way to go. She testified that charter schools are meant to be different, and that students want and need boundaries. In response to questions from Committee members, she said that for some students knowing that they can't be suspended would encourage them to act out. She stated that best practices in classroom management, discipline, and must be shared much more purposefully among schools, as well as helping teachers better understand the history of D.C., the socioeconomic background of our families, and other cultural components.



**DeMario Hardmon-Fort**, Founder of Speaklight, testified in support of B22-594 because it presents reasonable parameters for schools to conduct discipline. He stated that mere removal is counterproductive to the goal of learning--undue suspensions and expulsions send the message that students are not welcome. He noted that these exclusions disproportionately affect at-risk students, and reflect the historic exclusion of poor, Black and Brown people from society at large, and education access in particular. He stated that the current structure of education has remained unchanged for over 200 years, cited moments in history where Black and Brown children were not allowed to learn, and noted that despite these official policies being changed, their effects continue. He expressed support for the bill's provisions that mandate trauma-informed and culturally-responsive approaches and training.

**Emily Morgan**, Director of Content Development, Communications for the Council of State Governments Justice Center, a national non-profit non-partisan organization, did not take a stance on the bill. Ms. Morgan shared the results of her organization's reports on school discipline: they found that the majority of suspensions were for discretionary offenses, students of color were disproportionately affected, and even one suspension put them on a negative trajectory. She stated that this helps solidify the problem that communities face. Following their initial reports, the Council for State Governments launched the National Consensus Building Project, released in 2014, which is a comprehensive set of strategies and recommendations for schools. Ms. Morgan testified that there is no one sole strategy, but that schools need to implement common sets of approaches. She noted that with pressure from grassroots groups, states and local districts have focused their attention on these issues and made progress. She described how many states want to know where to focus their efforts, which naturally leads to collecting more comprehensive data on discipline and school climate. Policy makers then use data to drive improvement efforts. From her perspective, these efforts have resulted in transformative change in different jurisdictions, such as eliminating broad categories of reasons for suspensions, providing additional protections for the most vulnerable students, limiting the length of suspensions, and integrating school discipline metrics into accountability measures. She testified that when states and school districts looked at specific sub-populations, they saw the need to embrace more comprehensive reform with an emphasis on prevention and school environment.

**Daniel Losen**, Director of the Center for Civil Rights Remedies, The Civil Rights Project at the University of California at Los Angeles, testified in support of B22-594. Mr. Losen stated that he has been working on this topic for over 19 years, starting as a teacher sending students to principal office frequently. He described the impact of suspensions from the perspective of instructional time lost and stated that, based on his analysis of the data for D.C., in school year 2016-17 Black students with disabilities experienced 100 more days of lost instructional time due to suspensions than White students. He stated that this has clear implications for the achievement gap, and long term outcomes for young people. Mr. Losen testified that a good toolkit of interventions regarding student behavior must include quality early intervention services for disabilities. He noted that opponents of school discipline reform ask about the effects on peers, but no studies show that suspensions work, so reducing them would not necessarily make things more chaotic. Alternative interventions are designed to get the whole picture, he said, including peers, not just those suspended. He stated that it is important to get the buy-in of leaders and teachers in changing policies and practices, but that it can never be a trade-off for the rights of children to get an education. He testified that on the question of protections for students with disabilities, they are

supposed to not be suspended even one day due to their needs not being met, and that the 10-day rule in IDEA is meant to ensure that. Moving it to 5 days could better accomplish that, in his opinion.

**Kelly Capatosto**, Senior Research Associate at The Kirwan Institute for the Study of Race and Ethnicity at Ohio State University, testified on her research into implicit bias and its relationship to disparities in school discipline. Ms. Capatosto said that there are disparities all over the country, and the most recent data from OSSE shows how Black students are incredibly over-represented. She noted that when students hold multiple marginalized identities, disparities are compounded. She stated that the call to action is to acknowledge biases and norms that have upheld these outcomes. She described research that shows how teachers are more likely to recommend discipline for Black students than White students for the same behavior. She cautioned that it is not racist or apathetic staff who suspend Black students more often, but rather a complex phenomenon of people working under stress in environments that prioritize discipline. She recommended removing ambiguity in codes of conduct and eliminating exclusionary responses for the category of disruptive behavior. Ms. Capatosto reiterated the importance of utilizing empirically-based interventions. One thing she has tried to look at is the balance between research-based practices and what is more politically or managerially feasible. To that end, she sees mindfulness as being a good way to mitigate concerns about reducing suspensions. Mindfulness can help combat traumatic stress, it is a public health intervention, and when used with educators, is also a way to mitigate implicit bias. She noted that it is an intervention that is free and does not require a lot of time.

**Jason Okonofua**, Associate Professor at the University of California at Berkeley, testified on his research that looks at how stereotypes affect actions people take and the decisions they make. Dr. Okonofua's work includes examining school discipline. His published studies have looked at how teachers respond to misbehavior based on race, disparities in discipline, and responses to misbehavior. His findings indicate that there is much that could and should be done at the policy level, particularly by looking at the relationships between teachers and students. He stated that in working with large school districts around the country, many have legislation that is similar to B22-594. However, he cautioned that administrators and teachers are sometimes put in a situation of not having the tool of suspension anymore, and they need something to replace it, which he hopes his work can help to achieve. For example, while a limit on grounds for suspension would stop a teacher from ending a relationship with a student (temporarily) his research shows that figuring out how to foster and continue positive teachers-student relationships would be critical. Dr. Okonofua emphasized the importance of providing high-quality professional development, which can make the difference in how policy changes are implemented and the alternative approaches that are taken. He stated that the language in the bill on alternatives is good and it is important to focus on evidence-based approaches. He further advised that when approaching leaders and teachers it is important to not point fingers, but to emphasize trying to help, for example with the social emotional learning for students, so they better interact and learn. In his research, early interventions to promote empathy between teachers and students have shown very promising results, preventing deterioration and entering into a cycle of negative feedback. He described the importance of paying attention to data also as a way to keep a record of what each school is doing well.

**Alex Lambert**, Public Witness, testified in support of B22-594 as someone trained in Restorative Justice at DCPS. He said that we are not only talking about suspension, we are talking about abandoning the already fractured and fragile community. He stated that when a school kicks out a student, the message is that they do not belong, that something is wrong with them. He described how discretion has allowed for certain students to be more likely to be suspended, and they do not get the proper education. He stated that while those arguing against the bill mention the most egregious circumstances, the majority of suspensions are for situations that are not that severe. Schools have decided that the best way to correct the behavior is to send students out into the street where they can magically change their behavior on their own, he said. Mr. Lambert asserted that suspensions do not change behavior, relationships change behavior. He agreed that more resources are needed, but that the same people making that argument are putting students out, leaving the cost and burden on communities. He noted that when a student is put out of school and enters the criminal system, that is another set of resources. He recommended avoiding an adversarial approach when working with teachers since they are already under great pressure and criticism.

