

**Testimony of NYC Public Schools  
on Meeting the Needs of All Students with Disabilities  
to the NYC Committee on Education**

September 21, 2022

Good afternoon, Chair Joseph and the members of the Education Committee here today. My name is Carolyne Quintana and I am the Deputy Chancellor of Teaching and Learning for NYC Public Schools. I'm humbled to provide testimony on behalf of my colleagues, including those joining me this morning: Chief of Special Education Christina Foti, Senior Executive Director of the Office of Pupil Transportation Glenn Risbook, General Counsel Liz Vladeck, Deputy Chief of Special Education John Hammer, and other colleagues who are with us today. Thank you for the opportunity to discuss the critically important issue of the current state of education in NYC for our students with disabilities. Before I begin, I would like to express our gratitude to Speaker Adams, Chair Joseph and the entire city council for your continued work and advocacy on behalf of New York City schools in service of historically underserved students.

I join you today on behalf of Chancellor David Banks and NYC Public Schools to share our continued commitment to serving all students in New York City, especially our children with a disability and eligible to receive special education services. We know that historically, many students with disabilities have faced significant challenges in accessing quality learning opportunities and have lower academic outcomes than their general education peers. Chancellor Banks and my colleagues in the administration and I are deeply committed to changing that reality. The chancellor has met with many families and advocates who have described how they turned to programs outside of the DOE to meet their child's needs. We are committed to listening and responding to the needs of our families and communities who I am certain can help inform the strategic direction for this work moving forward. Our goal is to provide high-quality public-school opportunities that meet our varied learners needs within each child's local community. Working across divisions and with the support of advocates, community education councils, parents, experts in the field, and you, the members of the City Council, I know we will make that a new reality - a reimagined approach to special education.

Approximately 182,000 NYC children enrolled in public schools have an Individualized Education Program (IEP)—a written document that contains a detailed plan for educating students with disabilities. These students are served in a variety of settings, including schools that exclusively serve students with disabilities, as well as other City schools— both in smaller classes as well as classrooms in which students with IEPs are integrated with other students.

As NYC Public Schools continues working to improve access to a quality education and services in the least restrictive environment for students with disabilities, much remains to be learned about where and how these students are served; how outcomes vary for students with different disabilities and background characteristics; and the relationship among services, placements, and student classroom success and overall well-being. In alignment to the Chancellor's Four pillars, you'll hear later about how we are reimagining the students experience, with programs like our pilot bilingual SETSS; how we may be scaling

and sustaining what we know works – ASD Nest, Horizon, and PATH programs; focusing on student wellness, like the SEL component to SEED; and genuinely engaging parents, through AT training at our Saturday Academies, and listening to their feedback about the system as it is designed to date.

At the heart of our work is ensuring that each and every student has access to high quality instruction that prepares them for life beyond school. One of the key levers to achieving that goal is making sure that every student is reading at proficiency level. Our previous approaches to teaching reading have not produced the results we need. That is why you have heard the Chancellor state that under this administration we will establish strong, phonics-based literacy instruction that is informed by the science of learning and development. When we develop ecosystems that adequately support and challenge students from the very start, and we help students believe that with effort and appropriate instruction they can succeed, build tasks that have value for students, and ensure they feel like they belong, all of our young people, and especially our most marginalized, will thrive. We have visited sites where this deep and explicit literacy work is taking place in Spanish and Mandarin Chinese, and students are receiving targeted supports to address barriers based on timely data. We have invested in training IEP teachers on evidence-based interventions like Rewards and SPIRE, and will now invest in training SETSS teachers.

Accomplishing that will require providing support and capacity-building for teachers so they can implement effective strategies to teach reading to students, including those with dyslexia. Importantly, through all of this work, we will be focusing on culturally responsive, sustaining practices so students can see themselves reflected in the curriculum and maximize their potential as readers.

That means that all students in grades K-9 will take a math and literacy screener three times a year. Every district has an Academic Intervention Service (AIS) coordinator to support schools in developing systems to interpret and use data from screeners, and we are implementing citywide professional learning for educators to ensure that they are rigorously trained on core curriculum and phonics by specialists with expertise in strategic reading interventions.

In addition to these investments, in this new school year we will continue to make unprecedented commitments to supporting our students with disabilities, which Christina Foti, Chief of *Special Education*, will now share with you:

*Testimony of Christina Foti, Chief of Special Education for NYC Public Schools*

Good afternoon, Chair Joseph, and the members of the Education Committee. I am Christina Foti, Chief of Special Education for NYC Public Schools. Thank you for the opportunity to discuss the central focus of my office, which is also a high priority across every division of the Department of Education. We appreciate the opportunity to share our progress and plans for meeting the needs of students with disabilities, as well as some of the challenges that we face. This work requires immense collaboration with students and families, our wonderful advocates, and of course our partners here in the City Council. We thank you for your commitment and leadership.

The disruption to education caused by the pandemic deeply affected all students and families in New York City, but especially our most vulnerable students, including students with IEPs. Last school year, New York City public schools organized a massive effort to close the gap in missed services during the pandemic with the launch of special education recovery services (SERS). As a result, every New York City Public school received funds to provide additional instruction and related services after school and on Saturdays, serving over 73,000 students. Through the SERS initiative, the DOE also trained more than 2,000 teachers in evidence-based literacy interventions.

### **Vision for Serving Students with IEPs**

Our commitment to closing the gap for students with IEPs remains front and center this school year, focusing on three key priority areas to better support students with IEPs:

First, we will work to improve outcomes and support for all students—including those with IEPs—through the renewed focus on literacy support discussed by Deputy Chancellor Quintana. As part of that work, and to ensure that all students are educated in as inclusive an environment as is appropriate, we are offering training in evidenced-based literacy intervention to every DOE Special Education Teacher Support Services (SETSS) teacher this school year. By increasing the capacity of our SETSS teachers to effectively serve students with reading challenges, we will be better able to meet literacy needs in settings that include all students.

Second, NYC Public Schools will expand inclusive opportunities in all schools, including those in District 75. We have heard loudly and clearly from parents and advocates the need to reduce travel time for students with IEPs and have expanded our Nest and Horizon programs for students with Autism Spectrum Disorder (ASD). Over the past 5 years, the number of schools with ASD Horizon programs has increased by almost 70 percent and ASD Nest programs have grown by more than 40 percent, greatly enhancing our ability to provide focused individualized support for students with autism.

This school year alone we have expanded ASD programs in 15 new school locations. This expansion includes 10 new ASD Nest programs, which is the largest expansion of this program ever. With each new ASD program school, we broaden inclusive opportunities across our city and give schools the tools they need to improve achievement for students with autism. The research is clear that students with IEPs achieve improved academic outcomes, including graduation rates, when they are educated in the same classrooms as their peers who do not have IEPs.

Finally, we continue to work to ensure that all students fully receive their mandated programs and services. As of June 15, roughly 88 percent of students received their recommended special education programs in full, and about 99 percent fully *or* partially received their recommended programs.

Since 2015, the share of students fully receiving their ICT, special class, and SETSS services has risen from about 60 percent to 88 percent, with this past year's figures representing ***the highest performance ever reported***. In addition, the DOE's related service provision rates returned to pre-pandemic levels in 2021-22, with about 95% of IEP service recommendations fully served.

These rates reflect a snapshot in time but usefully convey the status of special education program and service delivery, demonstrating a positive trajectory toward providing all IEP recommendations. That said, we will not rest until all students are receiving their recommended programs and services, eliminating the 13-percentage point gap between fully and partially served programs and the 5 percent point deficit in implementing related service recommendations.

Our district leaders are essential for this continued progress. To ensure their success, resources have been moved to the district offices under the supervision of superintendents to increase accountability and provide support directly to principals.

### **Preschool Special Education**

Turning to preschool, we know how critical it is that students with disabilities receive access to high quality services as early as possible, and we are taking several steps to strengthen the preschool special education process. Last school year, we added 48 new Committee on Preschool Special Education (CPSE) Administrators who are responsible for conducting timely IEP meetings and arranging for services. That is a roughly 50 percent expansion in staff dedicated to this work and will result in better service delivery to families.

In addition, this school year, we are investing in itinerant speech, occupational, and physical therapists who will improve service delivery for students in Community-Based Organizations who we contract with citywide. Originally comprising 40 providers, this team will expand to 97 this school year and will be deployed to high-needs areas that cannot be covered through contract agencies.

We are also working to ensure that there is an appropriate special education program for every preschool student who needs one. This includes the expansion of integrated SCIS programs in District Schools, as well as financial support for the nonpublic 4410 sector that will enable them to add special classes. We are in the process of implementing the enhancement contract for 4410 providers, which provides funding for higher teacher salaries and additional supports. That will help those programs to recruit and retain teachers while adding needed classes. It will also bring these programs into the fold of the DOE's birth-to-five portfolio, providing equitable support to children and families across the city.

### **Family Engagement**

Family engagement remains absolutely essential and embedded throughout everything that we do. We continue to increase resources dedicated to empowering our families, including expanding our Beyond Access series of webinars that provide families with the opportunity to learn directly from special education experts. Since January, we have hosted sessions for thousands of families on academic screeners, at home sensory strategies, and many other topics. Just last night we had our first session of the new school year, focusing on our recovery initiatives for 2022-23. We will continue to provide these critical learning opportunities for families on Tuesday evenings at 7:00 p.m. throughout the school year. Families can also access past sessions on the DOE website, with captions available in 35 languages.

## **Legislation**

I will now turn to the proposed legislation. Intro 610 would require the DOE to distribute information to students on the new National Suicide Prevention Hotline number, 988, and other related suicide prevention resources deemed important for students. Ensuring that students have access to social-emotional and mental health supports in our schools is a top priority. DOE currently offers staff a series of professional learning in suicide prevention as well as resources for students. Our partners at NYC Department of Health, which we work closely with, are leading the efforts around this new resource and how information will be disseminated to all New Yorkers, including students. We look forward to working with the Council on this.

Intro 582 would require the DOE to report annually on the degree to which indoor and outdoor school facilities comply with the Americans with Disabilities Act (ADA). The DOE is committed to ensuring that its programs, services, and activities are accessible to staff, members of the school community, students and family members with disabilities. We are reviewing this legislation and look forward to further conversations with the Council.

## **Conclusion**

With the first anniversary of this administration approaching in January, we are both proud of what has been accomplished and confident about the progress that will be made, while recognizing that this is just the beginning. My team is intensely focused on meeting the needs of every single student with an IEP, and the efforts we shared with you today are all in support of that goal. We continue to welcome the Council's partnership in this pursuit – your leadership and advocacy are essential to everything that we do. Thank you for the opportunity to speak about this topic today, and we are happy to take any questions that you have.

WORK PRODUCT OF THE CITY COUNCIL DATA TEAM

TO: Committee on Education  
FROM: Rose Martinez, Assistant Deputy Director; Brook Fry, Senior Data Scientist; and  
Melissa Nuñez, Senior Data Scientist, Data Team  
RE: Oversight: Meeting the Needs of All Students with Disabilities  
DATE: September 21, 2022

---

Data available:

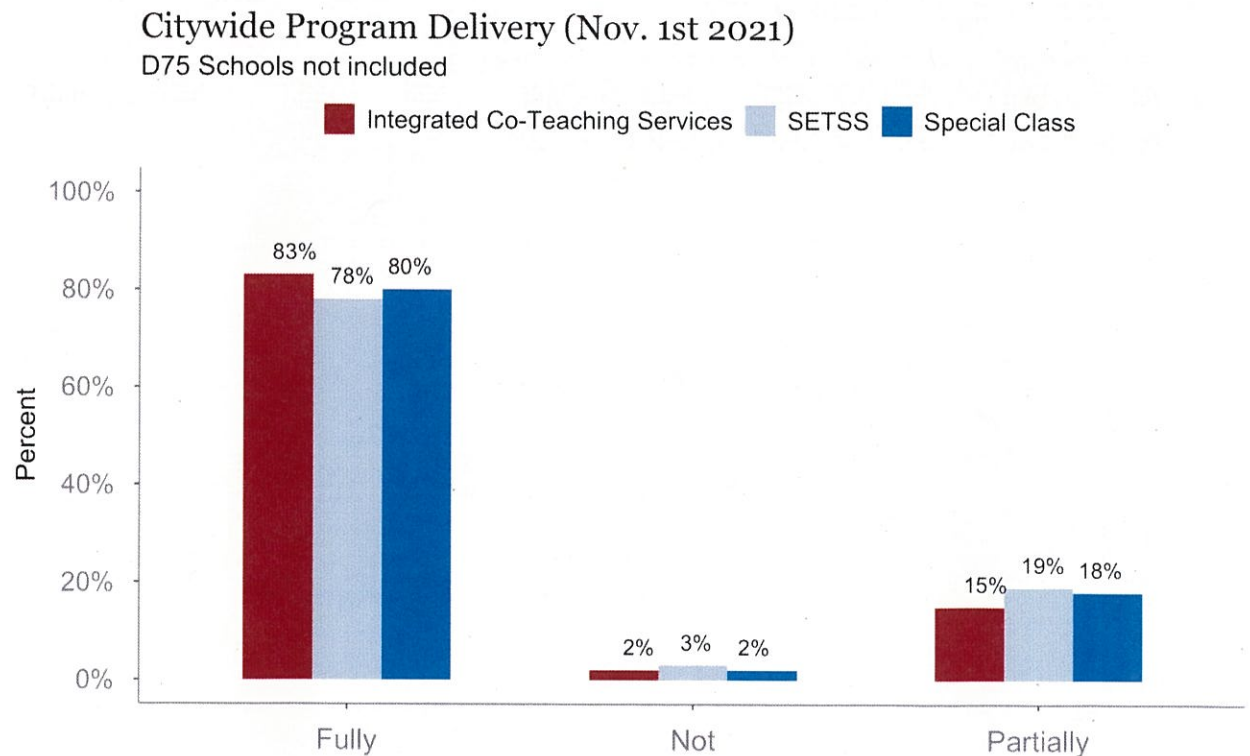
[2020-2021 Annual Report on Special Education](#)

[Students Receiving Recommended Special Education Programs by Program Type](#)

[Special Education Reports](#)

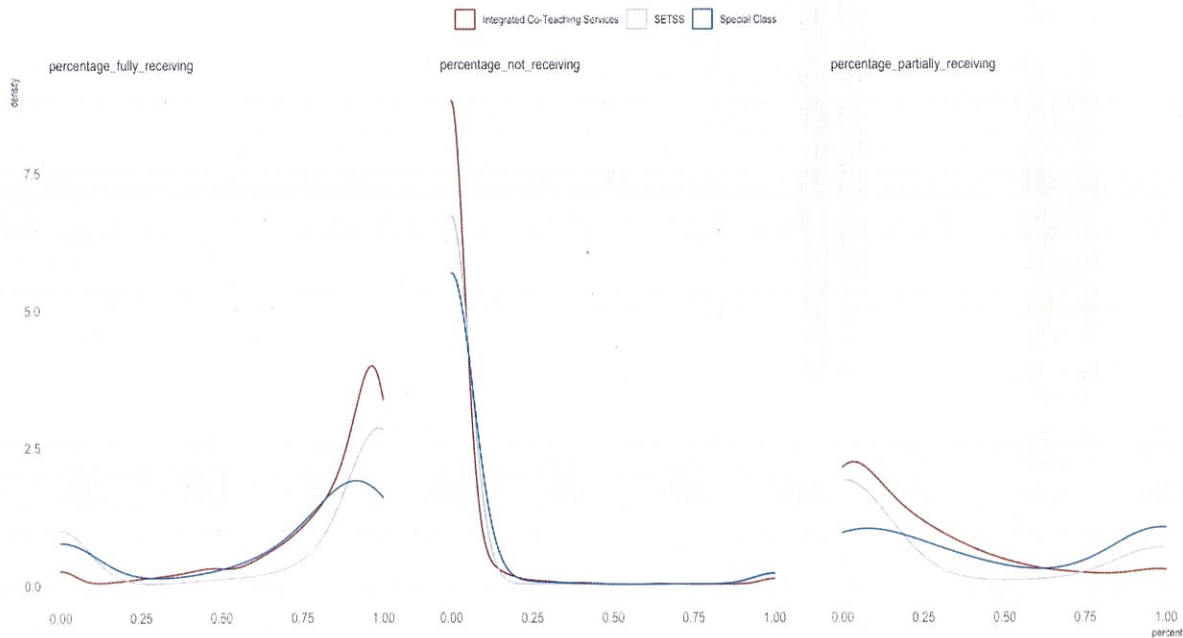
Sep 20, 2022

**Programs Delivery**



Source: <https://data.cityofnewyork.us/Education/Students-Receiving-Recommended-Special-Education-P/xjpe-rx7t>

## WORK PRODUCT OF THE CITY COUNCIL DATA TEAM



How many schools are above the median?

- At the majority of schools (1906), 91% or more of students with IEPS are fully receiving program services (Integrated Co-teaching, SETSS, Special Class).
- At 19% of schools (733), 50% or less of students with IEPS are not fully receiving program services (Integrated Co-teaching, SETSS, Special Class).

## WORK PRODUCT OF THE CITY COUNCIL DATA TEAM

Which schools doing poorly have a larger number of students?

99th percentile - 8 schools

school_dbn	primary_program_type	percentage_fully_receiving	count
75K141	Special Class	0.11	358
11X455	Integrated Co-Teaching Services	0.39	267
75M035	Special Class	0.16	212
31R445	Special Class	0.33	202
31R455	Special Class	0.44	187
24Q610	Integrated Co-Teaching Services	0.42	185
10X440	Integrated Co-Teaching Services	0.47	175
31R034	Integrated Co-Teaching Services	0.45	175

### Related Services Delivery

#### Citywide

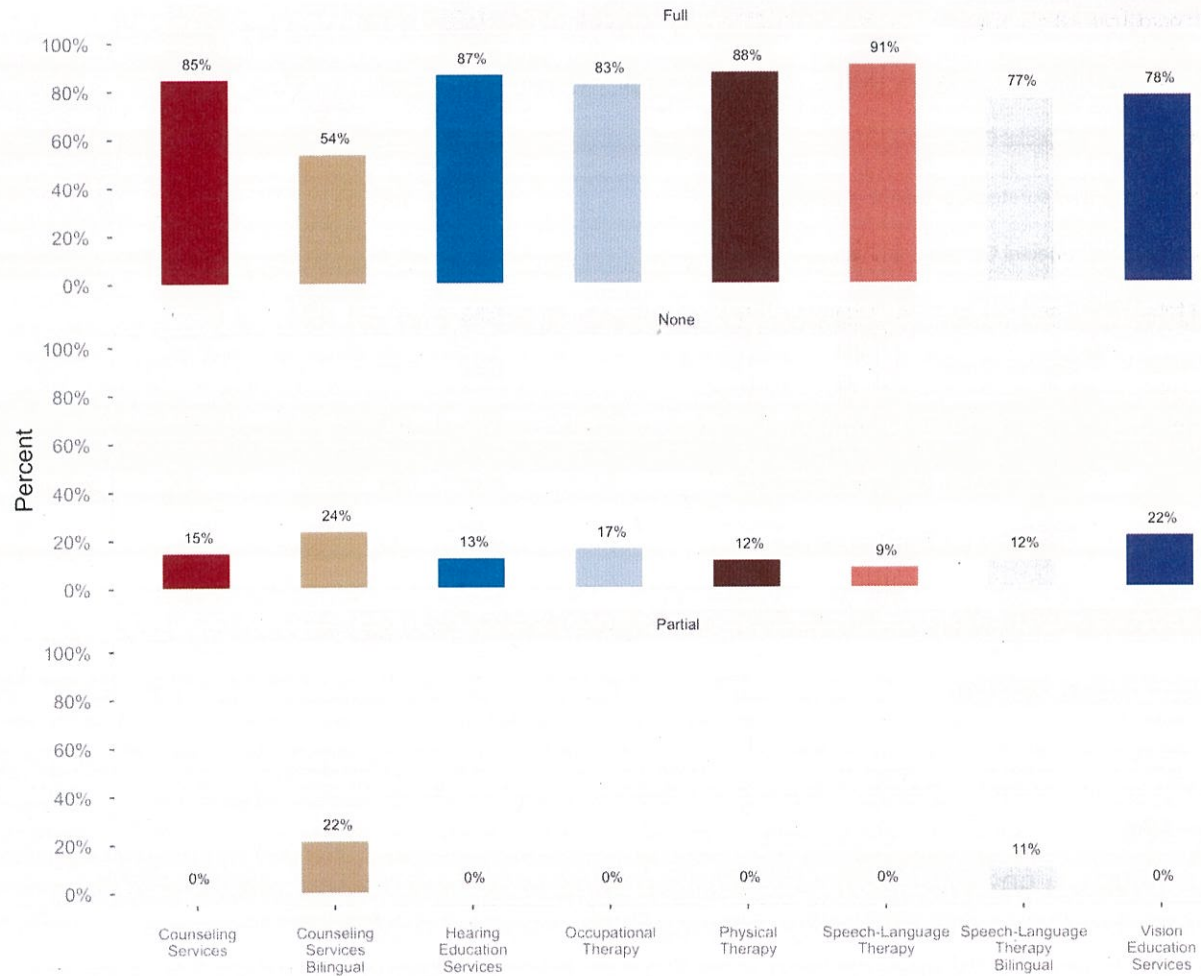
Around 85% to 90% of students with IEPs are *fully* receiving recommended *related services* like Counseling, Hearing, Occupational, Physical & Speech Language Therapy. Followed by speech language therapy bilingual and vision education services with around 78% of students.

For counseling services bilingual, only 54% of students with IEPs are *fully* receiving that recommended related service. The other half of students are either receiving not at all (24%) or partially (22%).

# WORK PRODUCT OF THE CITY COUNCIL DATA TEAM

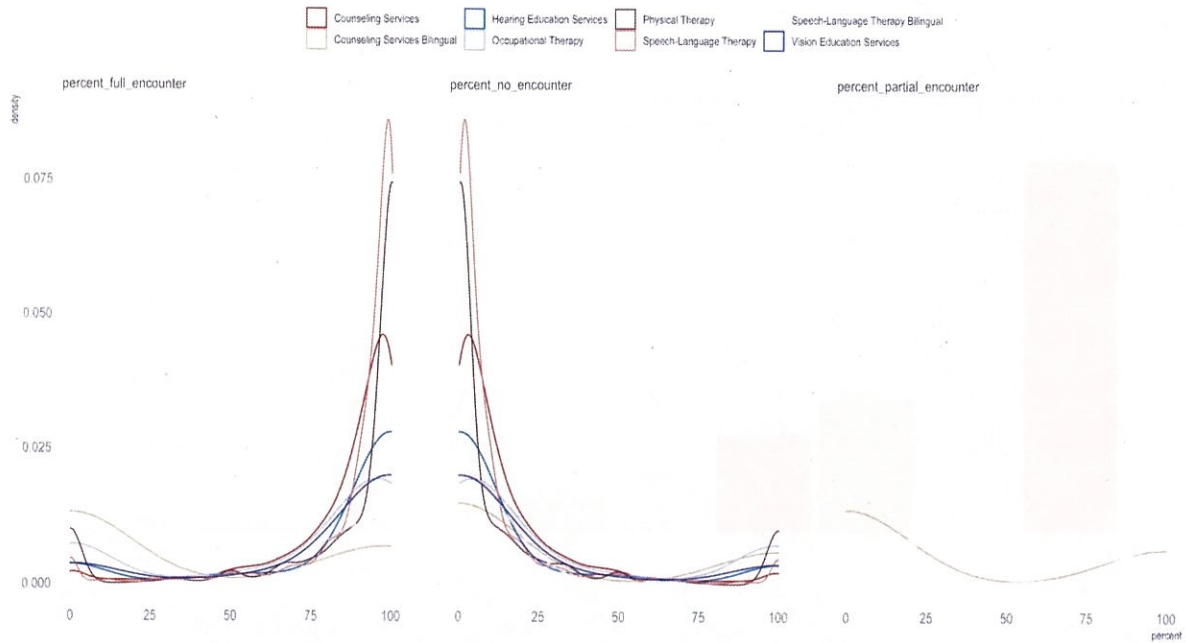
## Citywide Related Services Delivery (Nov. 1st 2021)

D75 Schools not included



Source: <https://data.cityofnewyork.us/Education/Students-Receiving-Recommended-Special-Education-P/xjpe-rx7t>

## WORK PRODUCT OF THE CITY COUNCIL DATA TEAM

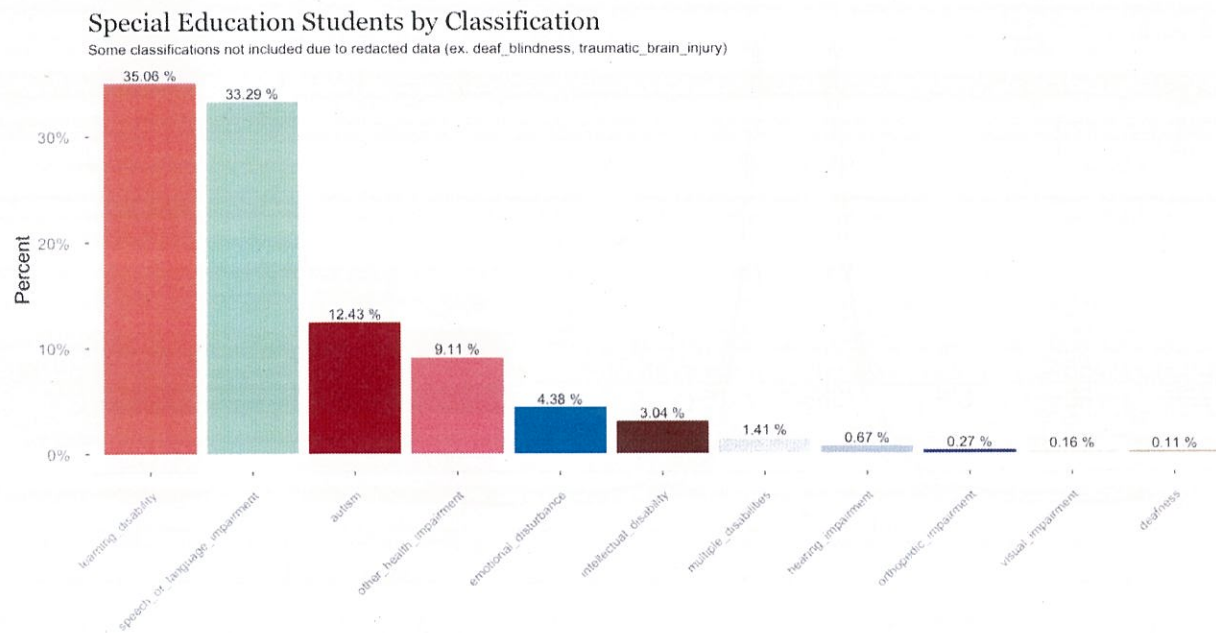


### Which schools doing poorly have a larger number of students?

99th percentile - 6 schools

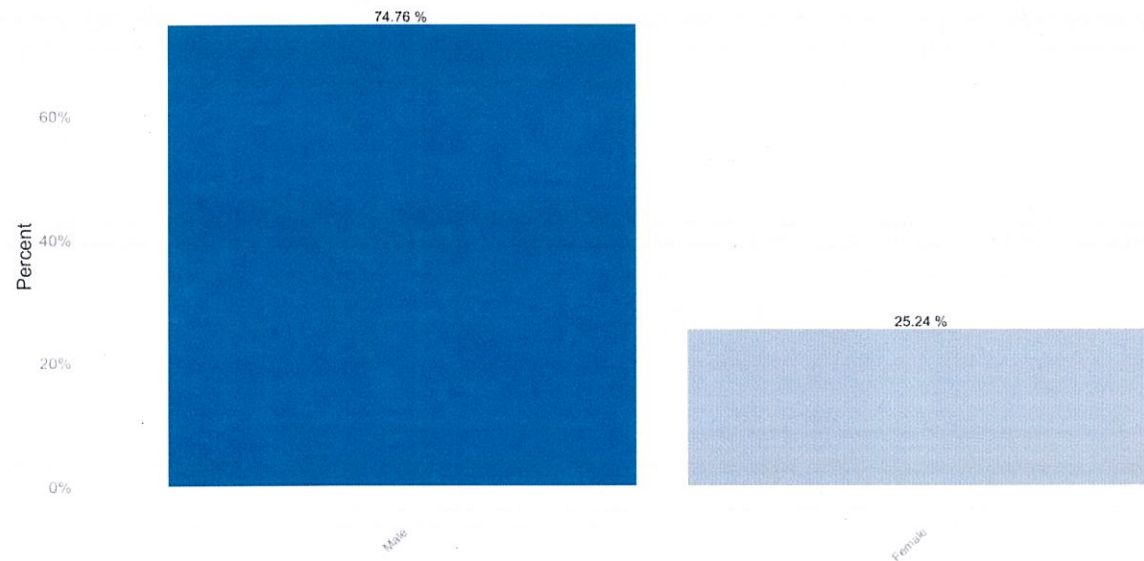
school_dbn	related_services_recommendation_type	percent_full_encounter	count
19K108	Occupational Therapy	0	67
15K839	Counseling Services	0	62
02M308	Speech-Language Therapy	0	58
14K610	Speech-Language Therapy	0	53
04M610	Speech-Language Therapy	0	52
09X323	Speech-Language Therapy	0	52

## Students with IEPs/Classifications



Source: <https://infohub.nyced.org/docs/default-source/default-document-library/annual-special-education-data-report-sy21.pdf>

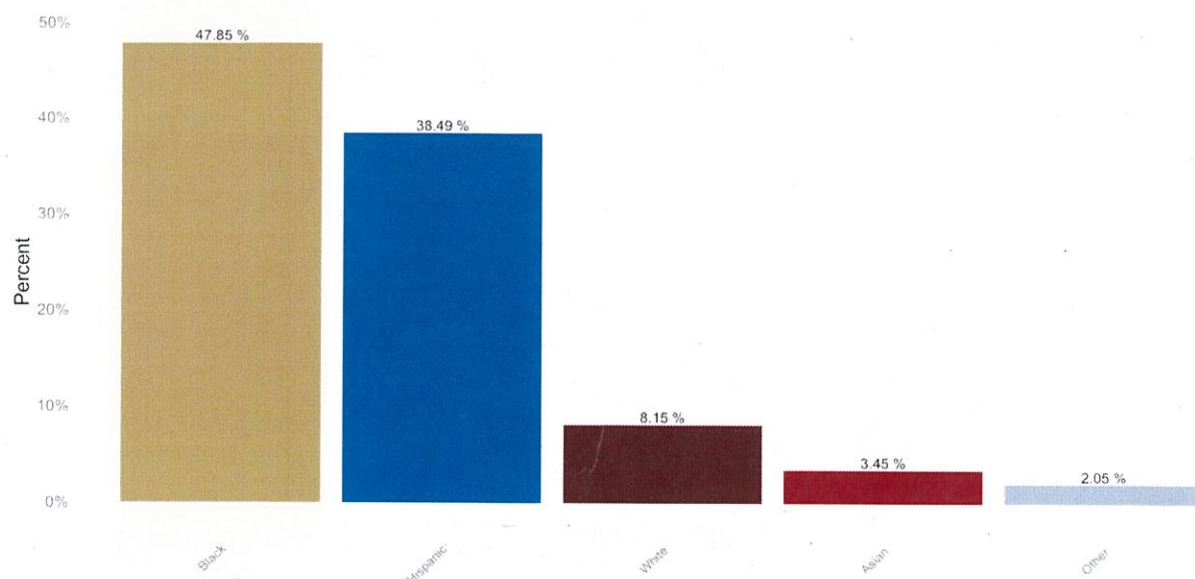
## Special Education Students Classified as Emotionally Disturbed by Gender



Source: <https://infohub.nyced.org/docs/default-source/default-document-library/annual-special-education-data-report-sy21.pdf>

## WORK PRODUCT OF THE CITY COUNCIL DATA TEAM

### Special Education Students Classified as Emotionally Disturbed by Race

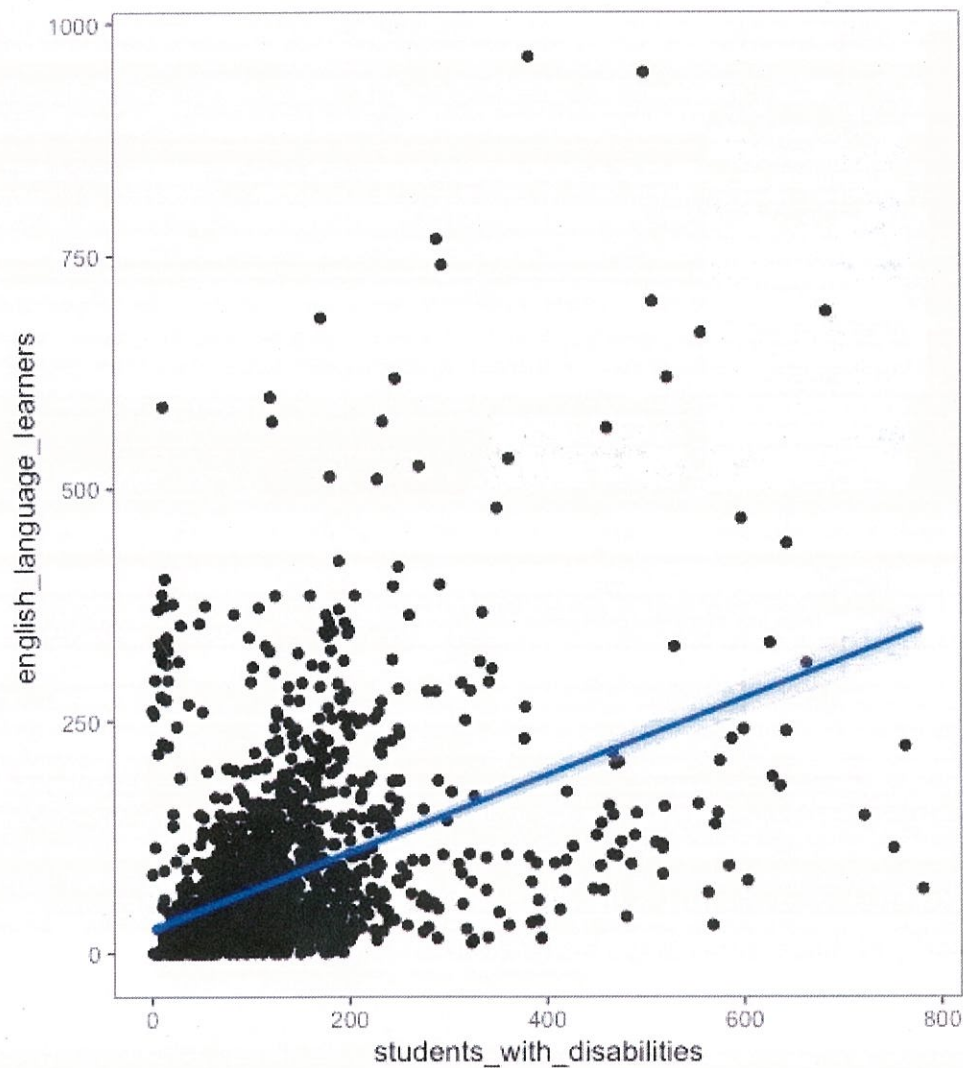


Source: <https://infohub.nyc.ed.org/docs/default-source/default-document-library/annual-special-education-data-report-sy21.pdf>

#### Takeaways:

- Majority of students are classified as having a learning disability or speech or language impairment
- 4.38% of special education students are classified as having emotional disturbance
  - The majority of those students are black males

### Students with Disabilities and ELL



- No clear citywide trend that suggests the more students that are ELL in a school, the more students there are with disabilities.
  - This doesn't discount the fact that there could be schools that are categorizing ELL students as disabled (see upper right quadrant of graph)
  - Mostly, there is not a 1:1 ratio, which would indicate complete overlap of the populations (points would be slightly higher than the line indicated)



United Federation of Teachers  
*A Union of Professionals*

## **Testimony of UFT President Michael Mulgrew before the New York City Council Committee on Education**

September 21, 2022

My name is Michael Mulgrew, and I'm the President of the United Federation of Teachers (UFT). On behalf of the more than 190,000 UFT members, I would like to thank Chairperson Rita Joseph and all the members of the New York City Council's Committee on Education for holding this important hearing on meeting the needs of all students with disabilities in New York City schools. Having been a teacher of many students with Individualized Education Plans (IEPs), I understand the value in providing individualized attention and services to our students with special needs. These are some of our students who are most affected by the pandemic and, as educators, we have a legal obligation to ensure that students with disabilities continue to receive a free appropriate public education (FAPE).

Unfortunately, the city Department of Education (DOE) has now been out of compliance with federal and state requirements for educating these students for more than 15 years. Some progress has been made on their Special Education Compliance Assurance Plan (CAP), which was developed by the state in May 2019 in response to the city's prior history of failure to effectively serve students with disabilities across the district. While these improvements have been highlighted in the annual data reports on 8to hear from parents and educators that our students and their families are still struggling to get access to the services they need and are entitled to receive.

One key factor in this failure to serve our students' needs is a lack of adequate school funding. We continue to advocate for reforming, or perhaps scrapping, the current Fair Student Funding (FSF) formula, which does not provide our school communities with adequate funding for special needs students, and as a result fuels draconian budget decisions. As we called for in our testimony in May, the DOE should immediately revise the Fair Student Funding formula to increase the current per-student weights for students in need of academic interventions, students with disabilities and English language learners, and to provide additional funding to schools that have large concentrations of high-need students and therefore require additional funding to provided mandated services.

In addition, the current funding weights for self-contained classes compared with Integrated Co-Teaching (ICT) classes in the Fair Student Funding lead principals to avoid creating self-contained classes even when students really need the more intensive support and when their IEPs call for a self-contained classroom. These weights drive placement decisions by incentivizing ICT classrooms due to their much higher weighting and the flexibility to use 40% of the FSF funds allocated to them elsewhere. In middle and high schools, there are also staffing issues because teachers must be certified in both content areas and special education.

In the long term, a commitment to examining the costs and benefits of the per-student funding model and other aspects of the Fair Student Funding formula is urgently needed. We feel it is particularly urgent that school funding be sufficient to hire the number of teachers required to provide students with disabilities and English language learners with their legally mandated instruction and classes. That's true regardless of the total number of students expected to be enrolled who require a particular setting within a school or grade of a school — every student needs and deserves their mandated services. Given the challenges faced by schools with the highest concentrations of high-need students, we believe that pupil-based weighted funding may not be the best or most equitable manner for addressing these students' needs.

In the meantime, however, the district must move more quickly toward complying with the protections for students with disabilities that are already in place.

In their Compliance Assurance Plan document released in May 2019, the New York State Department of Education found that “NYCDOE has multiple outstanding findings of noncompliance involving the requirements to ensure proper procedural safeguards to students and parents, and the provision of programs and services to preschool and school-age students with disabilities” and warned that the DOE’s response to these violations over the past thirteen years had “not resulted in the systemic change necessary to sustain compliance and/or scale-up effective approaches to ensuring compliant policies, procedures, and/or practices in the identified areas.” Specifically, the state found that despite the legal requirement to do so, NYC DOE:

- “Fails to provide a free appropriate public education (FAPE) to students with disabilities, aged 3 through 5,”
- “Fails to provide a free appropriate public education to students with disabilities, aged 5 through 21,” and
- “Fails to provide parents access to adequate due process after a complaint has been filed, fails to provide access to due process data, fails to ensure access to mediation, and fails to provide prior written notice.”

The DOE responded with a timeline and action steps with a goal of “working toward full compliance in every area,” but parents, educators and students have continued to come to the UFT and to other advocates with concerns that real improvements are still not happening and that it is difficult to get information about the changes being made.

Similarly, the improvements to providing special education direct services and related services required by students’ IEPs that were promised in the district’s response to the CAP have not happened quickly enough to meet the urgent needs of our students. This urgency was only increased with the impact of the pandemic in New York City, as we and others have heard consistently throughout the past few years that many special education students were struggling to receive their mandated services, and that the Special Education Recovery services promised for students in the past school year were inadequate to meet students’ increased needs. Specifically, we have heard there is a lack of oversight of administrators who are tasked with programming special education teachers and ensuring that students receive services. In some especially concerning examples, we have been told that administrators have directed members to change students’ IEPs to suit their budget and to “phase out” the self-contained classes that are called for in students’ IEPs.

Another current and very timely issue is the DOE’s failure to address how special education “fits” in the new reading and dyslexia initiative. Currently, special education receives

many of the struggling readers as students with learning disabilities or speech and language disabilities. How will the evaluation process change? Is the DOE moving to a response to intervention model for identifying students with learning disabilities? What will be the role of our school psychologists in determining if a student has dyslexia? (To date, the only sure way to get dyslexia in an IEP has been to produce an expensive (\$3,000-\$5,000) neuropsychological evaluation. Where do current IEP Intervention teachers fit in this scheme? How will the DOE change the current mindset of school administrators and staff that screening students at risk for dyslexia equals a special education referral? We have for months pressed the DOE's Office of Special Education to meet with us about these issues. It would be very helpful for the Council to press the DOE on these immediate and important issues.

We also urge the Council to hold the District accountable for providing special education services to some of our city's most vulnerable students – the very young children who are part of our pre-K programs; the students who attend our alternative education programs, such as transfer schools in District 79; and the students with the most intense special education needs who are part of District 75. With regard to preschool, the foundational problem dates back to the DeBlasio administration, since Pre-K for All shamefully never included students with disabilities. We are hearing from schools and educators that the current problems with special education for pre-K students lie in staffing and compensation issues (especially in nonpublic schools), and while the DOE has been increasing the number of public school preschool classes and placements, it is happening too slowly.

Similarly unacceptable practices around the failure to provide effective special education services in District 75 were recently reported on in the Daily News, leading Mayor Adams to state that the high-need students served in that district “have been betrayed for years in education and we have normalized that betrayal.” The lack of effective busing and transportation services for our special education students has been a particular area of concern for many years, especially for our District 75 students who require special transportation assistance and accommodations. As you may remember, the DOE promised and promised to get busing in place for special education recovery, but never did so.

This was nothing short of tragic for District 75 students, many of whom could not benefit from remote instruction and/or related services. In community schools and high schools, students received what the school was able to put together rather than services to match what were often very deep needs. The DOE should have offered families compensatory services developed at annual reviews or sooner as soon as students returned to school. Extensive federal guidance told them this was their responsibility. So did we. They resisted. Now, after the Los Angeles Unified School District was called out by the U.S. Department of Education's Office for Civil Rights for its very similar response, the city DOE has seen the light and is implementing compensatory services this year. A federal lawsuit on the issue filed by Advocates for Children was dismissed at the district court level, but is on appeal and has garnered quite a number of amicus support briefs. We urge the council to hold the DOE accountable for its continued failure to provide services in this area.

Finally, the shift toward the use of new OATH (Office of Administrative Trials and Hearings) officers as full-time special education hearing officers in December 2021 was one we had pushed for in order to help address the significant backlog in special education case hearings that existed in prior years. We have heard this has resulted in significant improvement in the number of

unheard cases. However, we believe greater transparency around this process and an assurance that the backlog will not recur are both important.