**Eric Jones**, Minister All Yah Church, testified on the miseducation of students and the need to end suspensions.

**Sarah Comeau**, Director of Programs and Co-Founder of the School Justice Project, testified in support of the bill, noting her experience providing special education legal support to court-involved students with disabilities. She stated that many of the students she has represented had past exclusionary discipline incidents, mainly for minor incidents. She noted that these students are used to being excluded from school and feeling unwanted. She described how students are often sent home to "get your head right" which is not documented as a suspension. She stated that she commonly sees students not receiving any schoolwork or supportive services during a suspension, and that she believes many of these suspensions are a manifestation of their disabilities. She stated that she sees too many people enter the court system because of an underlying school issue, particularly as a student with a disability. She described asking one of her clients why he stopped attending school and he asked why bother going if he will be turned away at the door anyway. She stated that the elimination of suspensions for minor offenses has wonderful implications for students with disabilities. She strongly supports the bill and the rights it provides for young people.

**Lauren Onkeles-Klein**, a public witness, testified as a Ward 5 resident and DCPS parent in strong support of B22-594. She described having worked on issues related to the social determinants of health and wellbeing for D.C. children and families for almost 15 years and has seen the negative impact of suspensions. She stated that there is an overreliance on suspensions and a failure to meet the needs of vulnerable students. She noted that she has seen what happens when schools dedicate themselves to creating inclusive, trauma-informed environments. Despite all the drawbacks, she said she has observed that suspensions are used as a classroom management tool rather than last resort when there is a danger. She noted disappointment that OSSE did not look at intersecting identities for school year 2016-17 discipline report, but in school year 2015-16, they did and Black students with disabilities were 17 times more likely to be suspended than their White peers. She testified that up to 85 percent of students in the juvenile justice system have disabilities, but only 40 percent of them receive services they need. She testified that there is a lack

of compliance with federal and local laws regarding special education and there needs to be a greater emphasis on it from the education system. She stated that this is not about serving an individual student with a disability, but elevating the classroom to meet the needs of every student. In her opinion, reorienting efforts to meet the needs of a student with special needs would benefit all students.

**David Griffith**, Senior Research and Policy Associate at the Thomas B. Fordham Institute, testified against B22-594. Mr. Griffith discussed the debate over school discipline, which is about those who want to reduce the harm to students suspended and those who are worried top-down approaches will make schools less safe. He stated that most studies of suspension are about correlation, not causation. Alternatives are not well researched, he testified, and have to be properly implemented with more resources. He stated that the bill will create incentives for students to misbehave and it will raise the stakes of implementation by eliminating suspensions. He described that Chicago and New York have shown reductions in perceptions of safety after changing their policies, and noted research from Philadelphia finding that only 17 percent of schools fully complied with the district's ban on low-level suspensions. He referenced another Philadelphia study of teachers which showed that 89 percent expressed support for out-of-school suspensions, stating that they were useful in sending a message to parents about the seriousness of infractions, 85 percent agreed that they are useful in removing disruptive students from class so that other students may learn, 84 percent agreed that suspensions helped in creating a safe school environment, and 81 percent agreed that they encourage other students to follow the rules. In response to questions from the Committee, Mr. Griffith stated that the bill would drive schools to avoid truthful reporting and that the bill is going too fast. He suggested instead looking at root causes, expanding nurse home visitation, investment in pre-k, increasing equitable resources for charter schools. He stated that positive reinforcement is an essential tool for teaching and that restorative justice has promise.

**Francisco White**, Programs Coordinator at Supporting and Mentoring Youth Advocates and Leaders (SMYAL) testified in support of the bill, based on his work with marginalized youth. He attested to the negative impact of hyper-disciplinary school environments, especially for Black students, students of color and LGBTQ students. He noted that research and personal testimony support the need for a new approach. Mr. White noted the unique challenges facing LGBTQ Black students and other LGBTQ students of color. He stated that Black LGBTQ students are suspended far more than White students. He recommended focusing on opportunities to provide more support for those who need it most. He said that restorative justice and trauma-informed support, when mandated, are practices that would transform public education for the better.

**Rochanda Hiligh-Thomas**, Executive Director of Advocates for Justice & Education, testified in support of B22-594, citing her organization's work on behalf of students with disabilities and their families. She stated that in the last 15 years the number of families that AJE has helped regarding suspensions and expulsions has doubled. Her organization has witnessed hundreds of administrative hearings for suspensions. She stated she has seen the devastating and harmful impact of those suspensions and expulsions. Suspensions are ineffective at changing students' behavior or keeping schools safe. She recommended taking care to ensure implementation with fidelity across schools and emphasized the need for additional resources and training. She said that there should be a process for parents to file complaints if rights are violated

under this law. Parents should not have to hire a lawyer to ensure students have a right to education. She stated that the time is now for change, before more irreparable harm is done to children. She noted that the legislation does not prevent any school from focusing on environment or setting boundaries, they just need to have some guardrails in place.

**Chelsea Coffin**, Director of the Education Policy Initiative at the D.C. Policy Center, testified on her perspective that B22-594 may result in unintended consequences, that it would need additional resources and the need for a closer look at middle schools. She advised that a ban will not automatically increase learning time or eliminate disproportionalities in school discipline. She recommended that the committee focus on resources necessary to support interventions that would reduce suspensions. She suggested fortifying existing strategies that mobilize students, administrators, and parents or guardians to adapt to a system that promotes alternatives to suspensions.

**Dr. Aaron Rakow**, Founder and Co-Executive Director of InSite Solutions and Assistant Professor of Clinical Psychiatry at MedStar Georgetown University Hospital, testified on behalf of the Center for School Based Mental Health in support of B22-594. He stated that removing students from the school environment doesn't help with the misbehavior but causes harm. He said that there is little evidence that the use of suspension helps make safer schools. Based on research and his experience working in schools in D.C., more effective ways to address student behavioral problems are available and should be expanded. He described how schools with a positive culture that promote student well-being don't need to resort to suspensions. He stated that social-emotional learning helps, and that teachers say they are empowered by social-emotional learning curricula. He also described restorative justice as a positive intervention as it supports student-led problem-solving. He called the legislation a step forward in promoting trauma-informed learning environments for students. He described the need to get teachers full buy-in, get them trained as they are the best positioned to identify and respond to special education needs, for example. Teachers may not feel they have the expertise, he said, so bring in experts. He stated it is also important to help them develop the skills as appropriate. On a systemic level, he asked the Committee to think about how to transform this legislation into policies and procedures that schools adopt.

**Marlana Wallace**, Policy Analyst at the DC Fiscal Policy Institute, testified in support of B22-594, and recommend further resources, including implementation of the 2014 special education bills, and targeted use of at-risk funds. She testified that when students drop out and become involved in the criminal justice system, it costs everyone in the District financially and ethically. She suggested that Mayor Bowser and the Council increase funding for restorative justice interventions along with this bill. She testified that suspensions and expulsions create more problems than they solve, while a more positive school climate better helps academics improve. She noted that students falling behind in school are 2.7 times more likely to be suspended than their peers. She described the 2013 adequacy study of the Universal Per Student Funding Formula as a still-unmet goal that could help with resources.

**Michael Musante**, Senior Director, Government Relations at FOCUS, testified in opposition to B22-594 because he believes the bill is in conflict with School Reform Act. He suggested that the Committee had sought to avoid hearing from school leaders by not placing them

earlier in the day and hearing from outside experts. He said that many schools have stated they are ill-equipped to work with students with high levels of trauma.