In conclusion, we call for greater oversight by the DOE to ensure full compliance with our students' special education mandates, as well as the full funding necessary for schools to carry out this compliance and an intense push for the recruitment and hiring of additional special education teachers and other support staff. We urge the Council to require the DOE to immediately make these goals a greater priority. We also urge the Council to demand transparency and accountability from the DOE in publicly reporting on its progress toward meeting the requirements of the CAP and moving forward with urgency and efficiency to finally provide our city's students with disabilities with the education they deserve.

Our students with disabilities are among those who are the most vulnerable and the most affected by our current public health crisis. As educators, we take very seriously the legal mandate we uphold to provide our students with disabilities with a free appropriate public education. This is why I am here today to ask for your support, as our allies in government, in addressing the issues I mentioned. Working together, I know we can make this challenging time easier for our students, their families and our educators. We owe that to them.



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

# Jumaane D. Williams

---

STATEMENT OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS  
TO THE NEW YORK CITY COUNCIL COMMITTEE ON EDUCATION  
SEPTEMBER 21, 2022

Good afternoon,

My name is Jumaane D. Williams, and I am the Public Advocate for the City of New York. I would like to thank Chair Joseph and the members of the Committee on Education for holding this hearing.

In the 2021-2022 school year, 20.6 percent of New York City's more than one million students had a disability.<sup>1</sup> Despite being legally mandated to provide disabled students with the services they required, even before the COVID-19 pandemic, the Department of Education (DOE) did not meet mandated accessible education requirements. The pandemic has made it even more difficult for disabled students to get the support that they need, especially for students of color and those who live in low-income communities.

The Americans with Disabilities Act (ADA) prohibits discrimination based on disability status. In schools, compliance with the ADA includes permitting accommodations including accessible education services, transportation to and from school, additional services to address a student's Individualized Education Program (IEP), extra time between classes, and modifying testing, as well as physical changes to buildings, including grab bars in bathrooms, installing ramps and elevators, and widening doorways.

The accessibility of our school buildings is embarrassingly lacking. While students without disabilities can attend their local zoned schools or another school of their choice, students with disabilities often must choose their school based on whether they can physically navigate the building. For disabled students, picking a high school means not only considering their choices based on academics and their interests, but finding out whether they can fit into bathroom stalls, use water fountains, if they have access to an elevator, or whether the school can provide the services mandated by their IEPs. With their options drastically limited, it is no surprise that only 58 percent of students with disabilities graduated from high school last year, compared to 81 percent citywide.

According to the School Construction Authority, 73 percent of DOE schools are accessible. However, this includes not only schools that are fully accessible, but also those that are "partially" accessible. A partially accessible school is not accessible if a student cannot fit their wheelchair through classroom doors or fit into the bathroom stalls. Likewise, a school may be classified as fully accessible for those with mobility disabilities, but unable to accommodate a student who requires accessible education services due to, for example, a lack of qualified staff.

---

<sup>1</sup> <https://www.schools.nyc.gov/about-us/reports/doe-data-at-a-glance>

The DOE must also address and resolve the transportation issues that have students missing school because their seat on a bus is not confirmed or their travel companion has not been assigned. I know there are parents who have missed work to stay home with the student or have used their grocery money to pay for a cab to take the child to school. No family should have to pay out of pocket for their child to get to school simply because their child has a disability.

For these reasons, I have introduced Intro 0582-2022, which would require the DOE to report annually on the degree to which indoor and outdoor school facilities comply with the Americans with Disabilities Act. This bill would also make public the contact information for each school's ADA coordinator, the protocol for requesting an accommodation, and information regarding the extent to which zoned schools have the capacity to accommodate students and employees with disabilities. This information is critical for students with disabilities and their families when deciding which school to attend, and provides us with additional data to target needed accessibility upgrades in our school system.

The education disruption of the pandemic and remote learning has been hard on all of our students, but especially those with disabilities. We must be doing everything we can to ensure that disabled students are provided with equitable, high-quality education with all of the supports they need to succeed and thrive. I look forward to working with the Committee on Education and the City Council to achieve this goal.

Thank you.



# Advocates for Children of New York

Protecting every child's right to learn since 1971

## Testimony to be delivered to the New York City Council Committee on Education

### Re: Meeting the Needs of All Students with Disabilities

September 21, 2022

Thank you for the opportunity to speak with you. My name is Randi Levine, and I am Policy Director at Advocates for Children of New York (AFC). For 50 years, Advocates for Children has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds.

#### Board of Directors

Kimberley D. Harris, *President*

Harriet Chan King, *Secretary*

Paul D. Becker, *Treasurer*

Eric F. Grossman, *President Emeritus*

Carmita Alonso

Matt Berke

Matt Darnall

Jessica A. Davis

Lucy Fato

Robin L. French

Brian Friedman

Caroline J. Heller

Jamie A. Levitt, *past president*

Maura K. Monaghan

Jon H. Oram

Jonathan D. Polkes

Veronica M. Wissel

Raul F. Yanes

#### Executive Director

Kim Sweet

#### Deputy Director

Matthew Lenaghan

We appreciate that the City Council is holding a hearing on the important topic of meeting the needs of all students with disabilities. Every day, Advocates for Children hears from parents struggling to get their children with disabilities the education they need. In the past two weeks alone, we heard from more than 200 parents. We want to share just a few examples. Through our Education Helpline, we heard from:

- A parent who recently learned that her three-year-old child has autism and wants her child enrolled in the preschool special education class mandated by her Individualized Education Program (IEP) but was still waiting for a placement from the DOE, which has a shortage of preschool special education classes even as it has expanded “3-K and Pre-K for All.”
- A parent who learned from her child that he is in a large class, in violation of his IEP, which requires a small special education class. Meanwhile, the student says he doesn't understand the work and feels overwhelmed.
- A parent who borrowed a neighbor's phone so she could call us, saying she was desperate for help as she recently moved into temporary housing in a different borough and needs a closer school. When she tried enrolling her child, whose IEP mandates a special education class, multiple schools turned her away.
- A parent whose ninth grader is reading on a first-grade level and asked about private schools because, year after year, she has been unable to get help from her child's public school.
- A parent whose school responded last year to her child's behavioral challenges by placing him in the office where he watched videos and asking the parent to pick him up early.



Advocates for Children  
of New York  
Protecting every child's right  
to learn since 1971

- A parent whose primary language is Spanish who had questions about her child's services because she has only received paperwork in English.
- A parent living in a shelter whose child has a significant disability and missed the first weeks of school because the DOE did not have a bus route in place. And a parent who has been unable to work full time and is experiencing financial hardship because she is transporting her child while waiting for the DOE to arrange for the paraprofessional he needs on the bus.
- A parent whose child uses a wheelchair and was assigned to a classroom on the 3<sup>rd</sup> floor of a walk-up building. The child has been out of school since last fall.
- A Spanish-speaking parent whose child needs a wheelchair-accessible District 75 placement. The family lives in the Bronx, but the DOE could only find a seat in a different borough. Then, days before the school year began, the parent received a call informing her that the school's elevator is off limits to students, leaving the child with no school.

This is just a small sampling of the children and families that came to our attention in the past two weeks. And make no mistake—we get these calls all year round. Shortages of preschool special education classes, inadequacy of literacy instruction and behavioral support, problems with transportation, lack of accessibility, failure to provide translation and interpretation – these are all serious obstacles that students with disabilities and their families continue to experience every day on the ground. The City must do better. We look forward to working with you to do so including through the recommendations included in our [\*Vision for NYC Schools\*](#), which we are attaching to our testimony.

Thank you for the opportunity to speak with you. I would be happy to answer any questions you may have.



ADVOCATES FOR CHILDREN OF NEW YORK  
*Protecting every child's right to learn since 1971*

# VISION FOR NYC SCHOOLS

## *Recommendations for the Next Administration*

**Mayor-elect Eric Adams will take office at a time when the COVID-19 pandemic has worsened the longstanding inequities in our City's schools.**

Over the past year and a half, the pandemic has caused unprecedented disruption to the education of children and youth—and the students hit hardest have been those who were already struggling in school or marginalized on the basis of race, poverty, disability, immigration status, English proficiency, homelessness, or involvement in the child welfare or juvenile justice systems.

**The next administration will be responsible for the implementation of a comprehensive COVID-19 recovery effort to address the educational fallout of the pandemic** and must ensure that evidence-based instructional and social-emotional support are targeted to the students who need it most. Recovery efforts should be responsive to the disparate impact of the pandemic on low-income communities of color and provide additional tailored interventions to students with disabilities and English Language Learners (ELLs), who faced unique challenges during remote learning and missed months of specialized supports they have a legal right to receive. Without leadership from City Hall and a continued commitment of significant resources to ensure all students get back on track, the pandemic's impact on NYC's young people will have ripple effects for decades to come.

**At the same time, there are numerous challenges in public education that pre-date COVID and demand the attention of City leaders.** Based on our 50 years of on-the-ground experience helping students and families navigate the largest school system in the country and get the support they need to learn, we call on Mayor-elect Adams to:

- 1** Revamp literacy instruction and intervention so that every child becomes a skilled reader and NYC becomes a national model for literacy development.
- 2** Enhance mental health support and reimagine school safety in police-free and anti-racist schools.
- 3** Increase access to translation and interpretation services and improve communication with families to ensure that every parent, including parents with limited English proficiency or low digital literacy, can participate in their child's education.

- 4 Develop a multi-year plan to address chronic shortages in the special education system and ensure all students with disabilities receive the individualized supports and services they need.
- 5 Develop a multi-year plan to expand dual language and bilingual programs, create new programs to support older English Language Learners, and recruit more bilingual teachers and service providers.
- 6 Launch an interagency initiative to tackle educational barriers for students who are homeless and move forward with recent plans to hire dedicated DOE staff to address the unique needs of students in foster care.
- 7 Promote school integration and improve equity in admissions.

These recommendations, described in more detail below, are not intended to be an exhaustive list of every policy change the City should make to strengthen education. Rather, based on our work assisting thousands of NYC students each year, we are identifying some of the key areas where we would like the next Mayor—and other elected officials—to focus attention, energy, and resources.

Beyond the specific recommendations we make in this document, **we urge the incoming administration to pursue an education agenda with the following strategies at its core:**

- Invest significant funding in education and ensure every school has the resources needed to serve all learners effectively.
- Set ambitious goals for tackling racial disparities across a wide array of educational opportunities and outcomes.
- Approach each policy change with a central focus on equity.
- Tailor support to the needs of different communities and populations of students, including students with disabilities and English Language Learners.
- Continue scaling up effective initiatives such as expansion of early childhood education and community schools.
- Leverage community-based organizations to help meet the varied needs of students and families.
- Treat parents as partners in their children's education.

While immense challenges to our school system await the Adams administration, so do considerable opportunities to create long-lasting change and develop a comprehensive education system from birth through high school that works for all students and families. **As we recover from the pandemic, the new Mayor should seize this opportunity and work alongside educators, parents, students, community partners, and other stakeholders to create a more equitable and inclusive school system that provides an excellent education to all students.**

*November 2021*



# EFFECTIVE LITERACY INSTRUCTION & INTERVENTION SO EVERY STUDENT LEARNS TO READ

*One of the most fundamental responsibilities of schools is to teach students to read. Yet, in New York City, less than half of students are reading proficiently and disparities by race, housing status, disability, and language are alarming. Only:*

- 36% of Black and Latinx students,
- 29% of students who are homeless,
- 16% of students with disabilities, and
- 9% of English Language Learners

*in grades 3-8 scored proficient in reading on the 2019 state exams.*

**Given the scope of this challenge, New York City needs an all-out effort to revamp the way it provides reading instruction to all students and targeted interventions to students who need extra support. NYC should:**

---

**Ensure that every student receives explicit, systematic instruction in foundational literacy skills—**phonemic awareness, phonics, fluency, vocabulary, and comprehension—as outlined in the report of the [National Reading Panel](#). There is a mountain of scientific evidence on how to teach students to read, but what happens in the classroom is often not in line with the science.

- » **All NYC schools should use evidence-based, culturally responsive reading curricula for core instruction.** The DOE should proceed with plans to use federal COVID-19 relief funding to develop a culturally responsive Citywide curriculum and should ensure that the literacy portion of this new curriculum is firmly grounded in the science of reading. Schools should receive all materials and ongoing training necessary for successful implementation. Reading is too important to allow schools to continue to use outdated curricula shown not to be effective.
- » **NYC should continue its promising Universal Literacy coaching program to train teachers how to teach reading effectively.** Before the pandemic, more than 400 Universal Literacy coaches were working to help K–2 teachers improve their literacy instruction; their continued support in the classroom will be critical as the City launches a new curriculum.

---

**Provide every K–12<sup>th</sup> grade student struggling with reading with one-to-one or small group support.** We hear from hundreds of families each year whose children are having difficulty with reading and cannot get help. NYC should:

- » **Leverage and train current staff in evidence-based approaches and hire a new corps of interventionists.**
- » **Enhance its summer programming** to provide all K–12<sup>th</sup> grade students who need extra support in reading with intensive, evidence-based literacy instruction from highly skilled and well-trained educators as a key component of a full-time summer program that also includes enrichment activities.

---

**Ensure that every parent receives information about the literacy skills students should be learning at each grade level, regular updates about their child’s progress, and information about how to access reading interventions and support through the DOE.**



## SOCIAL-EMOTIONAL & MENTAL HEALTH SUPPORTS FOR STUDENTS & POLICE-FREE SCHOOLS

Even with the recent hiring of 500 new school social workers, NYPD school safety agents outnumber DOE social workers by more than 1,000. Each year, in NYC schools:

- Tens of thousands of students are suspended, losing days, weeks, or months of instruction.
- Thousands of students with significant emotional challenges are removed from class—including some handcuffed as young as 5 years old—by NYPD officers and taken away from school by Emergency Medical Services (EMS) when medically unnecessary.

Black students and students with disabilities are disproportionately harmed by these exclusionary school discipline and policing practices. For example, in 2019-20:

- Black students—who comprise about 22% of DOE students—faced 51% of out-of-school, long-term suspensions; students with disabilities—who comprise about 20% of DOE students—served 45% of all out-of-school, long-term suspensions.
- 58% of students in emotional crisis [handcuffed by police](#) were Black.

These responses are traumatic for children, do nothing to address the root causes of student behavior, reduce time spent in class learning, and correlate with poor academic outcomes, decreased likelihood of graduating, and increased likelihood of entering the juvenile/criminal justice system.

**It is more urgent than ever that students get the social-emotional and mental health support needed to succeed in school. NYC should commit to a reform package that:**

- 
- » **Ensures that all students have access to timely, effective direct mental health services** in school, through mental health clinic partnerships, or with community-based organizations.
  - » **Invests in an integrated system of targeted, intensive supports and services for students with significant mental health needs by, for example, building upon the Mental Health Continuum**, a partnership between DOE, NYC Health + Hospitals, and NYC Dept. of Health & Mental Hygiene.
  - » **Prohibits the NYPD from handcuffing students in emotional crisis.**
  - » **Prohibits school staff from contacting police, EMS, or child welfare services to respond to the vast majority of student behavior**, including emotional crises or distress.
  - » **Keeps schools safe without deploying law enforcement and metal detectors that criminalize students in school, transfers and reimagines the school safety role from the NYPD to the DOE to create positive and safe school climates, and reallocates NYPD funding to supporting students.**
  - » **Invests resources to ensure that every school is healing-centered and can safely and effectively support students' social-emotional and behavioral needs with a trauma-informed approach**, including by investing in staff trained and coached in providing direct services to students, such as social workers, behavior specialists, trauma-informed de-escalation staff, conflict resolution specialists, and restorative justice staff.
  - » **Invests in expanding whole-school restorative justice practices** to reach 500 high schools in FY23 and to reach all schools by FY27. Restorative practices hold students accountable, build and heal relationships, teach positive behaviors, and correlate with improved academic outcomes, school climate, and staff-student relationships.
  - » **Commits to a plan to eliminate disparities by race and disability in school discipline and policing.**



## LANGUAGE ACCESS FOR FAMILIES

Research shows a strong relationship between family engagement in school and improved educational outcomes such as attendance and grades. However, we often hear from parents who do not feel welcome in their child's school or cannot find someone to help them because their home language is not English. Many Limited English Proficient (LEP) parents cannot participate meaningfully in their children's education because they cannot understand the school documents they receive or meetings they attend about their child.

- 42% of NYC students speak a language other than English at home.
- NYC public school families speak 176 different languages.

**The City should ensure that parents receive all school-related documents in their home language, in a form that is accessible to them, and that families have access to high-quality interpretation for conversations with school staff, school meetings, and events. NYC should:**

- » **Fund translation and interpretation centrally** within the DOE to create efficiencies and help ensure that a parent's access to information is not dependent on the resources available at their individual school. Currently, when families request translated documents from their child's school beyond general notices and letters, they are often told that the school does not have enough funding in their budget.
- » **Create a central system for automatically translating special education documents** for parents whose home language is a language other than English. The burden should not be placed on families to ask for translation of each IEP or evaluation and on schools to respond to each request.
- » **Train schools in using the DOE's phone interpretation service** to communicate with families who speak a language other than English, including the importance of ensuring families know about and are encouraged to communicate with school staff using this service.
- » **Create and fund a system of family-facing communication that takes into account families' varying levels of literacy and access to digital media.** Immigrant and LEP families with low literacy and limited access to the internet rely on phone calls, physical letters on paper, and in-person communication to understand what is happening with their child's education. Currently, most communication between the DOE and families is happening via the DOE website or email, leaving many families in the dark and without access to information. Although the DOE received some funding for immigrant family communications this school year, this funding will expire in June 2022 and will be limited in reach.



## SUPPORT FOR STUDENTS WITH DISABILITIES

*More than 200,000 NYC students—about one out of every five—are classified as students with disabilities.*

- Of these students, 31,600 did not receive their full mandated special education instruction in 2019-20.*
- Black students, ELLs, and students from low-income families are over-represented in segregated special education classes. For example, 35% of students in District 75 schools are Black, even though Black students comprise 22% of all DOE students and 27% of DOE students with IEPs.*
- Only 53% of students with disabilities graduate from high school in four years, 32 percentage points lower than the graduation rate for their peers without disabilities.*

### **The City should focus more attention and resources on improving educational services, programs, and outcomes for students with disabilities. NYC should:**

**Provide make-up services to students with disabilities who did not receive their legally mandated instruction and services during the pandemic.** Under federal law, students with disabilities have the right to “compensatory services” to make up for any instruction and therapies they missed. While schools will be providing certain “recovery services” after school or on Saturdays, the DOE must ensure students with disabilities receive the full compensatory services necessary to address their individual needs—even if those services do not match the recovery services offered by their school.

**Develop a multi-year plan to better serve students with disabilities.** The City should develop a plan with benchmarks for improving the educational outcomes of students with disabilities, ensuring they receive the instruction and services to which they are entitled, and ensuring families receive information about their rights and options. For example, NYC should:

- » **Build a corps of specialized staff who can be deployed to schools as needed so more students with disabilities can learn in general education settings.** Students should have access to effective individualized services, including literacy and behavioral supports, beyond the limited options that happen to be available at their schools.
- » **Address chronic shortages, such as:**
  - Bilingual special education evaluators and classes** • In fall 2019, 3,800 students who needed a bilingual special education class (around 69%) did not have one.
  - Preschool special education classes** • At the end of the 2019-20 school year, more than 1,200 preschoolers with disabilities were waiting for seats in legally mandated special education classes. NYC should move forward with its plan to use federal relief funding to address this shortage.
  - Related services** • Students should receive their mandated services, including bilingual services, in their schools—not via vouchers that are difficult to use.
- » **Expand specialized programs, develop new ones, and ensure programs are placed in high-needs schools and historically marginalized communities.** NYC should replicate successful programs, such as ASD NEST and Horizon, which serve children with autism, and develop new models to meet instructional gaps, prioritizing underserved communities.
- » **Change the tenor of interaction with families to develop cooperative relationships and make the process of developing IEPs truly collaborative.** NYC currently has one of the most contentious special education systems in the country; around 45% of special education administrative hearings filed nationwide in 2018-19 were from NYC.



## SUPPORT FOR ENGLISH LANGUAGE LEARNERS

*Approximately 145,000 New York City students—about one in eight—are English Language Learners (ELLs). When ELLs receive the support they need to succeed, they have the potential to outperform their native-English speaking peers. Yet, in NYC, ELLs too often fall far behind.*

- Only 19% of ELLs in grades 3-8 are proficient in math, according to the 2019 state tests.
- Only 46% of ELLs graduate from high school in four years.
- Nearly one in four ELLs drops out of high school—the highest dropout rate of any student group.

**The City should focus more attention and resources on improving educational programs, opportunities, and outcomes for English Language Learners. NYC should:**

---

**Provide ELLs with additional, targeted support so they can start to make up for services denied during the pandemic.** ELLs have a legal right to receive bilingual instruction or “English as a New Language” instruction, but many ELLs did not receive this instruction during the pandemic. Given the immense challenges ELLs faced in participating meaningfully in remote learning and the lack of language support, the City’s educational recovery effort should include a targeted plan to provide ELLs with the instructional support they missed during the pandemic.

---

**Develop a multi-year plan to better serve ELLs.** The City should develop a plan with benchmarks for improving the educational outcomes of ELLs, ensuring ELLs receive the instruction to which they are entitled, and ensuring families receive information about their rights and options. For example, NYC should:

- » **Create additional programs for ELL high school students.** To address the alarming high school dropout rate, the City should develop more options to support older ELLs. Such options should include additional bilingual general education and special education programs, as well as increased support for ELLs at transfer schools and Career and Technical Education (CTE) programs. Currently, there are only five transfer schools that focus on serving ELLs, and four of them are in lower Manhattan.
- » **Expand Dual Language and Transitional Bilingual Programs and place them in communities with high populations of ELLs.** While research shows the effectiveness of bilingual programs, only 18% of the City’s ELLs are currently enrolled in such programs. The City should expand Dual Language and Transitional Bilingual programs, starting with 3-K, and ensure these programs are accessible to ELLs.
- » **Recruit more bilingual teachers and service providers.** The City should explore all avenues for increasing the number of bilingual teachers and service providers working in NYC schools, including bilingual special education teachers. The City should create incentives to attract bilingual teachers to schools with shortages.



## SUPPORT FOR STUDENTS EXPERIENCING HOMELESSNESS & STUDENTS IN FOSTER CARE

**STUDENTS EXPERIENCING HOMELESSNESS** More than 100,000 NYC students experience homelessness over the school year. Around 30,000 of these students spend time living in the City's shelters. Students living in shelter, 94% of whom are Black or Latinx, face numerous obstacles to school success.

- More than half of students in shelter are chronically absent, missing at least one out of 10 school days.
- More than 40% of families are placed in a shelter in a different borough from their child's school.
- Only 52% of students living in shelter graduate high school in four years.
- While NYC hired 200 school-based staff members to focus on serving students who are homeless, only one in four children in shelter attends a school with such a staff member.

**Launch a bold interagency initiative led by City Hall to tackle educational barriers for students who are homeless.** City Hall should set ambitious goals and oversee the implementation of plans to reduce chronic absenteeism, increase shelter placements closer to where children attend school to avoid long commutes and unnecessary school transfers, bridge the digital divide, and improve educational outcomes.

**Ensure every shelter has staff qualified and equipped to support students' educational needs.**

Families and youth living in shelter need support with a wide range of school-related issues, but there are not enough shelter-based staff who have the time, skills, and expertise to effectively provide this assistance. The number of DOE family assistants working in shelters has not grown over the past decade—even though thousands more students are now spending time in the shelter system than in years past—and many of them lack the skills necessary to help families navigate NYC's complex school system. NYC should overhaul the education support system in shelters to help students access a high-quality education, starting by hiring 150 DOE shelter-based community coordinators.

**STUDENTS IN FOSTER CARE** Around 6,000 NYC students are in foster care each year. Students in foster care are disproportionately Black and come from NYC's poorest communities. They are among the most likely to repeat a grade, need special education services, or leave high school without a diploma.

- While school has the potential to be an important stabilizing force in the lives of students in foster care, one out of every six students changes schools upon entering foster care.
- One out of every ten students in care has an attendance rate of less than 50%.
- Only 42% of students in care graduate high school in four years, the lowest rate of any student group.

**Implement plans to launch a central DOE team to serve students in foster care.** Currently, the DOE does not have a single staff member focused full-time on students in care, but the DOE recently announced it would hire staff for this purpose. Staff is needed to develop and implement policies addressing issues like parental consent, school stability, and interagency coordination; train and support school staff; and serve as a point person for schools, families, and child welfare professionals to improve educational outcomes for students in foster care.

**Guarantee bus service for students in foster care.** Although federal law requires NYC to provide transportation so students can remain in their original school while placed in foster care, the DOE currently guarantees only a MetroCard, forcing some students to transfer schools when they enter foster care or change foster homes.



## SCHOOL INTEGRATION & EQUITY IN ADMISSIONS

*One of New York City's greatest strengths is its diversity. Yet, NYC is home to one of the most racially segregated public school systems in the nation. While housing segregation is a major contributing factor, school admissions policies exacerbate the problem by using discriminatory screens, offering few options to students who need placements mid-year, and relying on an application process so difficult to navigate that many families do not participate at all. In 2019-20:*

- *60% of age-eligible children living in shelter did not submit a kindergarten application.*
- *35% of age-eligible preschool students with disabilities did not submit a kindergarten application even though these children were already receiving services through the DOE.*

**NYC should address barriers to admissions for students from historically marginalized communities and build inclusive, supportive, and effective school environments where all students can thrive. NYC should:**

---

**Adopt the recommendations of the [School Diversity Advisory Group](#).** We were proud to serve on the SDAG and urge the City to move forward with these important recommendations for advancing equity, such as:

- » Supporting districts in developing community-driven diversity and integration plans;
- » Eliminating the use of exclusionary admissions criteria like attendance;
- » Implementing culturally responsive practices at all schools; and
- » Expanding efforts to recruit and retain diverse school staff.

---

**Increase support to help families with application processes from 3-K through high school.** We often work with families, including those with low digital literacy or who speak a language other than English, who struggle to navigate the DOE's online application systems or do not feel they have meaningful choices. NYC should help every family understand their school options and provide individualized assistance to families by:

- » Launching new resource centers modeled after the District 1 family resource center and expanding them to assist families with 3-K through high school admissions.
- » Leveraging existing partnerships with community-based organizations and funding new ones to reach immigrant and other underserved communities.
- » Enhancing training for school counselors to provide tailored support.

---

**Set aside seats at each school for students who need placements after the start of the school year.** Newly arrived immigrant youth, students placed in shelters or in foster homes far from their original schools, students reentering school from the juvenile/criminal justice system, and other students who need placements mid-year should not be relegated to schools that did not fill during the admissions process.

---

**Ensure that as schools accept a more diverse group of students, including students with disabilities and ELLs, schools have resources and tailored supports to meet their needs.**



[www.arisecoalition.org](http://www.arisecoalition.org)

**Testimony of The ARISE Coalition for New York City Council  
Committee on Education  
Re: Oversight – Meeting the Needs of All Students with Disabilities  
September 21, 2022**

Good afternoon.

I am Maggie Moroff and I coordinate the ARISE Coalition, a group of over 200 parents, advocates, educators and academics who have been working together since 2008 to push for system-wide changes to improve access to, experiences within, and long-term outcomes for youth with disabilities in New York City's public schools. I also work as the Senior Special Education Policy Coordinator at Advocates for Children of New York, but I am here before you today on behalf of the members of ARISE.

Last spring, as the new Administration was taking shape, the members of ARISE offered recommendations around: special education service delivery; special education recovery services; and the provision of appropriate literacy supports for all students, including those with dyslexia and other struggling readers. We shared those recommendations with Deputy Chancellor Quintana and had the opportunity to discuss them with her last April. I have attached the full recommendations to my written testimony. Let me briefly outline them.

Regarding our long-standing concerns and recommendations about special education service delivery – one of the primary reasons we came together as a coalition 15 years ago – we continue to see persistent and ongoing problems with timelines and quality of special education services and with the treatment families encounter when they advocate for their students' rights. We have been urging the DOE to prioritize addressing those issues and to:

- Strengthen systemwide capacity to conduct quality special education evaluations for students from preschool through 12<sup>th</sup> grade;
- Improve access to quality transition services for students with disabilities ages 14 and above;
- Implement extended school year services to all students with IEPs who need additional instruction; and

- Commission a study on how the DOE uses its special education continuum to ensure equitable access and experiences for all students across neighborhoods, ages, and disabilities.

With regard to the ongoing need to help support students with disabilities, many of whom went without services they critically needed to make progress during the pandemic, we urge the City to ensure that all students with disabilities get the compensatory services they need and have a right to receive. We ask that the DOE:

- Provide clear information for families about the availability of those services;
- Ensure that those services are available to all students with disabilities including those currently attending charter schools and students placed by the DOE in state-approved non-public schools for students with disabilities; and
- Establish an oversight plan to monitor and hold schools accountable for the delivery of make-up services.

With respect to literacy, the City should:

- Require all schools to use evidence-based, culturally responsive curricula for core instruction – something that benefits not just students with disabilities, but all students learning to read;
- Conduct universal screening and progress monitoring to determine the efficacy of the core programs and identify students who need additional support;
- Provide evidence-based intervention to students who do not make adequate progress with quality core instruction, as well as for older students who have not yet mastered foundational skills;
- Provide parents with regularly updated and understandable information on their students' progress developing literacy skills, while also ensuring parents have detailed information on what students should be learning each year and how to seek additional support when needed; and
- Develop and release a public plan with benchmarks and goals in order to ensure all students learn to read.

Let me also add that the members of ARISE are this year, as in years past, very concerned about transportation services. Just yesterday, I personally worked on several cases, which involved students not yet attending school because the DOE has not arranged the paraprofessionals or nursing supports they need to ride the buses or appropriate routing to get them to school on time or at all.

We offer these recommendations in the interest of working with the DOE and the Council to improve experiences and outcomes for all youth in city schools, including the more than 200,000 students with disabilities.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.



## 2022-23 School Year | **Special Education Service Delivery** *Recommendations for the New York City Department of Education*

---

The Arise Coalition continues to see persistent and ongoing problems with timeliness and quality of special education services and treatment of families as they advocate for their children's rights. We urge the DOE to prioritize those issues and also offer the following recommendations:

### **1. Strengthen systemwide capacity to conduct quality special education evaluations for students from preschool and K-12<sup>th</sup> grades**

Use school-based data to determine student and staffing needs and then align and allocate funds based on that data to hire additional staff, including qualified bilingual evaluators where needed, to address delays in evaluating students. Central DOE should provide clear and timely guidance to schools and districts prior to initiation of this work.

Develop mechanisms and tools that measure the extent to which schools and districts follow evaluation processes outlined in the Standard Operating Procedures Manual and integrate these measures into existing accountability structures such as school-based quality reviews.

### **2. Improve access to quality transition services for students with disabilities ages 14 and above**

Update related language in the DOE's current Special Education Family Guide and the Family Guide to Transition Planning so both are more accessible to families with transition-aged students.

Create a citywide communications campaign to disseminate the updated guides to all students with disabilities over 14 and to their families. Distribution should be done in multiple languages and both electronically and in hard copy to make certain the guides reach all those who so require them.

Develop and adopt two transition-related questions in the DOE's Learning Surveys targeting students with IEPs in District 1-32 high schools, and students who attend District 75 high school programs.

Require schools, in collaboration with the DOE's Transition and College Access Centers, to provide at least three annual parent trainings on transition planning.

Require individual schools to provide staff with professional development on transition-related quality assessments and on the need for parent-school partnerships in transition planning.

Establish a dedicated, full-time Transition Coordinator position in each high school serving students with disabilities to support students, families, and IEP teams with the development, implementation and coordination of Measurable Post-Secondary goals and the Coordinated Set of Transition Activities.

- 3. Implement Extended School Year (ESY) services to include all students with IEPs who need additional instruction and not limit it to those students currently receiving services from District 75.**

Clear guidance on how to assess the need for ESY and determine the risk of regression needs to be established and disseminated to school staff/IEP teams. For all students who will be attending summer school, ESY services should be considered in a timely manner to ensure that the services and all necessary accommodations are in place in time for the start of summer programming.

- 4. Commission a study on how the DOE utilizes the special education continuum to determine how and where the city provides special education services, analyze the relationship of LRE and disability classifications, and document the extent to which students move to less restrictive settings and individual IEP goals are met.**



## 2022-23 School Year | **Literacy Agenda**

### *Recommendations for the New York City Department of Education*

---

The members of the Arise Coalition welcomed Chancellor Banks' recent remarks about the importance of improving literacy in New York City schools. The failure to teach an unconscionable percentage of our students to read at grade level and to offer interventions as needed across all grades and communities is longstanding and must be addressed immediately.

We were pleased to hear that literacy is an issue the city plans to address head on, and we offer the following recommendations to further that work:

#### **I. Require all schools to use evidence-based, culturally responsive curricula for core instruction.**

The Office of Teaching and Learning, in consultation with outside experts, should identify published English Language Arts curricula that are firmly grounded in the science of reading, have demonstrated success, and reflect the diversity of the City's student population. The office should then provide schools with a menu of approved, centrally funded and supported options from which to choose. As the current administration moves forward with the development of the NYC Mosaic Curriculum, reading instruction based on the science of reading must be built into that curriculum.

The DOE should convene a group of external experts in reading instruction and in curriculum implementation to help steer the process of developing the list of approved curricula.

Coaches from the Universal Literacy Initiative and staff from the Office of Literacy and Academic Intervention Services should receive explicit training in all offerings from the approved curricular menu and be prepared to offer school-level staff support in use of the programs.

Centralized staff to support curricular choices and implementation must be increased to be able to take on the increased work. Current staff is already stretched beyond the point of being able to complete all there is to do here.

Schools desiring to use curricula not from the menu will be required to apply for a waiver via a centralized process that ensures their preferred alternative aligns with the science of reading and has demonstrated prior success. The process for waiver applications must be public and school communities should have an opportunity to provide input before waivers are granted.

Curriculum should be aligned within grades and according to each child's ability. Furthermore, attention must be paid to vertical alignment within grade bands to ensure that students receive a coherent curriculum across grades and schools.

**2. Conduct universal screening and progress monitoring to determine the efficacy of the core program and identify students who need additional support.**

Building off the screening taking place this school year, the DOE should:

- Provide training for staff at every school on how to analyze data from screeners, and how to use individual results to design and provide appropriate interventions for students who require them. Staff must also know how to use the screening data to identify next steps for improving core instruction.
- Create a decision tree that incorporates a timeline for assessing progress, as well as a path for those students who are responsive to instruction and a revised path for those who do not progress with the intervention.

**3. Provide evidence-based intervention to children who do not make adequate progress with quality core instruction, as well as for older students who have not yet mastered foundational skills.**

As with core curricula, the DOE must vet intervention programs, provide schools with a targeted menu of options from which to choose, and provide resources and needed training to relevant teachers.

The DOE must improve intervention services available in every school from K-12 and must build out appropriate summer supports for those who require them.

For older students year-round and for all students, including early readers in K-2, over the summer months, the DOE should establish freestanding literacy intervention centers in each borough or district where students can receive appropriate literacy interventions.

**4. Provide parents with regularly updated and understandable information on their students' progress in developing literacy skills. At the same time, ensure that parents and community/citywide education councils have detailed information on what students will be learning at each grade level and provide clear and understandable information on how to request and access additional support within the DOE.**

Parent handouts on what students should be learning at each grade should be reprinted and widely disseminated so all families have easy access to information about where their children should be in terms of literacy skills development.

Provide Classroom teachers with guidance and/or training on discussing with parents and caregivers where individual students fall on the spectrum of literacy skills development and where to access additional supports when needed.

**5. Develop a 3-year plan for students from kindergarten through twelfth grade with benchmarks and goals in order to achieve the above work. Share that plan publicly, and regularly provide information to the public/education councils on the success of that plan for accountability and transparency purposes.**



## 2022-23 School Year | **Special Education Recovery Services** *Recommendations for the New York City Department of Education*

---

Under law, when students with disabilities do not receive all the special education supports required in their IEPs, they are entitled to receive “compensatory services” to make up for what they were previously denied. Because of remote learning during the pandemic, students with IEPs went without many of the services they critically needed to make appropriate progress. In response, the city announced plans to set up Special Education Recovery Services (SERS) for all students with IEPs in NYC public schools before school, afterschool, on weekends, and at various times remotely. Unfortunately, however, the recovery services being offered will not meet the needs of all students, the rollout has been inconsistent, and families and their students with disabilities have been left sometimes unaware, sometimes unable to take advantage of the services for various reasons, and frequently confused about their rights around these services. To that end, we recommend the DOE:

### **I. Provide clear information for families about the availability of Special Education Recovery Services**

Families need to know more about their options around recovery services at their individual schools. Services at each school are determined by each school’s ability to provide and, theoretically, by the unique needs of their students with IEPs. In our experience, families do not have all the information they need about SERS. They do not always know, for example, the specific constellation of support available at their school through SERS, the duration of the services, their right to request additional support as compensatory services, the process for requesting additional services, or the facts that there may be specialized transportation available to access SERS and alternatives if the student cannot access the services offered. The DOE should immediately create a comprehensive parent-facing guidance on SERS for all families of students with IEPs – across grades, languages spoken at home, literacy levels, and technological access. There is no more time to be lost on getting full information to families, and therefore, the DOE should create an expedited timeline for drafting, finalizing, and distributing that document as well as a distribution plan for the document.

The DOE also needs to create more coherence in how families are notified by their school about their SERS options. Communication appears now to be as different as the services offered at each school. For example, some schools are calling the program a name different from SERS, which our experience confirms has been confusing to parents. Other schools required parents to opt into SERS before the school provided sufficient information about what services would be offered. The DOE should develop specific talking points for schools to share with families when discussing the availability of SERS and should spot-check those conversations to be sure that families have the information they need to move forward.

- 2. Expand recovery services to include all students with disabilities – across age, grade, language need, and type of school attended – including those students currently attending charter schools and non-DOE schools because there are no appropriate programs within the public school system able to meet their specialized needs.**
- 3. Ensure that all SERS programs are prepared to provide targeted instructional interventions with proven effectiveness for the range of student need to be supported.**

The DOE must dedicate sufficient funding and support so every SERS program is appropriately staffed with professionals who are licensed to provide the special education supports that students require. The DOE should also continue to provide additional training, as needed, to that staff as the SERS programs move forward and additional student needs are revealed.
- 4. Provide busing services to all students in SERS before-school, afterschool and for weekend programs immediately. Without such services, attendance for many of the students who most require the additional support will continue to be out of reach.**
- 5. Develop guidance for considering SERS and Compensatory Services during IEP meetings.**

School-based IEP teams must receive guidance on how to discuss and explore with families the need for on-going additional support beyond what is being offered through SERS. Guidance should include, but not be limited to, possibilities for additional types of services not offered through SERS, a higher quantity of services, a different ratio for services otherwise offered through SERS, a different means by which to receive SERS services, and extended eligibility, into the spring and summer, for students who require more time and support. Teams should also be required to discuss the differences between SERS and compensatory services for students with disabilities who are otherwise entitled to those services.
- 6. Provide individual progress assessments to families of students receiving SERS.**

Provide families with a progress assessment at the end of each SERS cycle of participation to document individual student's progress made during the cycle and additional on-going needs.
- 7. Establish an oversight plan to monitor and hold schools accountable for delivery of SERS.**

The Office of Special Education should gather data on the number of students receiving SERS at each school, district, borough, and citywide and should make that data publicly available. That data should be analyzed and used to determine where schools require additional support to enable hiring and retaining of staff and service providers or professional development to support academics and intervention.



MANHATTAN

1010 Avenue of the Americas, Suite 301, New York, NY 10018

tel: 212.674.2300 fax: 212.254.5953 vp: 646.350.2681

QUEENS

80-02 Kew Gardens Road, Suite 400, Kew Gardens, NY 11415

tel: 646.442.1520 fax: 357.561.4883

[www.cidny.org](http://www.cidny.org)

**The following testimony was provided virtually to the New York City Council on September 21, 2022 by CIDNY in support of students with disabilities:**

Dear New York City Council Members:

Good afternoon, my name is Dr. Sharon McLennon-Wier. I am the Executive Director for the Center for Independence of the Disabled, New York (CIDNY). Due to the short period of time to submit this testimony, and being a totally blind person, I will have my colleague read this testimony on behalf of CIDNY.

Hello, my name is Alexa Lofaro, and I am the Senior Director of Consumer Programming at CIDNY. CIDNY's mission is to ensure full integration, independence, and equal opportunity for all people with disabilities by removing barriers to the social, economic, cultural, and civic life of the community.

Today, we are here to advocate for the needs of students with disabilities living in New York City. We are partnering with the Action for Reform in Special Education (ARISE) Coalition to address the essential needs of students with disabilities. CIDNY and ARISE want to ensure that each student with a disability has an enriched educational experience. This experience should lead to knowledge, gainful employment, and engagement in recreational and social activities in the community.

In fact, the law requires students with disabilities to have access to a free, appropriate public education in their least restrictive environment, and for schools to provide each student with a disability with an individualized education plan (IEP) that is reasonably calculated to enable that student to make meaningful progress in light of their own unique circumstances. CIDNY is here today in support of ensuring that this law is followed, and to provide concrete suggestions towards that goal.

CIDNY is here to advocate for specific instruction for students with disabilities that will allow for a student to receive quality services. This consists of meaningful inclusion and integration, precise transparency and accountability from educators and policymakers, and the elimination of all practices that lead to discrimination and disproportionality in rates of referral, suspension, and segregated placements for students with disabilities from diverse backgrounds, and an increased rate of academic outcomes from all students with disabilities, especially those from diverse backgrounds.

In support of these efforts, CIDNY and the ARISE Coalition advocate for the following:

1. Provide comprehensive mental health services for our students with disabilities.
2. Provide students who are transitioning to post-secondary education and/or the world of work with comprehensive psychological evaluations that will assist the person to obtain academic or work accommodations when they leave the school setting.

3. Neuropsychology of education states that we must use procedural memory to teach students, including students with disabilities. In support of this, we are also advocating for educators to teach students a second or third language before the age of 5 years. This is critical for language fluency because at this point in the student's life, neural pruning of neural pathways has not occurred because the brain is not fully matured until the age of 25. Educators should teach students differently, and tailor their educational strategies to meet the unique needs of the students in their classrooms. Each student has a specific brain which utilizes their environment through observational learning, the seven senses including kinetic, and utilization of neural pathways. This action helps the student to store information in their long-term memory store. We want to promote creativity and innovation because we need to identify and nurture each student with a disability's talent.
4. Reform decision making practices across all DOE structures, from Central through the boroughs, districts, and individual schools, to assure that all students with disabilities—regardless of classification, grade, or language of origin—are considered at the outset on all policy and budgetary matters.
5. Guarantee that each child with a disability receives specialized instruction and services, including assistive and adaptive technology, literacy instruction, and appropriate physical, social and behavioral supports, in all areas of identified need.
6. Guarantee that each school is prepared to offer affirmative school-wide supports and interventions to address behavioral needs and literacy needs of all students using, for example, restorative justice practices to address discipline issues in our schools.
7. Provide the critical resources for on-site training and on-going support for school-wide best practices to identify, include and accommodate students with a range of disabilities.
8. Provide equal and equitable social and physical access to school sites and programs for all students with special needs and their families pre-k through age 21, particularly at key articulation points (for students entering kindergarten, middle and high school).
9. Make sure that all buildings are safe and updated with the most current teaching instruments, including computers and smart boards, to teach technological advances to students with disabilities.
10. Promote parity of space, design, and resources in all co-located facilities to ensure that students with disabilities have equal access.
11. Create structures to ensure robust transition planning to ensure all students with disabilities are college and/or career ready and have the adult life skills and self-advocacy capabilities to successfully navigate the path they choose to follow graduation from high school.
12. Ensure that parents receive real-time, complete, and accurate information in the language of the family's choice regarding their rights, their individual students' needs and abilities, school choice, and service delivery.