**Kent Withycombe**, Director of the Public Education Project at Washington Lawyers' Committee for Civil Rights and Urban Affairs, testified in support of B22-594, based on the experiences of his organization's school support program in addition to special education litigation. He stated that he volunteers teaching in the Inspiring Youth Program at the D.C. Jail, noting that at least 65 percent of students there have special education needs and that the government has failed them. He noted that while B22-594 is a good start, many other states go farther, and he encourages the Committee to go farther. He noted that the OSSE data shows that unexcused absences jumped 10 percent on average after suspension. He testified that an evaluation of restorative justice in Oakland resulted in an increase in attendance and reading level, and a decrease in suspensions and drop-out rates. He advised the Committee to look at Massachusetts and Washington state for possible models of state-wide trauma-informed education approaches.

**Cathy Reilly**, Director at Senior High Alliance of Parents, Principals, and Educators (S.H.A.P.P.E.), testified in support of B22-594, noting that under current policies at DCPS a student can be suspended for repeated Tier 1 (minor) incidents. She noted that the bill addresses the framework for discipline policies, and the Council must address the underlying issues that affect the success or failure of the policies. An environment of choice has partially exacerbated the situation by concentrating students with certain challenges into specific schools. She advised that the Committee closely monitor at-risk funds. She said that while the Committee is right to seek to limit suspension, it is important to avoid making people feel helpless. She recommended expanding the community schools model, and to look at the limited time for recess for students. She stated that no adult can truly sit without breaks and a good lunch period. She said that DCPS needs to be more proactive with public input and process, and advised the Council to create a policy committee to give input formally. She stated that teachers need support, which is not only about pay.

**Dr. Chidiogo Anyigbo**, American Academy of Pediatrics, District of Columbia Chapter, testified in support of B22-594, using one encounter to illustrate the case. She described the obvious distress exhibited by a middle school student during an assessment and then worked to help connect her to mental health services. It turned out that she had been suspended since first grade for behavioral issues. She advised of the need to shift from the perspective of "what is wrong with you" to "what happened to you," via trauma-informed approaches. She described how the increase of alienation due to suspensions causes drop-out, strengthening the school to prison pipeline. She noted that children 5 to 11 years old are still learning how to regulate actions and emotions, and do not respond as well to higher level thinking and reasoning. She described the importance of trauma-informed and implicit bias training.

**Sherina Davis**, public witness and working mother, testified in support of the bill and any effort to limit school suspensions. She described the experience of her son, a 5th grader who has ADHD and learning disabilities. He began getting suspended in 1st grade, most of which were unofficial suspensions that were not recorded. She would get calls to pick him up in the middle of the school day. She stated that she lost a good job that she had because she was told she had no choice but to come get him. Without this law, she said the school held the power over her head

and threatened to call child protective services. She said that this bill will force schools to figure out how to work with children like her son rather than pushing them out.

**Nicole Tuchinda**, Supervising Attorney and Clinical Teaching Fellow at Georgetown University Law Center Community Justice Project, testified in support of B22-594, because suspensions are harming children and it is out of control. She gave an example of a case she handled of a 15-year-old who was suspended at Dunbar High School, without documentation. The student was also banned from returning to school. She said that the parent missed work repeatedly because of it, and that the school never held a manifestation determination review despite the child being suspended for over 50 days cumulatively. She stated she repeatedly asked for documentation for the suspensions, but the school refused to present it. She found out that the school was avoiding documentation by using the "do not admit" lists, updated daily. She asked for them but was not provided with them or any acknowledgement of the practice. She only obtained them through a FOIA request. She stated that staff spoke off the record about the lists, for fear of retaliation. Even after her involvement, the school continued to suspend the child. Eventually an administrative judge ordered the end of the suspension, but the school did not comply until someone in the central office was involved. She described how the student already had serious trauma, which was worsened by these suspensions. She filed a state complaint with OSSE, who found it to be a systemic issue.

**Stacey Eunnae**, public witness, testified in support of B22-594, based on her experience working with students who have been suspended or expelled. She said the time to act is now. She described the school-to-school-to-school-to prison pipeline, where a student is pushed out by school after school until ending up in jail. She described how students are highly mobile, causing families to move, and change schools. Parents try to address the unmet needs of their kids by moving schools, but then they end up with the same problem at the next school. She testified that schools are more segregated than ever. She recommended that the Council pass this law and show students that their education and lives matter.

**Elisabeth Liptak**, Executive Director of Minds Inc., testified in support of the bill from her perspective as an organization providing instruction in mindfulness and social-emotional learning for students in the D.C. area. She noted that mindfulness is a set of practices that teach students to focus on their thoughts, emotions, their breath, and other sensations within themselves and their environment. These practices help students develop the ability to respond thoughtfully rather than react impulsively to circumstances or events. She described a children's health survey found that almost half of students in D.C. have suffered a traumatic experience. She noted that brain science shows that exposure to chronic stress alters the brain chemistry, putting the system in a persistent fight-or-flight mode. This can cause disruptive behavior, but mindfulness practices help relax that impulse and change the brain chemistry. In addition to her group's observations, there is rigorous research into mindfulness.

**Andrea Gleaves**, Strategic Partnerships Manager at DC Coalition Against Domestic Violence, testified in support of B22-594, due to the negative impact of suspensions and expulsions, and the disparate treatment that students face as a result of these practices based on race, disability, and trauma. She noted that Black girls were nearly 18 times more likely to be suspended than White girls, often for minor infractions. She stated that the bill would stop

suspension for subjective infractions and disrupt gendered pathways into criminal justice systems for women and girls of color. She discussed the DC Girls Coalition's efforts to address how D.C. responds to trauma among young women of color. She advised that the Committee cross-check with federal law to ensure there is no conflict between this bill and Title IX. She recommended that any trauma training includes education on cultural humanity, equity and reducing disparities, and language access.

**Marta Beresin**, Legal and Policy Director at Break the Cycle, testified in support of B22-594. She discussed the impact of trauma on the lives of young people, and her organization's support for the goals of limiting exclusionary discipline of students for non-violent behavior, while providing supports. She noted that D.C. students are 54 percent and 32 percent more likely to be suspended than Baltimore and Prince George's County students, respectively, despite many demographic similarities. She noted the importance of having trauma-informed educational environments. She recommended the Committee amend Section 4 of the bill to ensure schools do not interpret it to conflict with Title IX of federal law. She stated her belief that the changes in the bill would put schools on a path to have trauma-informed approaches, increase attendance, and improve academic outcomes. She also recommended that the Council include money in the FY19 budget to support trauma-informed schools.

**Rebecca Burney**, Attorney at Rights4Girls, testified in support of the bill. She spoke about the discriminatory application of school discipline policies results in girls of color heading into the juvenile justice system. She stated that D.C. girls are increasingly being referred to the juvenile justice system. She noted that non-violent behavior was a major reason for girls being suspended and that girls suffering from sexual abuse or trauma are disproportionately affected by school discipline. She noted that the long-term consequences of dropping out of school are particularly dire for Black and Latina girls in D.C., where they are more likely to live in poverty and be disconnected and they are suspended at an alarmingly high rate. She described the connection between trauma faced by these girls and being sent to court for truancy. She stated that in D.C. close to 20 percent of Black and Latina girls in high school have experienced psychical or sexual dating violence and 30 percent have contemplated suicide, requiring trauma-responsive and empathy, not punitive responses.