13. Create and widely publicize a user-friendly navigation path within the DOE for families seeking support to address rights violations and unmet students' needs.
14. Institute transparent lines of accountability to document student progress and service delivery (or lack thereof) through the development of a system-wide monitoring structure (including currently planned upgrades to SESIS) that makes such data and outcomes available to families.
15. In dealing with students with emotional disorders, we should use a more holistic and humanistic approach including trauma therapy in order to determine the underlying issue causing the emotional disturbance.
16. Instruction should be addressed in students' primary language, including American Sign Language (ASL).
17. Transition services should begin prior to age 14; ideally beginning with Kindergarten-age students.
18. We recommend instituting clinical supervision with measurable tools for counselors to determine efficacy that yield tangible results.

Thank you,

Sharon McLennon Wier, Ph.D., MEd., CRC, LMHC

Executive Director

She/Her

Center for Independence of the Disabled, NY

1010 Avenue Of The Americas, Suite 301, New York, NY 10018

(Located on the corner of 6th avenue and 38th street)

Office Phone: 646-933-0174 Ext: 1174

Mobile Phone: 929-527-0144

Email: [smclennonwier@cidny.org](mailto:smclennonwier@cidny.org)

Visit our [website](http://www.cidny.org) and join the conversation on our [Facebook](#) page

**New York City Council Oversight Hearing  
on Meeting the Needs of All Students with Disabilities  
September 21, 2022**

We would like to thank the New York City Council's Committee on Education for holding this important oversight hearing on how the City is meeting the needs of ALL students with disabilities. My name is Lori Podvesker, and I am the Director of Policy at INCLUDEnyc. For nearly the last 40 years, INCLUDEnyc (formerly Resources for Children with Special Needs) has helped hundreds of thousands of NYC families navigate the complex special education service and support systems.

According to the February 2022 Mayor's Management Report and November 2021 Local Law 27 report to the City Council, there are nearly 300,000 students with disabilities ages 3-21 receiving special education services and supports that the City of New York is responsible for providing and overseeing. This includes approximately:

- 26,000 preschoolers ages 3-5 in which the majority attend nonpublic programs due to the ongoing shortage of preschool special education classes
- 270,000 school-age students ages 5-21
- 26,000 students attending a District 75 program
- 32,000 English Language Learners representing 19% of school-age students with IEPs
- 7 out of 10 school-age students are classified with speech and language impairment or learning disabilities
- 24,000 school-aged students classified with autism
- 8400+ school-aged students classified with emotional disturbance
- 5600 school-aged students classified with intellectual disabilities (formerly known as mental retardation)
- 20% of IEP evaluations not occurring within the legal timeline of 60 days
- 52,000+ school-aged students with IEPs who spend the majority of their school days in segregated settings
- 24,000 students who did not receive any or all their mandated IEP related services
- Less than 2 out of 10 special education students in grades 3-8 proficient in Math or English
- A little more than half of all students with disabilities who take standardized tests graduate in 4-years

We commend the City and Department of Education for using federal stimulus funds to make enhancements specifically targeted for school-age students with suspected or known disabilities, improving literacy instruction throughout the city, identifying struggling readers, including students with dyslexia, and piloting new related specialized programs next school year.

However, these initiatives are nowhere near enough to address longtime systemic policy and cultural barriers for all students with disabilities and their families, and nor will they impact ALL students with disabilities.

The last 2.5 years have made it clearer than ever before that the City must do things differently than it has for a long time to appropriately and equitably educate all students with disabilities. Too many students with disabilities did not access special education recovery services last school year as the result of the short amount of time the City had to develop and implement a related plan, shortage of qualified related service providers, and the City's inability to provide transportation. As a result, these services were significantly underutilized, further leaving behind one of the most underserved and largest groups of students within our system.

It is time for the City to consider radically changing how special education works. All students with disabilities deserve access to quality instruction, an adequate number of qualified teachers, timely evaluations, the delivery of all mandated related services, bilingual programs, services and supports, consistent and reliable transportation to and from school, and integration.

With school budget cuts, the fading of stimulus funds, and the current inferior accountability structures that measure individual student learning outcomes and the success of individual schools, we urge this Committee and the Council as a whole to immediately set up two additional public-facing fiscal accountability structures that follow how all allocated special education money is spent; one to track money in community school districts 1-32, and a separate one for District 75. This is because District 75's budget is separate and different from the special education money allocated for the provision of services and supports to students with disabilities attending community school districts 1-32 and non-District 75 middle and high schools.

In addition, we recommend that the Department of Education and City:

- Increase the number of preschool classes
- Strengthen systemwide capacity to conduct quality special education evaluations for students from preschool and K-12th grades
- Use school-based data to determine student and staffing needs and then align and allocate funds based on that data to hire additional staff, including qualified bilingual evaluators where needed
- Improve access to quality transition services for students with disabilities ages 14 and above
- Require every school building where a District 75 program is collocated to have a visible sign with the name of corresponding District 75 school organization
- Create a citywide integration initiative for District 75
- Commission a study on how the DOE utilizes the special education continuum to determine how and where the city provides special education services, analyze the relationship of LRE and disability classifications, and document the extent to which students move to less restrictive settings and individual IEP goals are met

Thank you for taking the time today to consider this important matter. We look forward to working together and partnering with you to improve equity and access for all young people with disabilities in New York City.

Sincerely,

*Lori Podvesker*

Director of Disability and Education Policy

**TESTIMONY**

The Legal Aid Society  
to  
The New York City Council  
Committee on Education

Oversight: Meeting the Needs of Students with Disabilities

September 21, 2022

Presented by:  
Melinda Andra  
Supervising Attorney  
Kathryn A. McDonald Education Advocacy Project  
Juvenile Rights Practice  
Legal Aid Society  
199 Water Street  
New York, New York 10038  
[mlandra@legalaid.org](mailto:mlandra@legalaid.org)  
646-866-4057 (cell)

The Legal Aid Society thanks Chairperson Joseph and the Education Committee for holding this hearing focusing on meeting the needs of students with disabilities.

The Legal Aid Society is the nation's largest and oldest provider of legal services to low-income families and individuals. From offices in all five boroughs, the Society annually provides legal assistance to low-income families and individuals in some 300,000 legal matters encompassing three practice areas: the Criminal Defense Practice (CDP), the Civil Practice (CP), and the Juvenile Rights Practice (JRP). Our Criminal, Civil and Juvenile practices all engage in special education advocacy for children and young people with disabilities.

Our Juvenile Rights Practice provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Our Juvenile Rights staff typically represents more than 33,000 children each year. A very significant percentage of these children are children who have disabilities.

Our Criminal Practice handled nearly 220,000 cases for clients accused of criminal conduct last year. Many thousands of our clients with criminal cases in Criminal Court and Supreme Court are school-age teenagers and young adults with disabilities who need and are entitled to receive appropriate educational services.

Our Civil Practice works on more than 52,500 individual legal matters each year, including representing children and adults with disabilities and education advocacy for families with school-age children with disabilities.

In addition to representing these children each year in trial and appellate courts, the Legal Aid Society also pursues impact litigation and other law reform initiatives on behalf of our clients. Our perspective comes from our daily contacts with children, adolescents, and their families, and also from our frequent interactions with the courts, social service providers, and city agencies

including the NYC Department of Education (DOE), NYC Department of Health and Mental Hygiene (DOHMH) and the NYC Administration for Children's Services (ACS).

The Legal Aid Society represents children with disabilities who are involved in the juvenile legal system, the criminal legal system, the child welfare system, and low-income students with disabilities in the community whose parents who come to us seeking help for their children.

We know from our work that there is a tremendous amount of intersectionality between the systems that affect our clients. Unmet educational needs are a risk factor for involvement in the child welfare, juvenile legal and adult criminal legal systems. Consequently, students with disabilities are overrepresented in each of these systems, and are often segregated into very restrictive programs in New York City schools. Moreover, students of color and under-resourced children are overrepresented in all of these systems, as well.

Having a child with a disability can be an enormous stressor for families. New York State data show that 47 percent of students in the foster care system in the state of New York are identified as having disabilities (more than 2.5 times their rate in the overall student population).<sup>1</sup> Additionally, students with disabilities whose educational needs are not being met may be more likely to have school refusal behaviors which can then result in Family Court charges being brought against their parents. From August 2020 until November 2021,

---

<sup>1</sup> Chantal Hinds, *Why Data Matters for New York Students in the Foster Care System*, 8/11/22, Available at [Why Data Matters for New York Students in the Foster System – Next100 \(thenext100.org\)](https://thenext100.org/why-data-matters-for-new-york-students-in-the-foster-system). (See also Sheryl Larson and Linda Anderson, *Children with Disabilities and the Child Welfare System: Prevalence Data*, available at <https://publications.ici.umn.edu/impact/19-1/children-with-disabilities-and-the-child-welfare-system#:~:text=The%20presence%20of%20a%20child%20with%20a%20disability,child%20at%20increased%20risk%20of%20abuse%20or%20neglect>

NYC school staff made a total of 9,674 reports against parents in which the sole allegation was educational neglect.<sup>2</sup>

In addition to being overrepresented in the child welfare system, children with disabilities are also overrepresented in the juvenile legal and criminal legal arenas. Some studies estimate that nationally between 65-70% of youth involved with the juvenile legal system meet the requirements for a disability.<sup>3</sup> This is not inconsistent with our experience in New York City.

The Legal Aid Society has two projects whose focus is on the educational needs of students with disabilities. The Kathryn A. McDonald Education Advocacy Project in the Juvenile Rights Practice and the Education Law Project in the Civil Practice both provide special education advocacy and advocacy in disciplinary proceedings with the NYC DOE.

### **Int. No. 582**

In 2022, many public schools in our city are still not ADA complaint.<sup>4</sup> It is additionally extremely difficult for parents of students with accessibility needs to identify which schools they or their children can even enter. The Legal Aid Society supports Int. No 582, which would require the DOE to provide information requiring school compliance with the Americans with Disabilities Act (ADA). While the DOE has hired accessibility coordinators, students and parents continue to find it difficult to locate accessible programs. Increased reporting on school

---

<sup>2</sup> Asher Lehrer-Small, *Over 9,600 NYC Students Reported to Child Protective Services Since August 2020*, 1/27/22. Available at [https://news.yahoo.com/over-9-600-nyc-students-121500268.html?fr=sycsrp\\_catchall](https://news.yahoo.com/over-9-600-nyc-students-121500268.html?fr=sycsrp_catchall).

<sup>3</sup> Catherine Y. Kim, Daniel J. Losen, and Damon T. Hewitt, *The School-To-Prison Pipeline; Structuring Legal Reform*, New York University Press, pp.112-114, 2012.

<sup>4</sup> In 2015, a federal investigation concluded that 83 percent of New York City public elementary schools were not “fully accessible.” See Benjamin Wiser, *Most New York City Elementary Schools are Violating Disabilities Act Investigation Finds*, 12/21/15, accessible at <https://www.nytimes.com/2015/12/22/nyregion/most-new-york-elementary-schools-are-violating-disabilities-act-investigation-finds.html#:~:text=A%20two-year%20federal%20investigation%20has%20concluded%20that%2083,in%20violation%20of%20the%20American%20With%20Disabilities%20Act> Additionally, only 56 out of the city’s 480 public high schools (less than 12%) were considered “fully accessible” under the Americans with Disabilities Act. See Amy Zimmer, *High Schoolers with Disabilities Struggle to Find Space in City Schools*, 12/19/16, accessible at <https://www.dnainfo.com/new-york/20161216/battery-park-city/high-schools-nyc-students-with-disabilities-ada-accessibility/>

compliance with the ADA will help parents identify accessible schools, and will assist the DOE in determining which school buildings require modifications in order to become fully accessible.

### **Other Important Issues For Students With Disabilities**

Other important issues that the DOE must address include the following:

- 1) The need for timely and comprehensive special education evaluations;
- 2) The need for a system to address needs of all students with disabilities to receive compensatory services when warranted;
- 3) The need for increased reporting about special education needs of detained and incarcerated youth; and
- 4) The inclusion for students with disabilities in new programs being developed by the DOE.

### **The Need for Timely and Comprehensive Evaluations**

The most basic element required to meet the needs of a student with a disability is a comprehensive evaluation because good assessments provide the basis to determine the educational services that a student with a disability will receive, and to determine whether the student is making progress. One of the effects of the Covid shutdown has been a continuing bottleneck in the provision of special education evaluations by the DOE. As the members of the Education Committee well know, from March 2020 until September 2020, New York City schools were shut down and all educational services were provided remotely. Even when elementary schools reopened on a hybrid schedule in September 2020, and most teachers were required to return to their classrooms, school psychologists employed by the DOE continued to work remotely. Because none of the standard tools customarily used to assess students had been standardized for remote administration, virtually no formal evaluations were completed

between March 2020 until September 2021, even though New York City schools were open. Instead, students who were due to receive triennial evaluations or whose parents requested evaluations were assessed based on teacher reports, parent interviews, and other informal measures. This has created a huge backlog of students who need to receive high quality assessments that the DOE has been unable to meet.

Even for basic psychological and educational testing, students can wait longer than the 60 day timeline for evaluations which is required by the Individuals with Disabilities Education Act (IDEA) and by New York State regulation (8 N.Y.C.C.R 200.4 (b)(1)). The delays are even greater when students require specialized assessments, such as assistive technology evaluations or bilingual psychological assessments. Staff of the Education Advocacy Project and the Education Law Project frequently attend IEP meetings only to find that evaluations are incomplete and that the school based support teams cannot recommend needed services such as speech and language or assistive technology, due to the lack of complete evaluations. In some cases, this happens even when members of the team agree that there is a good basis to believe the student requires the service. These delays can be even more extreme when a student requires a bilingual evaluation. English Language Learners routinely wait far longer than English proficient learners to receive evaluations. It is crucially important that the DOE address this need by either recruiting and retaining additional school psychologists on staff, or by retaining private psychologists, in order to address the backlog.

**The Need for a System to Fairly Address the Needs of All Students with Disabilities to Receive Compensatory Services When Warranted**

A second vestige of the Covid-19 epidemic which continues to plague students with disabilities is the learning loss that they suffered. Most students suffered some measure of learning loss during the pandemic. However, this loss was even more pronounced for students with disabilities many of whom faced particular challenges accessing their educations through remote instruction or lacked access to needed therapies during the pandemic. Many therapies such as occupational therapy, physical therapy or behavioral supports could not be effectively provided remotely. School staff were stretched thin during the pandemic making it a challenge to give students who required individualized attention the services they needed.

Students with disabilities have a legal right to compensatory services when their school does not provide all the services mandated by their IEPs. Although the DOE offered Special Education Recovery Services during the 2021-2022 school year, the program was not designed to meet the individualized needs of students with disabilities. The program started late in the school year and many schools struggled to staff the program. The majority of students who needed additional services did not receive them. Most students have their annual review meetings in the spring, meaning that they may not have another IEP meeting until the end of this school year. As a result, even though DOE staff have been directed to consider learning loss when developing new IEPs in 2022-23, that plan leaves many students out in the cold for this school year. Also, parents are routinely told that services cannot be added at an annual review because the entire IEP team is not present.

We urge the DOE to create a system to affirmatively review the case of every student with a disability who suffered learning loss during the pandemic, to determine what services may have missed and create a plan to provide compensatory services to help bring the student

to the level they would have attained had they been provided with the mandated services all along.

### **The Need for Increased Reporting About The Special Education Needs of Detained and Incarcerated Youth**

Like all young people, students with disabilities need access to meaningful academic experiences and career pathways, and need services to support their social-emotional well-being. However, individuals with disabilities are often exposed to exclusionary school practices which push them out of school and into the school-to-prison pipeline. Consequently, students with disabilities are overrepresented in the juvenile legal and criminal legal systems. When students with disabilities are detained, they are often deprived of the educational services they need and to which they would otherwise be entitled, even when they are attending public schools.

Young people who are detained in New York City's juvenile facilities or who are incarcerated at Rikers Island waiting for their cases to be heard, and who are still of school age, attend one of two New York City public schools which are run onsite. Youth in juvenile detention (ages 13-17) attend Passages Academy, and youth detained at Rikers Island (ages 18-21) attend Island Academy. These are often youth whose cases have not yet been heard or who are awaiting disposition.

New York City Administrative Code 9-151, requires that the DOE report on the number of students enrolled in Island Academy, the number and percentage of students in these programs who had been identified as having disabilities and the number of students receiving special education services. Since 2018, this includes only those students between 18 and 21 years of age. Pursuant to this report, in 2020, 53% of students enrolled in Island Academy were

identified as students with disabilities. Although these were all students who were 18 and above, the report shows that only 13% of Island Academy students were functioning at a high school (Grades 9-12) level. Fifty-two percent were functioning at an elementary school level.<sup>5</sup>

At a New York City Council hearing held on April 21, 2021, the DOE's Executive Superintendent overseeing the DOE's Alternative Schools District, which includes these schools, testified that at that time approximately 65% of students at Passages (the school serving youth under the age of 18 detained in juvenile facilities) were identified as having disabilities and an IEP which mandated Special Education services.<sup>6</sup> This reflects a rate more than three times higher than that in the general community of New York City students<sup>7</sup> and is likely an underestimate as it does not account for students who may have disabilities, but who have not been identified as such due to lack of formal testing.

In order to serve this vulnerable population, it is important to have a thorough understanding of their needs and to ensure that the services they require are available to them at all DOE schools, including those schools that students attend while detained. We therefore suggest that the City Council consider:

---

<sup>5</sup> Rikers Island Education Report: Educational Programming for Adolescents and Young Adults at Rikers Island - Local Law 168 of 2017, N.Y.C. Dep't. of Educ., available at <https://auth-foi.hub.nyc.gov/docs/default-source/default-document-library/local-law-168-d79-sy19-20.pdf>.

<sup>6</sup> Testimony of Dr. Tim Lisante, NYC Department of Education Superintendent, District 79 at *Oversight: Educational Programming in Jails and Juvenile Detention; Joint Hearing Before New York City Council's Committees on Education, Criminal Justice, and General Welfare*. April 21, 2021, video available at <https://legistar.council.nyc.gov/Calendar.aspx>.

<sup>7</sup> It is estimated that approximately 19% of New York City students have IEPs. *What are the Contours of NYC's Special Education Landscape?*, The Research Alliance for New York City Schools, New York Univ., available at <http://steinhardt.nyu.edu/research-alliance/research/spotlight-nyc-schools/what-are-contours-nycs-special-education-landscape#:~:text=But%20students%20in%20New%20York,just%207%20percent%20in%20Houston>. Earlier reporting with respect to East River Academy finds about 39% of students had IEPs. Rikers Island Education Report: Educational Programming for Adolescents and Young Adults at Rikers Island - Local Law 168 of 2017, N.Y.C. Dep't. of Educ., available at [https://infohub.nyc.gov/docs/default-source/default-document-library/local-law-168-d79-english.pdf?Status=Temp&sfvrsn=7cc4ef53\\_2](https://infohub.nyc.gov/docs/default-source/default-document-library/local-law-168-d79-english.pdf?Status=Temp&sfvrsn=7cc4ef53_2).

- 1) Amending Administrative Code 9-151 to require that the DOE report on the number and percentage of students with disabilities enrolled in Island Academy who are fully served, partially served, or unserved as per the requirements of their individualized education plans (IEPs); and
- 2) Imposing a similar reporting requirement on the DOE, requiring reporting regarding students in the Division of Youth and Family Justice placements who are enrolled in DOE schools, including but not limited to:
  - a. The number of detained youth enrolled at DOE programs disaggregated by age;
  - b. The functional education level of detained youth enrolled in DOE programs, disaggregated by age;
  - c. The number and percentage of detained youth enrolled at DOE programs for whom IEPs have been developed; and
  - d. The number and percentage of detained students with disabilities enrolled in DOE programs who are fully served, partially served, or unserved as per the requirements of their IEPs.

We believe that reporting requirements will assist educators, the City Council and the community to ensure that the needs of students with disabilities within the juvenile legal systems are being adequately addressed.

**The Inclusion of Students with Disabilities in New Programs being Developed by the Department of Education**

One of the requirements of the Individuals with Disabilities Education Act is that the local educational agency create a plan and provide services to students with disabilities that

will enable them to transition to post graduate employment, vocational training or higher education. On September 12, 2022, Mayor Adams and Chancellor Banks announced the creation of the Career Readiness and Modern Youth Apprenticeship (CRMYA) program that will connect 3,000 students across more than 50 schools with paid multi-year apprenticeships. It was announced that the program will place public school students in paid apprenticeships at companies focused on New York City finance, technology, and business operations.<sup>8</sup>

As the City creates these new initiatives, we ask that the City Council demand that the DOE ensure the inclusion of youth with disabilities. As stated by Deputy Mayor for Economic and Workforce Development Maria Torres-Springer, "Providing early exposure to careers through skills training, quality internships, and apprenticeships will allow more of the city's young talent to leave school with the college credits, work experience, credentials, and, of course, the confidence required to successfully launch into the careers of today and tomorrow's workforce."<sup>9</sup> Leaving high school with marketable skills and work experience is even more vitally important for students with disabilities who need, and who are legally entitled to, assistance to create pathways to independent adult lives. We therefore urge the City Council and the DOE to ensure that students with disabilities are included in these initiatives and share in the opportunities that they offer to our city's youth.