**Jennifer Virgo**, Mental Health Therapist, Mary's Center, testified in support of B22-594, based on her experience providing mental health services in schools over the past two and a half years. She described a student who was smart but often acted out, in part because of trauma from his family and neighborhood. This student would curse at students and teachers, ignore rules, and even left school. He could have been suspended, but instead, school staff had received trauma-informed training so that rather than suspending him they established on-site consequences, he got counseling, and he was given space to articulate his feelings and needs through restorative justice and mentorship. They kept him in school, and he graduated. She stated that he was a student who got lucky because his school had what he needed, and that it should not be a matter of luck, but that all schools should be able to meet students' needs.

**Emmanuel Caudillo**, Chair of the DC Education Coalition for Change, testified in support of B22-594, based on the high number of suspensions in middle school and the racial disparities. He noted that suspending students sends the wrong message, especially when D.C. is trying to



tackle persistent absenteeism. He noted the importance of providing more resources to school to implement alternatives to suspensions. He stated the status quo is not working but wants to see appropriate resources as well. He stated that this bill gives D.C. the chance to be a leader in discipline reform.

**Russell Armstrong**, DC Education Coalition for Change, testified in support of the bill, with suggested changes based on his experience as an educator. He stated that while data showed progress on reducing suspensions, recent revelations put that data into question. He stated that teachers and school leaders will need more training to accomplish the goals of the bill, and they should be required to undergo pre-service training in the core competencies of social-emotional learning, culturally responsive techniques, and recognize trauma and chronic stress. He recommended a tiered approach, to account for the fact that some schools have farther to go than others, in order to achieve effective implementation and accurate data collection.

**Maya Martin**, Executive Director of Parents Amplifying Voices in Education (PAVE), testified in support of the goals of B22-594, but stated that there is a need for more resources, training, and support to help schools achieve what is laid out in the bill. She stated that at PAVE's parent summit, parents identified as a priority having access to safe, healthy, and welcoming student school environment. She outlined six areas for improvement: major investments and access to evidence-based programs, training around implicit bias and cultural competency, a long-term study on discipline practices, including teachers, school leaders, and parents at the table in developing policies, consistent support services, and investment in interventions that engage students in learning like out-of-school time programs.

**Erin Roth**, Senior Policy Analyst of K-12 Education at Center for American Progress, testified in support of the goals of B22-594, particularly increasing data collection and limiting the use of exclusionary discipline for minor infractions, based on research that shows that these approaches do not work and that there are credible alternatives. She noted that despite decreases in D.C.'s overall suspension rates, African-American students are increasingly suspended and that more suspensions are being used for non-violent offenses. National research shows that schools have over-disciplined African-American, Latinx, special education, and English Language Learner students for over 40 years. For that reason, in 2014 the U.S. Department of Education reiterated suggested limits and highlighted research-based practices that would reduce the use of suspensions. She noted that even non-suspended students are negatively impacted when students are suspended for non-violent offenses. In other words, exclusionary practices harm all students. She testified that exclusion is a failed approach. She noted the increase in disparities for suspensions among D.C. students and that despite investment in alternative practices, there has been an increase in non-violent infraction suspension. She noted suspensions are denying these students a fundamental right to education. She reiterated the call from Child Trends to gather more qualitative data.

**Laura Fuchs**, teacher and representative of the Washington Teacher's Union, testified in support of B22-594. She stated that one of the most challenging situations schools face is how to have a positive climate. She stated the school-to-prison pipeline is terrifying, and this bill has opened up an important discussion on this issue, with the possibility that it will force leaders to make change. She stated the importance of holding all schools that receive public funds

accountable. She noted that if OSSE is only looking at numbers, and not looking beyond that, then the implementation is not real. She said that they no longer send out "do not admit" lists because they can be subject to FOIA, so it gets hard to understand what is going on. She noted the need to give positive incentives to schools. She said leaders are speaking about wanting to do things but not actually doing them, like restorative justice, hence the need for more support.

**Rita Stevens**, DC Education Coalition for Change, testified that B22-594 is missing a component of coordinated behavioral and mental health services system across public schools, led by OSSE. She stated that the same groups needing these services are the ones being suspended and academically failed. She noted that teachers should not be the first-line providers of mental health services.

**Desiree Smith**, DC Education Coalition for Change, testified about her experiences with training in classroom management, as a classroom teacher. She stated she had seen a lack of appropriate response to student behavior. She stated that there needs to be more attention paid to resources for schools and teachers. She applauded the bill for its limits on exclusionary discipline but said it fell short in providing the supports needed to transform the situation—social-emotional learning, mental health supports, cultural competency, and more.

**Ryan Battle**, DC Education Coalition for Change and a student at a public high school in D.C., testified in support of B22-594, but advised that some additional changes need to be made. He said he supports removing suspensions from the school system. He cited how a friend might get suspended, but goes to play video games at home, or may feel unwanted, or use it to hide that he does not know how to read or do math. He said that in-school suspensions are great alternatives, but asked what students should do during in-school suspensions, whether they will get quality instruction or not. He advised that schools should get parents involved. He asked for more investment in hiring culturally diverse teachers and staff.

**Yuliya Gileva**, public witness, and a student at American University Washington College of Law, testified in favor of B22-594 based on her experiences representing a client in a law school clinic, who is a student of color with mental health needs who receives special education services. She noted that the bill would help students like her client to feel welcome and excel in school. She noted the pervasive nature of trauma among students in D.C. and how it affects their education. For her client, suspensions cause more isolation, disrupt his academic progress, and put him at greater risk for missing school, since he does not see the point in attending. She stated that out-of-school suspensions are not the answer for students who already feel disenfranchised.

**Catharine Bellinger**, DC Director of Education Reform Now at Democrats for Education Reform, testified on behalf of Shavar Jeffries, President of Democrats for Education Reform, against B22-594, despite her belief in limiting the use of exclusionary discipline practices. She stated this approach will not improve outcomes for vulnerable students, despite the overuse of suspension in D.C., particularly for students of color, and the negative outcomes, which, in turn, perpetuate the school-to-prison pipeline. She stated that educators need resources to not use suspensions. She recommended that the Committee remove the limits on the use of suspensions in the bill.

**Alison Sandusky**, Director of Student Culture of District of Columbia International School, testified against B22-596 because it takes away a tool that the school needs to address serious problems, including drugs, actions outside of school, and others. She stated that at her school they use restorative justice to hold students accountable. They use this approach to teach students about the harm of their actions and how to repair harm. She stated she had spent several years as a teacher in D.C. schools. She testified that restorative justice takes much more time than a traditional system, but that the outcome is worth it. She stated that there are times when suspensions don't work, but that schools should have the autonomy to make the best decisions for their students. She said when all resources are exhausted, educators are left with no choice but suspension. She asked that OSSE and the Council increase resources for schools and LEA leaders that will help keep students in school.

**Emily Bloomfield**, Chief Executive Officer of Monument Academy Public Charter School, thanked Councilmember Grosso for the collaborative process and the changes to B22-594. She noted concerns about how to measure how schools implement positive environments. She mentioned the encouraging use of incentives to share policies and practices. She expressed concern over returning a student to school the next day after a manifestation determination, stating that it could present safety problems. Ms. Bloomfield suggested finding a way to incentivize schools to do “neck-up” screenings and to include more mental health professionals in schools. She noted that while her school welcomes the opportunity to work with students that other schools push out, she knows that not all people come to education as a profession with the idea of dealing with intense behavioral issues. She described the struggle of this, and the need to invest heavily in training, coaching, environment, and more for success. She also said it can be hard to find staff because of it.

**Richard Pohlman**, Executive Director of Thurgood Marshall Academy Public Charter School, thanked Councilmember Grosso for the collaborative process and said that B22-594 is in a better place for it. He stated he still has three main concerns. He noted his experience of being a top-rated charter school, with high graduation rates and students going to college. He described his desire for a safe environment for students and staff and his concern that the bill does not properly balance a safe school environment with individual student's right to education. He said that this work must include social workers and mental health workers. Mr. Pohlman noted that his school has had zero out-of-school suspensions over the past three months. He stated he is very concerned with having a fair discipline process and would support legislation that would further outline the due process rights that are currently laid out in common law, but not in D.C. law. He took issue with the bill's limit on the use of expulsion only in situations of serious injury, stating that there are cases without serious bodily injury that do rise to the need of expulsion, like arson. He said that as a parent he would not want to send his kids to a school that did not expel students for arson.

**Kena Allison**, Science Teacher and Instructional Coach at Thurgood Marshall Academy Public Charter School, testified about her experience as an educator and that parents valued her school as a safe school. She spoke to the importance of putting students out of school for fighting. She stated that previously the school did have a zero-tolerance policy for uniform violations, which they revised when they realized it was not appropriate, but that she felt this may not have been the right choice. She described how sometimes it is important for students to be suspended in order to

understand how the real world works and that some infractions considered "minor" do lead to suspension because they disrupt the school environment.

**Royston Lyttle**, Principal of Eagle Academy Public Charter School, testified in support of B22-594. He shared his appreciation for the efforts of the Committee to keep all students in school and with a chance to succeed. He said that he has learned that the best way to deal with students having trouble is to talk to them and listen to them, especially at the early ages. He stated that suspension and expulsion are not the answer, and that there should be role models for kids to look up to. He said just yesterday another Eagle Academy student was lost to gun violence, and that these students need help because they are struggling. They need help from people who look like them. He recommended that the Council find ways to provide more resources, especially from the Department of Behavioral Health.

**Raymond Weeden**, Senior Director of Policy and Community Engagement at DC Prep Public Charter School, testified in opposition to B22-594. He said that while he shares the goal of students having support, the approach of this bill is not the way to get there. He asked that the Committee table the legislation. He voiced his concern that while the current Committee sees the need for resources he is concerned that in the future they will not be provided, but the laws will remain on the books.

**Shannon Hodge**, Executive Director of Kingsman Academy Public Charter School, testified that she does not support the bill in its current form, although she supports the goal. She stated that school exclusion is the symptom of a set of problems, and the Council should focus on those. She stated that two years ago her school decided to stop suspending and expelling students, after seeing the futility of that approach. As a result, her school lost students and staff because they felt they would not be safe. She stated that she still needs more resources to pursue this work. She called on the Council to look at legislative ways to address the underlying issues.

**Aaron Cuny**, Chief Executive Officer of Ingenuity Prep Public Charter School, testified in opposition to B22-594, stating that his school has sought to educate every student who comes to them and has not expelled or counseled out any students. He stated that his school seeks to keep students in school with supports as much as possible. He noted that they have tried to only use suspension in cases of physical aggression. He also stated that the school does not see suspension as exclusionary and that they have a high rate of re-enrollment for students with higher rates of discipline incidents, including suspensions. He stated that he believes that if the legislation were to pass, it would create a high level of resentment among teachers and educators.

**Melissa Kim**, Chief Academic Officer at KIPP DC Public Charter School, testified in opposition to B22-594, despite support for the objectives. She alleged that the bill lacked input from families and makes special education changes that are impractical to implement. Ms. Kim expressed her appreciation for the conversation, and her school's enthusiasm for the school mental health task force that the Committee co-created with the Committee on Health. She advised the Committee to think about the "social engagement gap" in addition to the achievement gap, which she described as the need to show students how to be passionate and engaged with society at large. She stated that adults need to change their mindsets, which takes time and effort. She testified that her school is nearing the limit of what they can do with the number of resources they can use on

their own. She asked that the Committee direct funds to increase schools' expertise and widen their toolkits for responding to behavior issues.

**Katie Cole**, General Counsel at KIPP DC Public Charter School, testified on behalf of Reggie Workman, a parent at KIPP DC and Board representative, in opposition to B22-594. Mr. Workman felt unhappy that he was not consulted on the bill. He laid out a scenario that would be disturbing if it were to happen. Mr. Workman stated that he feels the bill would make schools less safe.

**Michael Beare**, Director of Student Support at KIPP DC Public Charter School, testified against the legislation based on the requirements regarding increased protections in the bill for students with disabilities.

**Lauren Outlaw**, Director of Policy at KIPP DC Public Charter School, testified on behalf of Rashaand Sass, Vice Principle at KEY Academy, who stated that B22-594 would make schools less safe. Mr. Sass asked that instead of passing the bill that the Committee pass legislation to add further funding and resources to schools to create alternatives.

**JaQuan Bryant**, Culture Coordinator at Ingenuity Prep Public Charter School, testified against B22-594 and described the practices undertaken by his school to address behavior issues. He stated that suspensions are used to send a clear message about the importance of safe learning. He stated that educators who directly serve students are best suited to decide the appropriate response to student behaviors.

**Will Henderson**, Director of Operations at Paul Public Charter School, testified against B22-594, while acknowledging that there are serious concerns about student access to education as a result of excessive exclusionary. He stated that there are systems in place to monitor and intervene when schools use exclusionary discipline excessively. He described how his school grappled with issues of misbehavior and the appropriate response. After an investigation to determine the root causes, the school restructured their leadership and teacher support system to focus on academic rigor. He stated that the school's culture was strengthened, and behavior improved.

*Submitted testimony*

**Evan Stone**, Co-founder and Co-CEO of Educators for Excellence, submitted testimony in support of B22-594, stating that the legislation sets high expectations for achieving inclusionary student discipline and equipping teachers and school leaders with the needed support to address disparities in public schools. He wrote that a negative school environment, severe discipline policies, and the lack of educating the whole child prevent students from reaching their full potential. He cited data from the Civil Rights Data Collection that shows that suspended, arrested, or expelled students are disproportionately students of color and students with disabilities. He wrote that exclusionary practices negatively impact a student's trajectory and increase the likelihood of them coming in contact with the criminal justice system. He told the story of one of his students who was bright but displayed challenging behavior and was removed from the class often. He wrote that at the time he did not have the support or resources needed to take an inclusionary approach to the student's behavior. He then stated that B22-594 is important because

it takes steps toward eliminating exclusionary practices and provides provisions for schools to explore Restorative Justice Practices. He wrote that in December of 2017 his organization launched the In Class, Not Cuffs campaign designed to advocate for the preservation of the Department of Education's 2014 federal discipline guidance, which encouraged districts with high rates of infractions to take much-needed steps to address disparities.