## **Conclusion**

We thank the Committee on Education and Chairperson Joseph for their attention to the needs of students with disabilities and for recognizing their right to have access to high quality,

---

<sup>8</sup> [Mayor Adams Announces Historic Public-Private Partnership for Career Readiness | City of New York \(nyc.gov\)](#)

<sup>9</sup> *Id.*

inclusive programing that meets their educational needs by enabling them to make progress in their educational and post educational goals.

Many thanks for the opportunity to provide testimony. We are happy to answer any questions you may have.

Contact: Melinda Andra  
Supervising Attorney  
Kathryn A. McDonald Education Advocacy Project  
Juvenile Rights Practice  
Legal Aid Society  
[mlandra@legalaid.org](mailto:mlandra@legalaid.org)  
646-866-4057 (cell)



**The New York City Council  
Committee on Education  
Oversight Hearing – Meeting the Needs of All Students With Disabilities  
Written Testimony Submission from Legal Services NYC  
September 21, 2022  
Testimony Provided by Nelson Mar, Esq.**

Good afternoon, and thank you for the opportunity to testify at this oversight hearing for meeting the needs of all students with disabilities.

Legal Services NYC's ("LSNYC") (<https://www.legalservicesnyc.org/about-us>) mission is to fight poverty and seek racial, social, and economic justice for low-income New York City residents. Through litigation, advocacy, education and outreach, LSNYC has advanced the interests of our clients and created systemic changes that strengthen and protect low-income communities. We work to protect the rights of people with disabilities, veterans, immigrants, the LGBTIQ+ community, and other vulnerable constituents. We are deeply appreciative to the City Council for its many years of support for legal services, and for its championship of our mission and our work.

The Education Rights practice at LSNYC assists hundreds of New York City schoolchildren and their families each year to ensure access to education. We often represent students who are most at-risk and in need of advocacy including students living with poverty, students with disabilities, students facing exclusionary discipline, English Language Learners (ELLs), and other vulnerable student populations and their families. Our attorneys and social workers assist families with a host of education issues including school enrollment, language access, special education, disciplinary proceedings, transportation, reasonable accommodations, and academic intervention services with the goal to support vulnerable populations by improving educational outcomes and removing systemic inequities. Due to the long history of structural

racism these issues disproportionately impact students of color especially Black students and Black families. Over 80% of our student clients are children of color and/or immigrants ranging in age from 3 to 21. Almost all of the education clients we serve have a wide range of disabilities including learning, developmental, physical, behavioral and emotional, as well as the disabling impacts of trauma/adverse childhood experiences (ACEs) that affects a child's ability to learn and grow academically and socially.

For today's hearing, LSNYC raises this question with the Education Committee: are the public schools in New York City meeting the needs of students who have disability related conditions due to the impacts of trauma and adverse childhood experiences?

Long before COVID 19 elevated the issue of trauma to national prominence, neuroscience and behavioral research established that trauma and adverse childhood experiences (ACEs) negatively affect child development and often leads to disabling conditions both in childhood and later as adults.<sup>1</sup> The United States Centers for Disease Control and Prevention (CDC) estimates that preventing ACEs in children can lead to a reduction in a large number of health conditions including the number of adults with depression by as much as 44%!<sup>2</sup>

ACEs negatively impact a child's social, emotional, and cognitive development. ACEs are stressful and traumatic events that have negative, lasting effects on an individual's health and well-being.<sup>3</sup> These negative experiences range from physical, emotional, or sexual abuse to

---

<sup>1</sup> Center on the Developing Child (2007). *The Science of Early Childhood Development* (InBrief). Retrieved from [www.developingchild.harvard.edu](http://www.developingchild.harvard.edu); Chatterjee, R. CDC: *Childhood Trauma Is A Public Health Issue And We Can Do More To Prevent It*, NPR, Nov. 5, 2019. Retrieved from: <https://www.npr.org/sections/health-shots/2019/11/05/776550377/cdc-childhood-trauma-is-a-public-health-issue-and-we-can-do-more-prevent-it>.

<sup>2</sup> Centers for Disease Control and Prevention. *CDC Vital Signs*, November 2019. Retrieved from: <https://www.cdc.gov/vitalsigns/aces/index.html>

<sup>3</sup> *Adverse Childhood Experiences among New York's Adults*, Council on Child. & Families (2010), [https://www.ccf.ny.gov/files/4713/8262/2276/ACE\\_BriefTwo.pdf](https://www.ccf.ny.gov/files/4713/8262/2276/ACE_BriefTwo.pdf); V. J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults. The Adverse Childhood Experiences (ACE) Study*, Am. J. Prev. Med. (May 1998), <https://pubmed.ncbi.nlm.nih.gov/9635069/>.

separation from loved ones either through divorce, incarceration or to living with the cumulative effects of crushing poverty with food or housing insecurity. Some of these adverse experiences can come from a collective trauma or a societal history of trauma such as slavery and generations of racism and state sanctioned racist policies.<sup>4</sup> Consequently, children of color and low-income children on average experience many more ACEs than white children and children who come from economically advantaged families.<sup>5</sup>

It should come as no surprise that a large number of children in New York City have experienced more than one ACEs especially given all the direct and indirect impacts of the COVID 19 pandemic and the consistently large numbers of children living in poverty (over 20%) in the five boroughs.<sup>6</sup> Children who are negatively impacted by trauma and ACEs can present with disabling conditions related to behaviors and learning, and researchers have linked poor academic outcomes with children who are exposed to higher ACEs and incidents of trauma.<sup>7</sup>

The New York City public schools can help mitigate the disability related impacts of ACEs and trauma. Moreover, the Americans with Disabilities Act (ADA), the Rehabilitation Act of 1973, New York State Human Rights Laws, New York City Human Rights Laws and the Individuals with Disabilities Education Act (IDEA), arguably require NYC public schools to at a

---

<sup>4</sup> Andrew Curry, *Parents' Emotional Trauma May Change Their Children's Biology. Studies in Mice Show How*, Science.org (Jul. 18, 2019), <https://www.science.org/content/article/parents-emotional-trauma-may-change-their-children-s-biology-studies-mice-show-how>; *Healing the Wounds of Slave Trade and Slavery*, Healingthewoundsofslavery.org (Jan. 2021), [https://healingthewoundsofslavery.org/wp-content/uploads/2021/04/UNESCO-GHFP\\_2020\\_Healing-the-Wounds-of-Slavery\\_Desk-Review\\_Report.pdf](https://healingthewoundsofslavery.org/wp-content/uploads/2021/04/UNESCO-GHFP_2020_Healing-the-Wounds-of-Slavery_Desk-Review_Report.pdf).

<sup>5</sup> *Adverse Childhood Experiences*, Child Trends, <https://www.childtrends.org/indicators/adverse-experiences> (last visited Apr. 16, 2022).

<sup>6</sup> Poverty Tracker Research Group at Columbia University. *The State of Poverty and Disadvantage in New York City*. Volume 4. Robin Hood. April 2022.

<sup>7</sup> Blodgett, C., & Lanigan, J. D. (2018). The association between adverse childhood experience (ACE) and school success in elementary school children. *School Psychology Quarterly*, 33(1), 137-146. <https://doi.org/10.1037/spq0000256>

minimum provide accommodations for a student's trauma related disabling conditions.<sup>8</sup> The NYC DOE acknowledged such a responsibility when they agreed to settle a landmark lawsuit brought by our office in 2019 on behalf of students who experienced sexual harassment and assault.<sup>9</sup> Part of the settlement required the NYC DOE to develop new guidance aimed at making the special education evaluation and IEP development processes more trauma informed. (See attached guidance).

However, NYC and its public schools can do more than just be trauma informed. Research tells us that children are resilient and when provided with meaningful interventions they can actually heal from the effects of past trauma and ACEs.<sup>10</sup> In addition to preventing exposure to ACEs and trauma, the school community should focus on building resilience by creating safe, stable, nurturing relationships in the school community. These relationships not only help students cope with ongoing trauma, but they ensure that trauma-related behavioral challenges receive a compassionate, not punitive, response. This research-based approach goes beyond being trauma informed and centers efforts on *healing*.

In meeting the needs of students with disabilities, a healing centered approach would involve school administrators incorporating trauma responsive practices and supports in a students' individualized education programs (IEPs,) 504 plans, and academic intervention services for students who need such support.

---

<sup>8</sup> Tuchinda, Nicole. *The Imperative for Trauma-Responsive Special Education*, New York University Law Review. Vol. 95:766, June 2020. <https://www.nyulawreview.org/wp-content/uploads/2020/06/NYULawReview-Volume-95-Issue-3-Tuchinda.pdf>

<sup>9</sup> *Doe v. Richard Carranza et al*, 19-CV-02514 (SDNY) (PKC)(SJB)

<sup>10</sup> Center on the Developing Child, *The Science of Resilience (InBrief)*, Harvard University (2015). retrieved from [www.developingchild.harvard.edu](http://www.developingchild.harvard.edu); see also, Nicole R.. Nugent et al., *Resilience after trauma: From surviving to thriving*. *European Journal of Psychotraumatology*, 5 *European Journal of Psychotraumatology* 25339 (2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4185140/>

LSNYC helped found the Healing Centered Schools Working Group (HCSWG) in 2018 to advocate for the adoption of healing centered practices to address what many label as a children's mental health crisis.<sup>11</sup> Healing centered practices are vital to helping children exposed to trauma and toxic stress build resilience and learn. Healing-centered schools are also more likely to provide support for and reduce manifestations of trauma-related behavioral challenges, unlike punitive responses that exacerbate those challenges.<sup>12</sup> In addition, healing centered practices is a universalist whole school approach to meeting the needs of individual students lessening the reliance on limited outpatient mental health resources and potentially the need for special education services.

### **Recommendations:**

1. Given the high rates of exposure to trauma due to COVID 19 and historical inequities, NYC should implement a healing centered schools approach in all of its public schools as outlined in the HCSWG's Roadmap to meet the needs of students with disabling conditions related to the impact of trauma.<sup>13</sup>
2. The disabling impacts of trauma are but one aspect of the broad spectrum of mental health and behavioral health needs of students. The City Council should support the vision statement of the Campaign for Effective Behavior Supports for Students (CEBSS) [see attached] which in part advocates for the full implementation of the

---

<sup>11</sup> Shivaram, Deepa. *Pediatricians say the mental health crisis among kids has become a national emergency*. NPR, October 20, 2021; <https://www.npr.org/2021/10/20/1047624943/pediatricians-call-mental-health-crisis-among-kids-a-national-emergency>

<sup>12</sup> *Community Roadmap to Bring Healing-Centered Schools to the Bronx*, Healing-Centered Schools Working Group (June 2020).

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

Mental Health Continuum, a model that will provide the necessary supports for those students with more significant mental health needs.<sup>14</sup>

---

<sup>14</sup> Vision for Behavioral and Mental Health Supports in Schools, Campaign for Effective Behavioral Supports in Schools (2022).

## Considering Trauma in Special Education Evaluations and IEP Development

This guidance addresses the consideration of trauma overall in the special education evaluation and IEP development process using tools and best practices defined below.

The [Special Education Standard Operating Procedures Manual \(SOPM\)](#) sets forth the DOE's special education policies and procedures. This guidance supplements the SOPM and is intended to guide IEP teams to be cognizant of how trauma may impact a student and how the evaluation, IEP process, and discussions with parents around delivery of services should be approached when a student may be impacted by traumatic or adverse experiences. While trauma is not a disability in and of itself, instances of physical or emotional trauma may be factors giving rise to a student's disability or may affect a student's needs with regard to an existing disability. The "best practices" contained in this guidance provide some strategies that IEP teams and providers can use and should consider to ensure that the student's disability-related needs are being met, along with ensuring that they are supported through their period of adversity and associated impacts.

According to the Centers for Disease Control and Prevention, some Adverse Childhood Experiences (ACEs) may cause students to experience short-term or long-term trauma. Such ACEs may include, but are not limited to: physical or sexual abuse; witnessing domestic violence; the suicide of a family member; sexual and/or gender-based harassment (including violence), bullying, discrimination, and/or intimidation; long-term illness; or housing instability. The impact of adverse experiences on a student is influenced by a variety of factors, including the number and intensity of such experiences, as well as the student's developmental level, life experiences, level of exposure, parents' reactions, and prior functioning levels.

It is important to note that, according to the American Psychological Association (APA), most students who experience ACEs that result in trauma-related symptoms ("traumatic events") exhibit resilience and, after a period of time (several weeks/months), resume typical development, returning to their baseline functioning, particularly if the traumatic event is not ongoing. Short-term reactions to trauma may be adaptive to cope with the traumatic event and are not considered maladaptive. There is, however, a substantial minority of students who exhibit trauma-related symptoms beyond this period of time that require attention and intervention.

When working with a student who is exhibiting ongoing symptoms of trauma (e.g., intrusive flashbacks and traumatic re-experiencing, hypervigilance, impacted concentration and memory, and emotional dysregulation), schools/CSEs must refer to the Reevaluation Referral Guidelines as well as this guidance, to assess and respond to changes in academic performance and learning functions, regression, behavior in and out of the class, demeanor, interactions with peers, absences/tardiness from school, or physical changes.

For information on supporting students experiencing trauma, generally, including outside the context of the special education evaluation and IEP development process, refer to the [Resources to support all students who have experienced trauma](#) section below.

## Trauma-Informed Framework

All evaluations and IEP meetings must be approached in a trauma-informed, resilience-focused, and sensitive manner. If known in advance that the student has been struggling with the results of trauma, the school/CSE should consider whether staff members supporting the student's mental health needs (e.g., at-risk or IEP counseling provider) and/or staff members with whom the student or family is particularly close should participate in the meeting. This should be considered particularly when the student will participate in the IEP meeting (at a minimum, when the student is age 14 or older or transition planning will be discussed at the IEP meeting).

The school/CSE should consider the student as a whole including:

- How the student's functioning and behaviors, including learning functions and social-emotional functioning, have been suspected to be impacted by any traumatic or adverse experiences
- How to build resilience, trust, the feeling of safety in the school environment, self-regulation, and positive relationships with peers and staff, when needed by the student
- Focusing on their strengths

A trauma-informed approach promotes the following principles:

- Safety
- Trustworthiness
- Transparency
- Peer support
- Collaboration
- Empowerment
- Voice and choice
- Considerations around cultural and historical issues, race, gender, sexual orientation, and religious dynamics (following a culturally responsive-sustaining education framework)

Providers can give the student a sense of control, by explaining the assessment procedures while adhering to appropriate administration practices for standardized assessments, providing (when possible and appropriate) the opportunity for input (e.g., deciding which assessment measure to do first), and checking on the student's understanding of the process (during testing of limits in standardized assessments). In addition, the provider should consider how they are interacting with the student (e.g., promoting safety, trustworthiness, transparency, and collaboration) and interpreting the information, all in a culturally responsive manner.

DOE IEP team members must maintain confidentiality of all information shared, including traumatic events that a student has experienced, sharing and documenting only the information necessary to allow the IEP team and providers to serve the student in an appropriate manner. To the extent that the student's experiences include information that must be reported in accordance with DOE policies and procedures, including Chancellor's Regulations, IEP teams must follow the mandatory reporting procedures and maintain confidentiality as set forth in those procedures. Any modifications to the IEP in response to a traumatic event must not divulge unnecessary details about the reported traumatic event. IEP teams should advise the parent and student of DOE policies and procedures that require reporting, prior to discussing the student's "trauma story."

## Reevaluation

During a reevaluation, the IEP team must determine whether new assessments are needed to determine continued eligibility, special education needs, and whether any additions or modifications to the student's program or services are needed to enable the student to meet the goals on their IEP and to participate as appropriate in general education. Any meetings, communications, evaluations, and/or assessments should be performed using a trauma-informed approach.

**Please note that the assessments listed below are only examples of assessments that may be appropriate; for any individual student, the IEP team must consider which assessments will in fact be warranted.**

### Social History Update

Among other assessments, a social history update may be utilized to explore, with the parent, any suspected areas of adversity or long-term distress that has been manifested from trauma exposure. During this update, as appropriate, the social worker, during the interview with the parent, may explore the ways that the student may be impacted by traumatic events (e.g., experience of hopelessness, vulnerability, loss of control, fear).

### Psychoeducational Assessment

A trauma-informed assessment approach does not require using different assessment tools or measures. The school psychologist may consider including behavioral and socio-emotional assessments to assess the impact of adverse events on behavior and emotion across multiple domains and using multiple sources (e.g., the student, caregivers, teachers).

Childhood traumatic experiences can have a lasting impact during brain development and can inhibit the student's learning functions and academic performance. In a trauma-informed assessment practice, in addition to assessing antecedents, behavior, and consequences, the school psychologist can also assess the "DEFs": distress, emotional support, and family. During assessment, the clinician should consider the family history and functioning, any potential/known triggers to the student, and how to build trust with the student, among other things.

In interpreting the student's performance on assessments, the school psychologist should consider how the student approaches the assessments and interacts with the evaluator. The impacts of traumatic experiences may manifest during assessments as changes in performance, behavior, or functioning (e.g., avoidance, hypervigilance, inattention, dissociation, emotional dysregulation, mistrust of the evaluator, and performance insecurity). When writing the assessment report, the clinician should remember that the audience of this report is both the IEP team and the family. To build trust with the family, the report should focus on the student and the goal of empowering the family to understand what the assessment results mean. In addition to identifying areas of weakness, it should include a discussion of the student's strengths and resiliency factors (e.g., relationships, self-regulation, academic success, and physical health and safety). The report should also describe trauma reminders, strategies to mitigate the occurrence of trauma reminders, and skills to be mastered that promote resilience, such as emotion regulation and distress tolerance. The report must be free of any language that includes judgment and/or writer bias.

## Functional Behavioral Assessment (FBA) and Behavioral Intervention Plan (BIP)

An FBA may be warranted when a student's behaviors impede their learning or that of others. Whenever an FBA is being considered, the IEP team must complete the "Considerations of a Student's Need for Positive Behavior Supports, FBA or a BIP" form and fax into SESIS as a **Document Related to IEP** to ensure that the team considered ALL factors in determining the need for an FBA, including whether school-wide and/or classroom supports were consistently implemented and failed to adequately address the student's behavior.

Some students present with challenging behaviors that disrupt education, such as impulsivity, aggression, depression, dissociation, and inattention. An FBA can explore challenging behaviors and the function these behaviors serve, to help identify a plan of intervention to decrease these behaviors. An FBA should, among other things, identify the antecedent(s) to the behavior in order to support a plan that will effectively reduce problem behaviors by helping the student self-regulate. A trauma-informed FBA should, therefore, seek to identify the function of a behavior (e.g., a student's behavior may serve the function of restoring the student's feeling of safety) and consider and teach skills that will support and empower the student. While this will not change the function of the behavior, this will provide critical insight that should be considered as a part of the behavioral intervention plan (BIP), if applicable.

Refer to the [SOPM](#) for more information on FBAs.

## Other assessments

DOE members of the IEP team should use trauma-informed practices when considering and conducting these assessments. Depending on the individual student, other appropriate assessments **may** include:

- Speech and Language Assessment: Many students experiencing trauma have receptive and expressive language delays and have challenges with age-appropriate perspective taking and social cueing.
- Occupational Therapy Assessment: This assessment can help identify any developmental delays, as well as identifying what modifications may be needed in the student's learning environment to support the student's ability to self-regulate and to ensure the learning environment is safe, supportive, and predictable.
- Psychoeducational Assessment: This assessment can help explore the student's academic skill development, intellectual functioning, strengths and challenges in cognitive/learning processes and social, emotional, behavioral, and adaptive functioning. (See above for more detail.)
  - A neuropsychological assessment may also be considered, if, as determined to be necessary by the IEP team, additional information is needed beyond that collected in the psychoeducational assessment.

## IEP Meeting

### Strategies during the IEP meeting

While an IEP team is charged with determining a student's eligibility for special education and creating an IEP that offers the student a free appropriate public education (FAPE) in light of the student's disability, the IEP team must consider the student as a whole.

To ensure a culturally responsive and trauma-sensitive approach for both the student and the parent (who may also have experienced adversity and/or trauma), the IEP team should allow the student (or parent, if the student is not present) to express, to the extent the student or parent feels comfortable, how the traumatic experiences may have impacted the student and what support the student feels they need to navigate those

trauma impacts in the school environment. The DOE members of the IEP team should be willing to discuss the impact trauma may have had on the student at the IEP meeting. The DOE members of the IEP team should promote a conversation about the whole student; this includes the impacts of trauma on the student and skills that the student can use to feel empowered when faced with anxiety. Parents are required to be full members of the IEP team, and their input must be taken into consideration throughout the discussion of the IEP.

The team should not challenge or minimize the student's description of the experiences or how it has impacted them and should not ask the student or parent to disclose information they do not feel comfortable disclosing. The team must take into consideration the student and/or parent's suggestions for how they would like to be supported.

If a student is found ineligible, the IEP team and/or school should consider other ways to support the student, as discussed in [After the IEP meeting](#).