**Catherine Meloy**, President and CEO of the Goodwill Excel Center, a Public Charter School for adults, expressed concerns about B22-594, and wrote that two things need to be changed if the bill moves forward. First, she recommended applying the exceptions in Section 4(b) to Section 4(d) as well. She wrote that adult students present disciplinary challenges and safety risks that are different from students under the age of 18. She wants adult students exempt from the out of school suspension limitations on Section 4(b) and the expulsion limitations in Section 4(d). Second, she stated that sections 4(b) and 4(d) should permit out of school suspensions and expulsions for any offense as long as it is part of a fair and reasonable graduated discipline policy. She wrote that the bill is an inappropriate overreach by the Council into the operations of charter schools.

**Edward Morris**, Associate Professor at the University of Kentucky, submitted testimony on the definition of suspensions, with recommendations for implementing more effective and fair school discipline. He wrote that suspensions are used in schools without consideration of the long term affects they will have on students. He wrote that the potential benefits of using suspensions may seem logical, however, research has failed to show that suspensions actually correct behavior. He wrote that out-of-school suspensions are harmful to students, creating a burden for families and caretakers, weakening the student-to-school bond that they need to be successful, and severe academic consequences. Considering all variables, he wrote that research shows that African-American students were still more likely to be suspended than White students. He also wrote that research shows that discipline policies that are strict, but fair and compassionate, work better than those that are based on harsh and exclusionary punishments. He recommends using suspensions and exclusionary punishments as a last resort, addressing the root causes of the behavior, rewarding positive behavior, giving students a voice and responsibility, empowering teachers with ongoing training in implicit bias and classroom management, providing more support for staff and smaller class sizes, and collecting, analyzing, and distributing data on discipline to track progress.

**M. Karega Rausch**, Interim CEO and Vice President of Research and Evaluation at the National Association of Charter School Authorizers, submitted testimony opposing B22-594, stating that instead of using a one-size-fits-all approach, the Council should provide supports and resources for approaches that work. He wrote of the need to improve the relationship between adults and students, and that any approach to discipline that does not address this relationship runs the risk of unintended consequences. He wrote that high-level school oversight and transparency are already lowering the suspensions in D.C. schools, and by increasing the visibility and awareness of each school's discipline rates, D.C. has seen a three-year decrease in suspensions and expulsions. Rausch asked the Council to provide the funding and support needed for proven alternatives to reducing exclusionary discipline practices.

**Maria Morales**, public witness and a parent, submitted testimony in support of B22-594. She explained that although she is proud of her three children, her oldest, who are twins, have had

a hard time in school due to their disabilities. She wrote that Cardozo Education Campus did not meet their needs. Her twin daughters suffer from a condition which causes them to function at about a preschool level even though they are in the 9<sup>th</sup> grade. She stated that sometimes when they cannot communicate their wants and needs, they have tantrums like toddlers due to their disability, and instead of DCPS working with their disabilities they turned to suspension. She stated that DCPS placed the girls at that school, but it was hard to travel there to get them during the school day because she lived in Southeast and had to take three buses. DCPS would threaten to call CPS if she said that she was unable pick them up within 1 hour. She also wrote that all of the calls home happened without a translator, so she could not advocate for herself or her children. She wrote that the school never recorded the early pick-ups as suspensions or recorded multiple day suspensions as suspensions. She decided to change the girl's school to St. Coletta's, which is a charter school for children with intellectual disabilities like her daughters. She wrote that this law will give parents like her a little more power to stand up to schools.

**Jack McCarthy**, CEO and President of AppleTree Institute for Education Innovation and AppleTree Early Learning PCS, testified he was concerned that B22-594 would not improve teaching and learning, nor will it improve important educational outcomes. He recommended that the Committee create a study commission to gather more input from families and children, take into consideration the effect of the proposed legislative changes on special education practices, and gather deeper inputs and insights from school personnel who have direct experience with students. He advised that what is needed is to prepare teachers to deal with challenging behaviors effectively, support schools and families with trained clinicians and specialists who can improve student/school/family interactions, pilot evidence-based practices while continuing to gather data and share what works, and provide resources to do it well.

**Nicole Mason**, Vice President of Programs at the Washington Area Women's Foundation, submitted testimony in support of B22-594 because she believes that the bill will put the city on a sure path to increase educational parity and equity for the most vulnerable students. She wrote that the girls she works with on the Young Women's Advisory Board fully supported the bill because many of them have direct experience with being suspended for minor infractions. She told the story of one of the fellows on the board who was suspended 10 days for bringing a knife to school when she was in the 12<sup>th</sup> grade. She wrote that further investigation found that she worked late night shifts and carried the knife for protection reasons, but had forgotten to remove the knife from her bag before school. She asked if this was just and what more could have been done to keep the student in school. She believes that this bill will help answer these questions.

**Anna Davis, Christina Padilla, Gracelyn Cruden, Yonah Drazen and Alysse Melville Loomis**, Ph.D. candidates representing different universities, submitted joint testimony in support of both bills. Their testimony focused on their findings from empirical studies on the consequences of suspension and expulsion for childhood development. They noted that studies have shown that exclusionary practices increase the risk for further negative behaviors and are correlated with low academic success. They wrote that when children display highly disruptive behaviors in the classroom, they signal underlying issues and unmet needs. They wrote that exclusionary practices either initiate or maintain a student's negative academic trajectory and fail to address the root causes. They described how a lack of resources causes the adults around these children to turn to these exclusionary practices out of stress, low self-efficacy, and lack of sufficient training in

behavioral management. They believe that providing these resources, along with needed trainings, will reduce the cost that comes with exclusionary practices.

**Shana Bartley**, Acting Executive Director at DC Action for Children, submitted testimony in support of B22-594 because of its effort to reduce the disproportionate exclusionary impact of school discipline practices. She stated that students rarely have the opportunity to make up for lost instructional time or get make up work when suspended, which affects them in the long run. She noted that a study in Virginia found that schools with high suspension rates also had high dropout rates. She wrote that research shows suspensions are correlated to youth involvement in the criminal justice system, with a major impact on historically marginalized student groups. She related that in a report released by OSSE, Black students were 7.7 times more likely to receive an out of school suspension than White students, and students with disabilities received 28 percent of the total share of suspensions. DC Action for Children commends the legislation's mandate that OSSE provide trauma-informed technical assistance support to schools. She recommends that the Council determine the amount of additional funding needed to bring the supports to scale across all schools. They also recommend that the Council investigate in-school suspension policies to determine if this legislation should address it, fearing that the bill will have unintended consequences, leading schools to turn to in-school suspensions as a replacement.

**Morgan Whitlatch**, Legal Director, and **Jessica Bronson**, Staff Attorney, at Quality Trust for Individuals with Disabilities, submitted joint testimony in support of B22-594, stating that it is vital to the success of students with disabilities. They wrote that students with disabilities are particularly harmed by exclusionary practices because they cause disruptions to their special educational services. They asked that the Council vote yes on the bill because it will support the rights of students with disabilities.

**Alexandra Brodsky**, Skadden Fellow, **Nia Evans**, Campaign and Digital Strategies Associate, and **Kayla Patrick**, Research Fellow, at the National Women's Law Center submitted joint testimony in support of B22-594. They stated that D.C. schools suspend far too many Black and Brown students, and that girls are overwhelmingly disciplined for minor offenses such as talking back, defiance, and dress code violations. They wrote about the double standards when it comes to race in school; African-Americans girls are seen as loud when speaking up in class or a Latina girl will be punished for wearing a skirt that the teacher sees as sexually precocious, versus their White peers based on racial and harmful stereotypes. They wrote that schools often police a student based on a student's appearance when it does not conform to the White norms. They wrote that the bill gives them hope for schools and the girls who attend them and are directly affected by racial stereotypes of appearance. They support the bill, but they suggest addressing protections for survivors of sexual harassment and violence and the ways schools punish students who report sexual abuse.