Considerations on the IEP

### ***Present Levels of Performance***

The IEP team must consider the parent's and student's educational concerns that may be impacted by trauma and the skills that the student should use to promote emotion regulation and distress tolerance. These should be documented on the IEP in the ***Present Levels of Performance*** section to the extent that they impact the student's experience in school. The IEP team should document in this section of the IEP (in general terms sufficient to convey information on a need-to-know basis to IEP team members and providers, as appropriate) that a parent, student, or DOE staff member raised a traumatic event during the meeting.

### ***Management Needs***

The IEP team should carefully consider the student's management needs. Management needs include the nature and degree to which environmental modifications, human resources, or material resources are required to enable the student to benefit from instruction. The IEP team should work to understand the student's trauma-related triggers and how to promote a feeling of empowerment in the student so that the student will engage in the learning environment. The IEP team should provide the student with skills that support emotion regulation and distress tolerance so that the student may fully participate in the learning environment. Expectations in the classroom should be clearly shared, and the teacher should provide cues to use learned skills if the student is exhibiting an anxious response. The IEP team should identify antecedents that tend to cause an anxious response in the student and provide skills to the student that will improve the student's ability to navigate these situations from an empowered perspective. The IEP team should also identify aspects of the learning environment that contribute to dysregulation and recommend alterations/modifications. Some examples of management needs responsive to the student's experience with trauma may include:

- If the student has reduced concentration, consider what environmental or other classroom modifications may help improve concentration and reduce sensory overload, such as:
  - Classroom seating that is responsive to the student's trauma reminders and needs (e.g., seating student in the back or side of the class)

- Considering attentional prompts and/or regular check-ins for regulation from the teacher or other classroom staff that are sensitive to the student's needs and reactions (e.g., discrete tap on the desk if verbal redirection or tap on the shoulder may be a trigger)
  - Modifying or shortening assignments
  - Providing regular breaks
- If the student has reduced memory, consider:
  - Organizational tools
  - Offering homework or other reminders
- If the student experiences dysregulation or challenging behaviors after exposure to trauma-related triggers, consider strategies for supporting the student's use of skills that build feelings of empowerment such as:
  - Grounding or mindfulness exercises
  - Distress tolerance and/or emotion regulation strategies (e.g., have students label emotions and remind students that these feelings are natural; remind students that they do not need to avoid/run away from negative feelings; provide students with opportunities to practice these skills and develop mastery)
  - Any other modifications to support the student's full participation in the classroom setting

**Reminder: These are only examples that may be implemented, but these may not be appropriate for every student. It is important to discuss with the family and IEP team members what strategies have proven successful or unsuccessful with this individual student.**

It is also important to examine the management needs that had been previously recommended to ensure that they are still appropriate in light of the effect on the student. If these environmental or other modifications to the classroom setting are not having a positive effect, the IEP team must explore alternatives.

### ***Measurable Annual Goals***

Students who have experienced trauma may benefit from goals aligned to their disability that relate to improving self-regulation and distress tolerance skills, strengthening self-advocacy, developing better coping skills, cultivating a positive self-image, improving social-emotional skills, and developing relationships with peers and staff. The IEP team should consider goals that address an underlying cause, not necessarily the observable behavior. For example, students who have experienced trauma often express feelings of being overwhelmed or having a lack of self-regulation. If a student frequently interrupts the teacher, the IEP team might create a goal to limit the number of interruptions. However, that would be targeting the behavioral consequences of trauma, rather than the root cause. To target the underlying issues, the IEP should focus on building self-regulatory skills and/or identifying alternative positive behaviors that help the student address the need(s) they are experiencing when they interrupt the teacher.

When it is appropriate to invite the student to the IEP meeting, the IEP team must work collaboratively with the student to develop these shared goals.

### ***Recommended Special Education Programs and Services***

Programs and services should be targeted to address the issues and effects relating to a student's disability. A student's response to trauma will not necessarily require services to be recommended on an IEP, except where that response impacts learning in a way that cannot be addressed through other interventions.

If counseling may be appropriate to address the impacts of trauma, the school should discuss the availability of at-risk counseling with the family. This conversation can take place at an IEP meeting, even if at-risk counseling is not a recommendation that is made on the IEP. If the student's experience with trauma appears to be resulting in mental or emotional health issues that negatively impact the student's ability to make educational progress, counseling may instead be recommended on the IEP as a related service, as appropriate.

- Counseling providers, whether at-risk or through an IEP recommendation, should consider evidenced-based trauma-informed interventions. See the resources section below regarding strategies for such interventions. **Note:** The specific interventions to be used during counseling should not be specified on the IEP, but teams may recommend the general use of trauma-informed approaches.
- Depending on the student's needs, the counseling providers should also work on building a student's social skills and peer supports, and in teaching skills relating to conflict resolution, turn-taking, accepting criticism, etc.

The student's IEP may recommend trauma-related management needs, supports, and interventions with which staff require training. To support staff's ability to work effectively with the student, the IEP team may recommend Supports for School Personnel on Behalf of the Student as a related service (covered in the SOPM), as appropriate. Supports may include, but are not limited to, information about the student's disability and implications for instruction, training in the use of particular interventions, or consultation with a school psychologist or school social worker.

If the parent is seeking additional academic support, the IEP team can discuss the request with the family at the IEP meeting and consider what tiered interventions (e.g., targeted academic intervention services (AIS), training for staff on behalf of the student, partnership with a community-based organization) might be appropriate. Where it is not appropriate to recommend special education programs or services, the school will determine what supports and services might be warranted and how to make these supports available.

### ***Behavioral Intervention Plan (BIP)***

Consistent positive behavioral interventions should be used for all students. A BIP may be needed – based on the results of an FBA – for a student with an IEP who is experiencing trauma and whose behaviors are negatively impacting their learning or that of others. As noted above, certain behaviors such as attention-seeking and avoidance, may result from trauma. For background information on BIPs, review the SOPM.

A trauma-informed BIP should lay out a proactive plan that will effectively reduce problem behaviors by helping the student address the underlying cause of the behavior, e.g., to help them self-regulate, ground themselves after traumatic re-experiencing or flashbacks, and/or exercise prosocial strategies to re-establish safety, agency, and control. Keep in mind when developing a BIP for a student who has experienced trauma that positive reinforcements will help promote a safe learning environment.

Common BIP strategies that are helpful and effective for some students may be inadvertently triggering for students experiencing the results of trauma. The BIP must be individualized to help students achieve mastery over their behaviors and develop tolerance with their full range of emotions, including those that may arise from traumatic experiences, and to avoid interventions that may trigger trauma reactions.

## After the IEP Meeting/Reevaluation

As appropriate, the school can schedule a separate meeting with the family at a later date to explore trauma prevention and intervention strategies if the conversation would be best held with a different group of individuals (e.g., including any at-risk counseling providers, other staff not taking part in the IEP meeting) or after an exploration of available school and community resources, as well as tiered interventions for both academic and behavioral support.

To increase consistency and predictability, it is important to ensure that all of the student's teachers/providers are informed as to any strategies that will be used or of any changes to a student's educational needs.

## Resources for supporting students with IEP with trauma-informed practices

- National Association of School Psychologists resources:
  - *Supporting Students Experiencing Childhood Trauma: Tips of Parents and Educators*, available at <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-climate-safety-and-crisis/mental-health-resources/trauma/supporting-students-experiencing-childhood-trauma-tips-for-parents-and-educators>.
  - *Trauma: Brief Facts and Tips*, available at <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-climate-safety-and-crisis/mental-health-resources/trauma>.
- American Psychological Association, *Creating trauma-informed individualized education programs*, available at <https://www.apa.org/pi/families/resources/newsletter/2018/11/trauma-teaching>.
- Federation for Children with Special Needs and the Recruitment, Training and Support Center for Special Education Surrogate Parents, *Trauma Sensitivity During the IEP Process*, available at <http://fcsn.org/rtsc/wp-content/uploads/sites/2/2013/11/Trauma-Sensitivity-During-the-IEP-Process.pdf>
- National Center on Safe Supportive Learning Environments, *Trauma Sensitive and Planning Checklist*, available at [https://safesupportivelearning.ed.gov/sites/default/files/Building\\_TSS\\_Handout\\_6assessment\\_and\\_planning.pdf](https://safesupportivelearning.ed.gov/sites/default/files/Building_TSS_Handout_6assessment_and_planning.pdf)

## Resources to support all students who have experienced trauma

- DOE resources
  - Social-emotional learning (including around supporting students experiencing trauma), available at <https://infohub.nyced.org/in-our-schools/programs/race-and-equity/social-emotional-learning>.
  - Social-Emotional & Mental Health Contacts for Support: BCO Student Services Team Resources, available at [https://infohub.nyced.org/docs/default-source/doe-employees-only/school-experience-survey\\_resources-and-supports.pdf](https://infohub.nyced.org/docs/default-source/doe-employees-only/school-experience-survey_resources-and-supports.pdf) (for DOE staff only).
  - Crisis Support, available at <https://infohub.nyced.org/nyc-doe-topics/students-and-families/crisis-support> (for DOE staff only) and <https://www.schools.nyc.gov/school-life/special-situations/crisis-or-traumatic-event> (public facing).
- The National Child Traumatic Stress Network, *Addressing Race and Trauma in the Classroom: A Resource for Educators*, available at [https://www.nctsn.org/sites/default/files/resources/addressing\\_race\\_and\\_trauma\\_in\\_the\\_classroom\\_educators.pdf](https://www.nctsn.org/sites/default/files/resources/addressing_race_and_trauma_in_the_classroom_educators.pdf).

- National Association of School Psychologists, *Managing Strong Emotional Reactions to Traumatic Events: Tips for Families and Teachers*, available at <https://drive.google.com/file/d/1OrPOTkalidOLZDM1t8itylBjbXBZyJyf/view>.
- New York State Education Department guidance, *Resources for Mental Health and Talking to People About COVID-19*, available at <http://www.nysed.gov/common/nysed/files/programs/coronavirus/talking-about-covid-19-memo-3-26-2020.pdf>.
- National Center for School Crisis and New York Life Foundation guidance, *Resources from the Coalition to Support Grieving Students*, available at <https://grievingstudents.org/>.
- Trauma and Learning Policy Institute, *Helping Traumatized Children Learn*, available at <https://traumasensitiveschools.org/tlpi-publications/> and *The Solution: Trauma Sensitive Schools*, available at <https://traumasensitiveschools.org/trauma-and-learning/the-solution-trauma-sensitive-schools/> (the entire website is filled with helpful and pertinent resources)
- Education Law Center, *Unlocking the Door to Learning: Trauma-Informed Classrooms & Transformational Schools*, available at <https://www.elc-pa.org/wp-content/uploads/2015/06/Trauma-Informed-in-Schools-Classrooms-FINAL-December2014-2.pdf>
- American Psychological Association, *Children and Trauma Update for Mental Health Professionals*, available at <https://www.apa.org/pi/families/resources/children-trauma-update>.
- Centers for Disease Control and Prevention, *Violence Prevention*, available at <https://www.cdc.gov/violenceprevention/aces/index.html> and <https://www.cdc.gov/violenceprevention/aces/fastfact.html>.

This Page Intentionally Left Blank

A photograph of three young people in a school setting. On the left, a young woman with short blonde hair, wearing a yellow hoodie and yellow headphones, is smiling broadly. In the center, a young man with dark curly hair, wearing a green shirt and yellow headphones, is also smiling. On the right, a young woman with dark hair tied back, wearing a purple turtleneck and a denim jacket, is smiling and pointing her index finger towards the camera. They are all holding spiral-bound notebooks. The background shows a modern school building with large windows and a staircase.

# **CAMPAIGN FOR EFFECTIVE BEHAVIORAL SUPPORTS IN SCHOOLS**

Vision for Behavioral and Mental Health Supports  
in Schools

## About the Campaign for Effective Behavioral Supports in Schools

CEBSS is a coalition of 9 advocacy, social service, and community-based organizations, formed in 2012 to combat the increasing practice of school staff unnecessarily sending students to hospital emergency rooms via Emergency Medical Services (EMS) when staff were unable to address students' social-emotional needs. We aim to keep students in school and learning in their communities by advocating for investments in school-based behavioral support systems and policies, such as trauma-informed and healing-centered approaches.

It is more critical than ever that children and families are welcomed into safe and supportive school environments and students are connected with the direct mental health services they need. As highlighted in recent advisories by the U.S. Surgeon General, the American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry, and the Children's Hospital Association, the COVID-19 pandemic has impacted the mental health and well-being of all children, exacerbated unmet youth mental health needs that existed before the pandemic, and spurred a national youth mental health crisis.

New York City's approach to addressing the social-emotional needs of students in schools has been fragmented and woefully deficient. Advocates and mental health providers still see an alarming number of students sent to local hospital emergency rooms, subjected to police intervention, or suspended from school for student behavior that can and should be effectively supported and addressed at the school level. In the 2018-2019 school year alone, the NYPD reported 3,544 "child in crisis interventions" in which a student displayed signs of emotional distress, was removed from school by police, and was sent to a hospital for a psychological evaluation. Of these students, 47% were Black despite Black students accounting for only 25% of the total NYC public school population. Moreover, during these transports, some students as young as 5 were handcuffed. This horrifying practice continues today: in fall 2021, between October 1 and December 31, the NYPD reported intervening in 653 instances of students in emotional crisis. Through our work we know the traumatic impact of police intervention, EMS transport, unnecessary hospitalization, classroom removal, and suspensions on students, families, and school staff.

Furthermore, these responses do nothing to address the root causes of student behavior, reduce time spent in class learning, and correlate with poor academic outcomes, decreased likelihood of graduating, and increased likelihood of entering the juvenile/criminal legal system.

## CEBSS Recommendations for Increased Behavioral Supports in Schools

Schools need key resources to prevent emotional crises by addressing the root causes of student behavior and to address crises when they do occur using a public health response that minimizes trauma and connects the family or support network to timely, effective behavioral health treatment. The City needs to create a comprehensive, integrated system of behavioral and mental health supports for students that leverages cross-agency collaboration. To ensure schools have adequate resources to address students' behavioral and mental health needs, the city must:

- **Follow recommendations made by the Healing-Centered Schools Task Force, which recognize that social-emotional well-being is a necessary ingredient for learning;**
- **Fully implement and scale up the Mental Health Continuum, a model for integrating a range of direct services to students with significant mental health needs in high-needs schools partnered with hospital-based clinics;**
- **Ensure behavioral health services for students are effectively communicated to all families;**
- **Expand access to school-based mental health clinics and partnerships with community-based providers;**
- **Ensure social workers in schools have the support and resources to effectively serve students;**
- **Expand and implement school-wide restorative justice practices in all schools; and**
- **Revamp and enhance supports for students with behavioral disabilities in NYC District 75 special education schools and District 79 schools.**

## **Follow recommendations made by the Healing-Centered Schools Task Force\***

Healing-centered schools are schools that have removed harmful structures like punitive discipline, school policing, metal detectors, and exclusionary or biased curricula and have intentionally adopted—through community-led processes—trauma-responsive classroom practices, integrated mental health and wellness supports, school-wide restorative and supportive practices, parent and student engagement, anti-racist and culturally-responsive curricula, strengths-based learning, and opportunities for enrichment and creative expression. Healing-centered schools are not one size fits all – they are holistic learning environments that have undergone an individualized, whole-school culture shift co-created through the valued input of students, parents and caregivers, and staff.



## **Fully implement and scale up the mental health continuum for students with significant mental health needs**

Last year, the City allocated \$5 million for a promising model called the Mental Health Continuum, for integrating a range of direct services and developing stronger partnerships with hospital-based mental health clinics to provide more effective and efficient supports for students with significant mental health

needs. However this funding was only provided for FY22. This model aims to meet the needs of students with significant mental health challenges in the schools and neighborhoods with the highest rates of NYPD interventions, suspensions, and chronic absenteeism. The Mental Health Continuum represents the first ever cross-agency collaboration (DOE, Health + Hospitals, and DOHMH) to help students with significant mental health challenges access direct mental health services in school and connect students to other services throughout the city. The City allocated only one year of funding for the Mental Health Continuum in 50 high-needs schools in the South Bronx and Central Brooklyn. The funding will expire in June 2022. This is an essential initiative for youth in these schools and vital to meet their critical mental and emotional health needs.

## **Ensure behavioral health services at each public school are effectively communicated to families**

While mental health and wellness programs and services are offered at each school and different approaches are used depending on various factors, many parents and students are unsure where to turn when seeking behavioral and mental health services in schools. The DOE should make clear the mental health services available in each school, the populations they are designed to serve, and the processes for accessing them, in readily-available materials to parents, caregivers, and communities both on school websites and school choice guides. The DOE should also conduct outreach to families using multiple methods that do not require digital literacy or internet access—such as sending notices on paper directly to families, phone calls, and text messages—informing them about the mental health services at their school in their home language.

## **Expand access to school-based mental health clinics and partnerships with community-based mental health providers**

There are approximately 280 schools with a School-Based Mental Health Clinic, out of 1,866 schools (approx 15%). We must increase access to this vital support and provide ongoing support to existing clinics so that more students have access to timely, ongoing mental health care at school, and schools have the support of trained clinicians when working with students with mental health needs. Given the current crisis in youth mental health, our students

\* Healing-Centered Schools Task Force, Recommendations to Bring Healing-Centered Education to New York City Public Schools During the 2021-22 School Year (July 2021), <https://advocate.nyc.gov/static/assets/HCSF%20Recommendations%20Report.pdf>.

need timely, effective direct mental health services in school. School-Based Mental Health Clinics and school partnerships with community-based mental health clinics have proven to eliminate barriers that prevent young people and families from seeking mental health care by providing services onsite in schools. In addition to providing ongoing therapeutic services to students, school-based mental health clinicians and community providers work directly with school staff to coach them in strategies to support students in the classroom, prevent behavioral challenges, and better respond when behavioral issues and crises arise.



### **Ensure social workers in schools have the support and resources to effectively serve students**

We applaud the City's hiring of 500 new social workers to support students this school year. Now, more than ever, our students need staff in schools who can provide direct support to meet their social-emotional needs. While we support this investment in our students and school communities, we recommend

that the DOE: ensure social workers have access to clinical supervision; limit social workers' responsibilities solely to providing direct services to students, as opposed to programmatic or administrative duties; and provide opportunities for professional development and culturally-relevant training.

### **Expand and implement school-wide restorative justice practices in all schools**

To fulfill their commitment to students, the City must expand and complete the full implementation of school-wide restorative justice practices in all schools. Restorative practices address the root causes of behavior, hold students accountable while keeping them in school learning, build and heal relationships, and teach positive behaviors. They also correlate with improved academic outcomes, school climate, and staff-student relationships.

### **Revamp and enhance supports for students with behavioral disabilities in districts 75 and 79**

Currently, many students with behavioral challenges are referred to District 75, the DOE's Specialized School District only for students with disabilities, and District 79, the DOE's Alternative Schools District. However, many of these students do not make progress and do not receive the intensive behavioral and mental health support they need in the least restrictive environment. Instead, they are regularly subjected to policing, exclusionary discipline, and illegal informal removals, where students are removed from educational settings without due process and other protections for students with disabilities in violation of the law and the DOE's disciplinary policies and procedures. Given these students' significant behavioral needs, the DOE must provide District 75, 79, and other school staff with training on developing effective behavioral intervention plans and coaching to implement the plans, and provide these students with individualized support and clinical mental health services in the least restrictive setting.

## **Organizations in CEBSS**

- Advocates for Children of New York
- Bronx Defenders
- Brooklyn Defender Services
- Citizens' Committee for Children of New York
- INCLUDEnyc
- MHA of NYC, dba Vibrant Emotional Health
- Citywide Oversight Committee Family Co-Chairs
- The Legal Aid Society
- Legal Services NYC (Bronx Legal Services, Brooklyn Legal Services, Queens Legal Services, and Staten Island Legal Services)



Good Afternoon my name is Jennifer Manning and I am the Director of Special Populations for Neighborhood Charter Schools (NCS). Thank you for the opportunity to present testimony today.

Neighborhood Charter Schools is a charter network that has been open since 2012. Our Harlem campus currently serves students in grades K-8 and our Bronx campus currently serves students in grades K-4. We will continue to add a grade to our Bronx campus each year until our students reach the 8th grade.

NCS is unique in that we have a program within our school that serves Autistic children within a fully integrated setting. The students within our ASD program currently make up about 15% of our total student population. Our supports within our ASD program include: ICT class settings with reduced class sizes, implementation of strong tier 1 supports, use of Social Thinking language and curriculum, and Social Club with our speech-language pathologists. We also provide more individualized support as needed such as sensory diets and supports, flexible seating, visual supports, social stories, break plans, etc. It is our belief that we can make shifts to instructional practices to be inclusive of all students while still having a rigorous academic bar. Our success in this area is evidenced from the high academic achievement scores for students with disabilities within our school. We also work to support our families within our ASD program and hold a monthly emotional support group meeting. During this meeting we have a family speaker around different topics that our students are struggling with. Parents have the opportunity to ask each other questions, provide resources, and build community within the group.

At NCS we also have a strong Response to Intervention (RTI) program. This is designed to ensure we are using data to create targeted goals for students who are performing below grade level throughout the year. Our Special Education Coordinators meet monthly with teachers to study data, create goals, and determine targeted interventions to meet those goals. Our Special Education Coordinators are able to observe and support teachers with the implementation of interventions so our students are getting the high level of support that they need.

Another program that makes NCS unique is our BRIDGE program. While we hold a high academic bar and tailor instruction to meet individual needs, there are times that students need more restrictive support than an ICT setting can offer. We developed our BRIDGE program to help give that level of support while still ensuring that students are integrated within a general education setting. The purpose of the BRIDGE program at NCS is to address the unique needs of scholars who require more instructional support in ELA and math than an ICT classroom. This program gives scholars a chance to receive the individualized and foundational support they need while still participating in an inclusive program throughout the day. Our program allows students to feel successful within academics and foster a love of learning in school while also addressing gaps within content knowledge and skills. Students receive instruction within the BRIDGE classroom multiple times throughout the day depending upon which subjects they need additional support. Our BRIDGE teachers utilize different programs and modalities to address foundational skills and grade level standards to fill in knowledge gaps, build student access to grade level content, and create an environment where students feel successful. Instruction is planned and developed through data study to ensure that individualized student needs are being met.