**Guillaume Bagal**, Public Policy Associate at Whitman-Walker Health, submitted testimony in favor of B22-594 because he believes it will have positive impacts on the wellness of sexual and gender minority communities that they serve. Whitman-Walker supports the bill because LGBTQ students, especially Black and Brown students, are more likely to be suspended than their straight or gender conforming peers. He wrote that LGBTQ students and students with same sex parents are likely to be involved in physical and emotional injury that can lead to



suspension. He wrote that the bill will push back on exclusionary practices as a rehabilitative or conflict management tactic.

**Guillaume Bagal**, President of the Gay and Lesbian Activists Alliance, submitted testimony in support of B22-594 because of its potential to alleviate disparities in school discipline for LGBTQ students.

**Binny Chokshi**, Pediatrician at the Children's National Health System, submitted testimony in support of B22-594, stating that many of the factors that affect children's health can impact their ability to receive a quality education. She wrote that in the 2016 National Survey of Children's Health, they highlighted that 47.1 percent of D.C. children experience Adverse Childhood Experiences (ACE), which can lead to long-term consequences in health and academics. She wrote that a child's ability to succeed in school depends on several factors outside of the school's environment. Instead of suspension, she advised that D.C. should look for policies and practices that help to support student development.

**India Daniels**, public witness, testified in support of B22-594, stating that suspending students is a civil rights issues that feeds children into the school-to-prison pipeline. She stated that if poor behavior is punished by time out of school, then low income students, whom these suspensions affect the most, are stripped away from the vital resources that school can offer them. She wrote that suspensions tell a child that "we don't support your overall growth." She wrote that, as a result, at-risk students turn to gangs, drugs, and violence as a means of survival. She cited from the U.S. Department of Education Office of Civil Rights' report that in just one calendar year, 2.8 million children were suspended, which correlated to the incarceration rates for children of color.

**Julie Camerata**, Executive Director of the DC Special Education Cooperative, submitted written testimony in opposition to the provision of B22-594 that sets a timeline for conducting a Functional Behavioral Assessment (FBA) and updating Behavioral Intervention Plan (BIP) after a disciplinary action. She believes that this provision of the bill will sacrifice quality for expediency. From her experience, a well-done FBA and BIP take time. She wrote that this timetable assumes that a school has internal expertise to conduct the assessment, which many schools do not possess and therefore have to contract out for the expertise. She wrote it also assumes that all data needed is on hand or schools are able collect it in less than two weeks, and that schools are equipped with staff able to assign all IEP team members to complete these tasks regardless of regularly scheduled activities. She recommends changing the language to allow for 30 calendar days, triggered by the fifth day of suspension. She also asked the Council to consider creating a fund for schools to access to increase their capacity to conduct these assessments in-house.

**Dr. Julianne Weis**, public witness, submitted written testimony in support of the bill because it will improve student safety and encourage alternatives to harsh disciplinary actions. She wrote that while race is a predominant factor in determining a student's likelihood for suspension, she wants the Council to also look at disability as a factor in school discipline.

**Tamica Cain**, public witness, submitted written testimony in support of the bill because it will protect the rights of students in situations like her son's. She wrote that her son was accused

of sexual assault, and because of the biases in the school's climate, his rights were revoked, and a proper investigation did not take place. Even though her son was expelled, she wrote that she wanted to advocate for all students' rights.

**Howard Mebane**, Principal of Washington Global Public Charter School, submitted written testimony in opposition to B22-594. He wrote about the school's effort to offer personalized approaches to school discipline with their tiered student discipline system and an active SWPBIS framework. He wrote that they have low out-of-school suspensions, zero use of long term suspensions and that they reserve suspensions for serious infractions only. He wrote that if a student is suspended, they still receive mediation and are provided with make-up work and support. He wrote that Washington Global takes issue with certain key points because the current system of autonomy and flexibility allows them to run a program that works. He wrote that the bill does not take into account offenses of theft and arson. He recommends increasing city mental health support services for schools instead of putting strict limitations on suspension.

**Monica Buchannan**, Youth House Case Manager at Supporting and Mentoring Youth Advocates and Leaders (SMYAL), submitted written testimony in support of B22-594. She stated that B22-594 will allow for more supportive measures for LGBTQ youth who are suspended far more than their peers. Through an internship at a school, she witnessed first hand how LGBTQ students are ignored and disciplined. She stated that one student was bullied because of their feminine mannerism and behavior. The student reported it several times with nothing done. Eventually, the student took matters into their own hands and as a result the student was suspended for 11 days. The student was suspended multiple times that year and fell behind. She said more harm than good is done when students are suspended for non-violent behaviors.

**Nassim Moshiree**, Policy Director at the ACLU-DC, submitted written testimony in strong support of B22-594. She described the disparities in the use of suspensions and expulsions, disproportionately affecting students of color, students with disabilities, and students from low-income families. She described the legislation as an important step in addressing inconsistencies and biases in disciplinary approaches at schools. She stated her organization's shock at the racial disparities in school discipline, which cannot be attributed to differences in behavior, particularly in light of the fact that many suspensions are not documented properly. She called on the Mayor and Council to make investments in the FY19 budget to support the goals of the bill.

**Lewis Bossing**, Senior Staff Attorney at the Bazelon Center, wrote in support of B22-594, for seeking to ameliorate inequitable practices and decrease exclusionary discipline in the District's public schools. He described his organization's perspective as one working with people with mental disabilities that exclusion is used too often to deprive students of their right to an education, which sets them back in school and in life. He strongly recommended that the Committee identify additional funding to support training and professional development for educators, and advised the addition to the bill of requirements for specific school personnel to receive specific training. He expressed his organization's support for the strengthening of protections for students with disabilities when they are suspended but noted that waiting until after 5 days of suspension before assessing whether the behavior in question is a manifestation of the student's disability still leaves these students subject to deprivation of education. He also expressed concern that students could be suspended for up to 20 days and that students who are suspended

to not have equal access to educational instruction. He noted his agreement with educators who wish to feel safe but rejected the argument that complete discretion with regard to exclusionary discipline is necessary to achieve that goal. He wrote that with proper funding and support, the provisions in B22-594 could result in safer schools. Finally, he noted the lack of enforcement mechanisms to ensure school compliance with the law. He advised that the Committee ought to include monitoring and enforcement mechanisms to ensure that the protections truly benefit students.

**Olga Price**, Associate Professor and Director, Department of Prevention and Community Health, Center for Health and Health Care in Schools, and **Jeff Hild**, Policy Director, Redstone Global Center for Prevention and Wellness, both of the Milken Institute School of Public Health at The George Washington University, submitted joint written testimony in support of B22-594, emphasizing the importance of providing for better trauma-informed educational environments. Dr. Price and Mr. Hild described pervasive nature of trauma and adverse childhood experiences in D.C., and the impact that this has on children's learning and behavior. They wrote about the evidence that trauma-informed approaches can help children to "bounce back" from trauma and adversity, by building on the strength and resiliency of these young people. Trauma-informed approaches can take many forms, but start with a shift from a sole focus on the conduct of a child to a deeper understanding of what happened to that child to affect his/her behavior. They described trauma-informed approaches as also including policies and protocols to ensure that disciplinary approaches maximize student well-being, while reinforcing that school is a safe place, and effectively balances individual accountability with an understanding of underlying trauma that may be causing disruptive behavior, and that B22-594 would facilitate such approaches. They also emphasized the importance of increasing mental health support professionals in schools. They advised that the legislation should require all public schools in D.C. to adopt trauma-informed approaches, as well as the importance of recognizing that teachers and school staff may also have experienced trauma and may need particular support. Lastly, they recommended that the bill include reporting requirements on the number of school staff trained in trauma-informed approaches, and the number of referrals of students to mental health supports.

## VI. IMPACT ON EXISTING LAW

Bill 22-594 amends Title II of the Attendance Accountability Amendment Act of 2013, effective September 19, 2013 (D.C. Law 20-17; D.C. Official Code § 38-235), by redesigning the current sections and adding a new sections: section 201 establishes definitions; section 202 establishes applicability of the title; section 203 mandates that local education agencies establish school discipline and related policies to ensure school safety and positive climate; section 204 establishes limits on schools' use of exclusionary discipline practices; section 205 establishes certain protections for students with disabilities who schools seek to suspend; section 206 establishes the supports that OSSE must provide to local education agencies to promote school safety and positive climates as well as research and evaluation reports that OSSE is to conduct; section 207 establishes a special fund to finance supports for schools to promote safe schools and positive climates and decrease reliance on exclusionary discipline. The newly redesignated section 209 is amended to add data categories that local education agencies must report to OSSE, and OSSE's reporting requirements. The bill also amends the same title to clarify that no student may be subject to out-of-school suspension or expulsion based on attendance.

Bill 22-594 amends the Pre-k Enhancement and Expansion Amendment Act of 2008, effective July 18, 2008 (D.C. Law 17-202; D.C. Official Code § 38-271.01 *et seq.*), Section 101 (D.C. Official Code § 38-271.01) by amending the definition of out-of-school suspension to conform with Section 2 of this act.

Bill 22-594 also amends Section 2206(g) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.06(g)) to conform with Section 2 of this act.

## **VII. FISCAL IMPACT**

The attached Fiscal Impact Statement from the Council Budget Office states that B22-594 will have an adverse effect on the District of Columbia's fiscal year 2018 budget or on the four year budget and financial plan, however, this is a preliminary conclusion and the Office of the Chief Financial Officer will issue a fiscal impact statement to accompany the bill prior to first reading.

## **VIII. SECTION-BY-SECTION ANALYSIS**

<u>Section 1</u>	States the short title of the bill as the "Student Fair Access to School Amendment Act of 2018."
<u>Section 2</u>	Amends Title II of the Attendance Accountability Amendment Act of 2013, effective September 19, 2013 (D.C. Law 20-17; D.C. Official Code § 38-235), by redesignating the current sections, and adding new sections: section 201 establishes definitions; section 202 establishes applicability of the title; section 203 mandates that local education agencies establish school discipline and related policies to ensure school safety and positive climate; section 204 establishes limits on schools' use of exclusionary discipline practices; section 205 establishes certain protections for students with disabilities who schools seek to suspend; section 206 establishes the supports that OSSE must provide to local education agencies to promote school safety and positive climates as well as research and evaluation that OSSE is to conduct; section 207 establishes a special fund to finance supports for schools to promote safe schools and positive climates and decrease reliance on exclusionary discipline. The newly redesignated section 209 is amended to add data categories that local education agencies must report to OSSE, and OSSE's reporting requirements.
<u>Section 3</u>	Amends Title II of the Attendance Accountability Amendment Act of 2013, effective September 19, 2013 (D.C. Law 20-17; D.C. Official Code § 38-235), by clarifying that no student, unless enrolled in an adult education program, may be subject to out-of-school suspension or expulsion based on attendance.

- Section 4 Amends the Pre-k Enhancement and Expansion Amendment Act of 2008, effective July 18, 2008 (D.C. Law 17-202; D.C. Official Code § 38-271.01 *et seq.*), by amending the definition of out-of-school suspension to conform with Section 2 of this act and amends Section 2206(g) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.06(g)) to conform with Section 2 of this act.
- Section 5 Provides the applicability of the sections of this act.
- Section 6 Provides the fiscal impact statement.
- Section 7 Provides the effective date.

## **IX. COMMITTEE ACTION**

On March 13, 2018, the Committee met to consider Bill 22-594, the “Student Fair Access to School Amendment Act of 2018”. The meeting was called to order at 3:00 p.m., and Bill 22-594 was the second item on the agenda. After ascertaining a quorum (Chairperson Grosso and Councilmembers Bonds, Allen, R. White, and T. White present), Chairperson Grosso described the process for developing the legislation, the urgent need to take action, and the major changes to the committee print.

Councilmember T. White thanked the Chairperson for his work and described hearing from many residents about the bill and his belief that if we are not putting students on the pathway to being productive, they will be destructive. He noted the many other states tackling the issue, the disturbing statistics from the previous school year, and his concern that suspensions are not being used exclusively to ensure safety as reasons for his support for the bill.

Councilmember Allen noted the importance of the bill in addressing the school-to-prison pipeline, the disparities based on race and disability, and the achievement gap, as well as describing his concerns that the legislation should not impair safety at schools, that schools may not be prepared for its implementation in the coming school year, and that there is no enforcement mechanism. He asked that the Chairperson work with him and his staff in advance of first reading to address these issues and thanked Chairperson Grosso and his staff for working on the bill.

Councilmember Bonds thanked the Chairperson, stated her full support for the bill and the importance of bringing about changes to discipline practices to ensure that schools are fulfilling their mission to educate each child. She noted that students of color are punished more often and more harshly for the same infractions and that the bill addresses that issue while striking the right balance to ensure safety.

Councilmember R. White thanked the Chairperson for the work put into the bill, expressed his appreciation to Grosso for leading the conversation on a complex issue, and stated his strong support for the goals of the bill. He stated that he has heard extensively from community members in support and opposition and asked that the Chairperson work with him on a few issues prior to first reading including the limits on the numbers of days of suspension and the definition of bodily injury.

After every member had an opportunity to speak, Chairperson Grosso moved the committee print with leave for staff to make technical and conforming changes. The vote on the

print was unanimous with Chairperson Grosso and Councilmembers Bonds, Allen, R. White, and T. White voting in favor. Chairperson Grosso then turned to the committee report, noting its importance in laying out the need for the bill and the history of the Committee's work on the issue. After all members had an opportunity to speak, Chairperson Grosso moved the report, with leave for staff to make technical and conforming changes. The vote on the report was unanimous with Chairperson Grosso and Councilmembers Bonds, Allen, R. White, and T. White voting in favor. The meeting adjourned at 3:33p.m.

## **X. ATTACHMENTS**

1. Bill 22-594, as introduced
2. Secretary's Referral Memo
3. Notice of Public Hearing
4. Final Witness List
5. Written Testimony and Comments
6. Fiscal Impact Statement
7. Legal Sufficiency Determination
8. Comparative Print for Bill 22-594
9. Committee Print for Bill 22-594