Within our school we have internal speech language pathologists and counselors, however we do not employ our own occupational therapists, physical therapists, or paraprofessionals. We utilize DOE agencies for these services as well as for additional speech-language mandates as our internal providers aren't able to meet the high volume of mandates. However, particularly since the COVID-19 pandemic, it has been difficult to secure DOE providers and many of our students have experienced gaps within services. We have followed the escalation protocol and have been over communicative with the Committee on Special Education about these issues, however we still have students who have missed services and are often issued RSAs. Once an RSA is issued the burden to find a provider to complete a service falls to the parent and it is often very difficult to navigate this process. We do our best to support our families through the RSA process but it often leads to gaps within services.

Another difficulty that we have encountered is around the DOE placement process for more restrictive settings. There are some students who come to our school who end up needing more support and a more restrictive environment than we are able to provide. In this case we will hold an IEP meeting with the Committee on Special Education and recommend a more restrictive setting so that all student needs can be met. However, the placement process is often difficult. The Committee on Special Education has previously given school placements to families that do not offer the setting on the child's IEP and state that it is the law for the school to provide the setting. However, it is unreasonable to expect that midyear a school will have the means (staffing, space, etc) to create a setting they did not previously have. It would be helpful if instead the CSE only gave placement recommendations for students at schools where that specific setting is offered. In many cases this has led to a delay in some of our most vulnerable students receiving the placement they require to meet their educational needs.

Thank you for your time and I'm happy to answer any questions the councilmembers may have.

The New York City Charter School Center

Melissa Katz, Director, The Collaborative for Inclusive Education at the New York City Charter  
School Center

Testimony Presented to the New York City Council Education Committee

Meeting the Needs of All Students with Disabilities

Wednesday, September 21, 2022

The New York City Charter School Center (Charter Center) and The Collaborative for Inclusive Education, an initiative of the Charter Center (collectively, the “Charter Center”) respectfully submit the following testimony for the oversight hearing on Meeting the Needs of All Students with Disabilities. The Charter Center thanks the New York City Council Committee on Education for providing the opportunity to comment.

For over 20 years, public charter schools have been an integral part of the public education system in New York City. There are currently 275 charter schools located in all five boroughs and in nearly every community school district (CSD), educating roughly 142,500 students. About 1 in every 7 public school students living within New York City attends a charter school. Special Education students make up 18.1% of charter school students, which is comparable to the district’s proportion of special education students 19.5%. Since 2015, enrollment of students with disabilities in NYC charter schools has steadily grown by more than 7%. Schools have expanded their continuum of services, with most schools offering SETTS, related services, and ICT sections.

While charter schools are autonomous in many respects, the DOE is the local education agency (LEA) for special education in NYC charter schools, which means all decisions about the provision of special education services for charter students is made by the DOE’s Committees on Special Education (CSEs). The Charter Center strongly supports the goals of transparency and accountability for service delivery in special education in all public schools, including public charter schools. More specifically we submit the following comments:

### Related Services Supports

As LEA, the DOE is responsible for providing and overseeing NYC charter school students with special education services, including all related services. The current system in which charter schools use agency providers is not working, as agencies have not been able to appropriately staff providers at schools. This lack of providers, a historical problem and exacerbated by COVID-19, has now led to a situation in which many charter students in the 2021-22 school year missed mandates and without more, this will repeat in the 2022-23 school year. It is also our understanding from conversations with schools that providers that work for agencies are often compensated at a lower rate than the providers working within district schools. This pay disparity disincentivizes agency providers from working in charter schools and has led many of these providers to eventually leave agencies for permanent positions within the DOE or other school districts, and continues to make agency vacancies, particularly for paraprofessionals, hard to fill. Essentially, the system leaves students with disabilities enrolled in a charter school at an inherent disadvantage in regards to receiving related services. The DOE has not been clear about how it plans to address these missed mandates for 21-22 school year and how it will ensure that all charter students receive mandated services in the 22-23 school year.

In addition to the gaps in agency-provided services, the current system issues Related Services Authorization (RSAs) directly to families in the case that the DOE cannot find a provider, meaning families then have the responsibility to find their own provider. This practice places the burden of finding providers on families of children with disabilities with little to no support or follow-up from the district. The lists of RSA-accepting providers that the district provides to parents are often not up to date and providers prove difficult to contact. Under the current system, the district, not the charter school, is better equipped and funded to pay providers. Charter school staff are trying to support families' RSA efforts, but have recently reported making many phone calls without response, adding an additional undue administrative burden to getting students served. This is not new problem as a result of the pandemic. In July of 2017, then NYC Public Advocate Letitia James published a report titled Denial of Service: New York City Schools Are Failing to Provide Mandated Supports to

Children with Disabilities that revealed this issue, as well as the racial and economic inequities evident within the percentage of services remaining unfulfilled as a result of the RSA process. For example, District 8 in the Bronx, where many charter schools are located, had a rate of 91% unused RSAs. If the rate was 91% pre-pandemic, the ineffectiveness of the system was clearly understood; however, it has still not changed. It's clear this system should not be what the LEA relies on to get students with disabilities services that are mandated on their IEPs.

In addition to related services, the DOE is responsible for providing guidance to charter schools on all aspects of special education program delivery. Guidance from the DOE has continued to be delayed throughout the pandemic recovery period. Charter families with students with missed mandates last school year were given less than a week to indicate preferences for summer makeup services. Charter schools only just this month received guidance on compensatory services for their students with disabilities starting from March 2020. Given the current issues around providing charter students with disabilities their regularly mandated services, it seems unlikely that the district will be able to adequately provide compensatory services, particularly in light of the DOE's recent decision to eliminate remote related services as an option. When remote related services were available (in both the 20-21 and 21-22 school years), schools were able to share providers.

### Data Collection and Oversight

The Charter Center supports the annual reporting on special education services to require reporting by individual schools, including charter schools. However, currently, the annual report required by the City Council excludes the DOE reporting on charter school students. Since the DOE is the LEA for charter school students, the DOE holds all the data about the provision of special education services for students in charter schools across the sector (information is all stored in SESIS). As outlined in the Charter Schools Act, "special education programs and services shall be provided to students with a disability attending a charter school in accordance with the individualized education program recommended by the committee or subcommittee on special education of the student's school district of residence." Education Law Section 2853(4)(a). Therefore, when the DOE reports on the provision of special education to students in the district to the City Council, it should also

report on the provision of services for students in charter schools. We have made this request for years; charter students are public school students and the same data that is available on district school special education services should be made available to parents and the community about the provision of special education services for charter school students. We feel this is a particularly timely request given the DOE's contract to replace the current special education database, SESIS, and all data collected at the city, district, and school levels in this new system can, and should, include charter schools from the very start.

We know that this is a time of recovery and have partnered consistently with DOE throughout this time to ensure that communities are receiving the supports they need. In this same spirit, we would also like to partner on accountability during this time to ensure that all students under the same LEA are guaranteed FAPE, regardless of whether they are in a district or charter school. Right now, that is not always happening. Students with disabilities were disproportionately affected during the pandemic and we request that any systems being created to track recovery and compensatory services include public charter school families, who deserve access to the same public information as their district school counterparts. As noted above, we request that data for charters be included in the DOE's reporting on special education as required by Section 21-955 of chapter 5 of Title 21-A of the administrative code of the city of New York.

#### District-Charter Partnership

As the LEA for charter school students with disabilities, special education has always been a partnership between the DOE's Special Education division and Committees on Special Education (CSEs) and the charter sector. A working group, comprised of multi-departmental DOE staff and Charter Center and sector representatives, has been meeting for the past several years to identify and tackle challenges that arise in these relationships, to monitor and adjust policy implementation, and to better coordinate services. We request funding for this working group be reinstated to help strengthen the partnership necessary to address the inequities that effect students with disabilities and their families.

Launched under Chancellor Farina, the DOE created several other district-charter programs that strengthened ties and best practice sharing among both district and charter public schools across the city, with each of the programs including special education-specific supports. In fact, the District-Charter Collaborative (DCC) became a member of The Collaborative for Inclusive Education, sending both charter and district teachers to our centralized trainings, as well as coordinating customized special education trainings just for DCC participants. Relaunching this work, and fully funding it, will set a tone of cooperation and partnership that is sorely needed during this period of recovery when it's more important than ever for an "all hands on deck" approach and to understand what's really working for students with disabilities.

Particularly in special education, the pitting of charters against the district is a false dichotomy and in fact the system is set up in such a way that charters are reliant on the district for some services. Coming out of the pandemic, we see an opportunity to strengthen the partnership between the city and charter schools. We are also looking forward to continued partnership with the Council. Chairman Dromm worked with charters in 2015-2016 on CSE funding, and we look forward to having a cooperative relationship with the incoming Council/Education Committee.

### Introduction 610

While we support the dissemination of information relating to suicide preventions services, we would request that the NYC DOE also be required to send the same materials to NYC's charter schools for distribution to charter students.



## **How was the start of the 2022-23 school year for school bus riders in New York City?**

We are advocates for safe and reliable student transportation for all who need it, and for the right to access an education without discrimination. As students return to school, we have some things to say about the state of yellow bus service.

One, we appreciate the hard work done by those school bus staff who show up for our children and communicate route information - often on their own dime - that so many families are unable to get from expensive phone and internet platforms which the DOE insists are so useful. We maintain that if a concerted effort is made to recruit and retain bus paraprofessionals and bus nurses, drivers and attendants with good union benefits and pay, then the shortage in each of these fields would not be so extreme, even in the era of Covid-19. A dignified and rewarding workplace can hold on to people.

Two, while announcements on class size reduction, literacy instruction, and restorative justice are being celebrated, the students who cannot get to school due to late or no-show buses will not benefit equally from any of that. They are punished for not living within walking distance of the appropriate program for their learning needs, or for being placed in transitional housing far from their original school.

As we witness parents who are advocacy leaders in their school, district, community or citywide – known to attend or even lead training on transportation rights – whose children were not adequately served that first week, we hate to imagine how much worse it was for families who are less enfranchised.

Here are just a few examples:

<https://twitter.com/NaoimiPenaNYC/status/1567887806873190401> Community Education Council District 1 leader and co-founder of Literacy Academy

<https://twitter.com/profprioleau/status/1567849077248856066> public school parent and special education advocate

<https://twitter.com/Podvesker/status/1567851458208436226> Education & Disability Policy @INCLUDEnyc, former Vice-Chair of Panel for Educational Policy

<https://twitter.com/SongBirdNYC/status/1568296531815501826> non-public school parent and special education advocate

<https://twitter.com/KnittingmommaHD/status/1567869484689399808>

<https://twitter.com/KnittingmommaHD/status/1567894247956676609> Parent elected member of Citywide Council on Special Education and co-founder of Protect NYC Special Education.



non-public school parent, advocate for children with Developmental Disabilities

[Alt text: 9:19 AM, Sep 8 I heard from no one. No bus attendant, no bus driver, no L&M. I ended up taking my son to school myself. I am a city employee and a healthcare worker. I will get to work 2 hours late because I have to do the job of bus driver and attendant. It seems the more I complain the worse it gets. As a parent of a child with a disability I would like to remind you that busing service is a mandated related service under the IEP, a legal document. ]

Three, ever since the City Council passed laws in the 2018-19 school year mandating the DOE's Office of Pupil Transportation to report complaints

[[https://infohub.nyced.org/docs/default-source/default-document-library/04\\_2021-city-council-report---business-rules\\_final.pdf](https://infohub.nyced.org/docs/default-source/default-document-library/04_2021-city-council-report---business-rules_final.pdf) § 21-995 ], there have been numerous loopholes placed into the complaint process. **We invite anyone to call 718-392-8855 and listen to the menu.**

"Press 4 if your bus is more than 30 minutes late" is not guidance for those whose bus is 20 minutes late every day due to a doubled up route, causing children to miss breakfast and morning class time. Redirecting families to "Call the company," without a strictly enforced mandate for the company to hire more people and actually answer the phone, can falsely deflate the number of **busing complaints that OPT must report to your council per Local law 34 of 2019**. The story of the week in parent groups is the lack of response at phone numbers for certain groups of bus vendors who reap millions of profit dollars from what should be a public service.

[ examples of conversations among parents about flawed telephone service:

<https://www.facebook.com/groups/173433159513063/posts/1948823241974037>

<https://www.facebook.com/groups/PISTNYC/posts/1948784281977933>

<https://www.facebook.com/groups/173433159513063/posts/1949675548555473> ]

**Addenda since the above was drafted on September 9:**

- a) Parents have this to say about the OPT claim that there is a sharp drop in complaints this year

<https://www.facebook.com/groups/173433159513063/posts/1961152537407774>

Many of us would like to view the report that is due to Council on October 31st per Local Law 34. [Local law 34 can be downloaded here

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3691009&GUID=80A33653-A13B-4536-9A77-9DAF2D8B5441>

DOE business rules in Oct 2019

<https://infohub.nyced.org/docs/default-source/default-document-library/city-council-chapter-26-of-fice-of-pupil-trasnportation---business-rules.pdf>

same in April 2021

[https://infohub.nyced.org/docs/default-source/default-document-library/04\\_2021-city-council-report---business-rules\\_final.pdf](https://infohub.nyced.org/docs/default-source/default-document-library/04_2021-city-council-report---business-rules_final.pdf)

]

- b) Among others, we have heard from:

- The National Action Network citing a grandmother whose grandchild with a disability has only been picked up twice by the bus as of Sept. 22.
- Parent of a Deaf child, who was told that her child's AM pickup is at 10:00 and the PM pickup is at 5:00, whereas school is from 8:40 to 3:00
- Parent of a non verbal 5 year old who is on a bus with 20 other students to 2 schools and it takes three hours each way
- A driver of another 3 hour route who is fearful that his fatigue from that much non-stop driving will impair his safety skills and make accidents more likely (he added that his wife yells at him when he gets home at 8:00 p.m.)
- A Bronx school which lacks sixty bus paraprofessionals, complicating attendance for 60 students.
- A Queens school which lacks routes for a handful of students as of the day your committee met.
- A Title I middle school in Brooklyn which was short 300 metrocards - probably for general education students - until a special education advocate in our network intervened last night.

Last but not least, let's discuss schools which started the Fall semester prior to September 8th. The families of non-public students were desperate for route information but are excluded from the NYCSA system for receiving that.

When their parents reported sub standard service – apparent lack of dry runs, multiple children left behind, route number not posted on the window, attendant not stepping down to assist riders, driver getting lost in circles – the written reply from OPT was that the vendor was using temporary substitute workers until September 8.

We then corroborated with people in this workforce that many companies had only received routes on the previous Thursday to Friday, August 26, and the seniority pick process is known to take four business days. If so, DOE should have been aware that there was not time to complete dry runs and training/refresher courses by September 1 (a known start date for hundreds of students with complex learning needs) unless they paid weekend overtime.

Is it a coincidence that vulnerable students are treated as a footnote by those responsible for their travel, after the disparaging remarks our Schools Chancellor made about these non-public settings?

Parents to Improve School Transportation is campaigning for a School Bus Bill of Rights referendum for the 2023 ballot. We thank you for prioritizing students with disabilities for your first meeting of the school year; and look forward to further dialogue. Reversing the staff shortages, and correcting the flaws in routing and communication will help all students receive the standard number of days and hours of education. Equity in this matter is a human and civil right.

Submitted by Sara Catalinotto 09/22/2022 on behalf of

Parents to Improve School Transportation

pistnyc@gmail.com

631.743.6296

*Hablamos español*

<https://www.facebook.com/groups/pistnyc/>

[www.pistnyc.org](http://www.pistnyc.org)

<https://www.facebook.com/pistnyc/>

<https://twitter.com/pistnyc>

<https://www.instagram.com/schoolbusparentsny/>

**DONATE** at <https://gofund.me/CEEEAD76> or CashApp \$pistnyc

Watch School Bus Bill of Rights video at

<https://www.youtube.com/watch?v=ITvTISvbf0&t=116s>

Parade with us October 2nd #DisabilityPrideNYC #WheresMyBus

<https://www.pistnyc.org/events/dpnyc22>



## Office of the President & CEO

---

### **NYC Council Committee on Education: Meeting the Needs of all Students with Disabilities Wednesday, September 21, 2022**

#### **Testimony By Stacey Hengsterman, President & CEO Special Olympics New York**

Even champions need champions.

One in every 5 students enrolled in New York City Department of Education (DOE) schools has a disability. The same ratio is seen among New York State's general population.

It is on behalf of these students and citizens that I submit the following. Thank you for the opportunity.

New York is home to one of the largest Special Olympics chapters in the country. We currently serve more than 31,000 athletes – children, youth and adults with intellectual disabilities (ID) – statewide, providing year-round sports training, authentic competition, and health screenings. We also partner with schools throughout the state to offer Unified Sports, where students with and without disabilities compete as teammates. All Special Olympics New York programs are offered at no cost to athletes, their families or caregivers.

In short, we change lives. People with intellectual disabilities who never dreamed they could play a sport, be part of a team, or compete – *really compete* – are given the chance. With our help, they learn to discover and unleash the champion within themselves. And in the process, they show our communities what true inclusion looks like and why it's important.

To understand the impact of Special Olympics on someone's day-to-day life, let me tell you about a 17-year-old young man with Down syndrome who joined our program about two years ago. Before finding Special Olympics, Alex went to school every day, a public school in Upstate New York. He had some classes with neuro-typical students his age, but the vast majority of his time was spent in a self-contained environment with other students who have varying disabilities. He came home from school and spent the afternoon with his babysitter, his family and his computer. He was happy, but he was lonely. His friends didn't call him to hang out after school or on weekends.

When Alex first joined Special Olympics, it was at his parents urging. Sports had never been his thing; he didn't see himself as an athlete. So he took his time, tried a couple activities here and there. Surprising everyone who knows him, what he ended up enjoying most was powerlifting. Flash forward to today ... Alex meets his



Special Olympics teammates and coaches at the gym three days a week and trains *as a powerlifter*. He works out from 7 – 8 p.m. on weeknights and at 10 a.m. on Saturday mornings. He has become so confident in his athletic abilities that he's also joined the Special Olympics Unified Bowling team at his high school.

Alex has new friends and teammates. He has coaches and an entire community of people who believe in him and support him. He has championship lifts and matches on his calendar. He is proud to identify himself as an athlete and he is even learning to tell his story, to advocate. Alex is healthier, both physically and mentally. He isn't lonely anymore. He is too busy to be lonely.

Not long ago, Alex said to me: "Mom, Special Olympics changed my life."

I am the president and CEO of the organization that changed my son's life, and I can't separate the pride that gives me as both a parent and a leader. I only wish we had found Special Olympics sooner. Like so many people living with disabilities in New York City, we were not aware of the impact that Special Olympics could have on our family. I am determined to do everything I can to make sure that kids like Alex and parents like me know what we know now: that Special Olympics New York can improve their lives.

Increasing our footprint in New York City priority #1 because it's where our work is most urgently needed. Despite being the highest populated and most diverse area of the state, New York City is home to only 1,371 athletes who participated in traditional Special Olympics sports programs in their community in 2021. This, in a city that more than 18 million people call home.

Special Olympics is slightly more prevalent within the DOE, where approximately 22,000 students were exposed to some form of our programming in 2021. However, this – in the largest school district in the United States, where more than 1 million students are enrolled – is not enough.

It means 2% of the students this committee aims to serve had access to Special Olympics programming in school last year. Yet 20% of DOE students have a disability, and for the most part, the other 80% never even see a student with a disability in the hallway, let alone interact with them. It's not even close to being enough.

The good news is that it doesn't have to be this way. Special Olympics New York offers programs for students of all ages. We offer training for educators and coaches. We provide equipment and uniforms. *All with zero start-up costs to impact school budgets.*

One of our most successful models is the Special Olympics Unified Champion Schools program, which my son and nearly 10,000 students currently participate in at more than 250 high schools statewide. In a Unified Champion School, students with and without ID compete as teammates against other schools in their section, just like any Varsity or Junior Varsity team. These students not only enjoy the physical, mental and social benefits of being on a school sports team; they lead inclusive activities that bring the entire student body together. The culture in a Special Olympics Unified Champion School is what all schools should strive for: one where every student is welcome, empowered and included.

While we are seeing the Unified movement grow quickly upstate, it has been a struggle to partner with schools in the city. In fact, of the more than 250 Unified Champion Schools we work with statewide, just 12 of them are within the NYC DOE.

Equally as important as comprehensive Unified Champion Schools programming, which is the most inclusive and engaging for students both with and without intellectual disabilities, Special Olympics New York offers training and coaching for school staff interested in providing Unified Physical Education classes, health and wellness programs, youth leadership and more. We have made some inroads at this less-immersive level over the years, with approximately 140 NYC DOE schools currently involved in some way. However, this is still a small fraction: slightly more than 7%.

I know this committee will agree that the country's largest and most diverse school system – and its surrounding communities – should be doing much, much better. With your help, it can.

There are tens of thousands of people with disabilities in New York City who need Special Olympics and don't know it yet. So many Alex's out there with a champion sleeping inside of them, waiting to be awakened.

Special Olympics can do that. I see it happen every day. But even champions need champions, and they need you.

###

*All Special Olympics New York programs are offered at no cost to athletes, their families or caregivers. The organization has earned the Platinum Seal of Transparency from GuideStar.com, making it one of the most trusted charities in the business, nationally. For additional information about Special Olympics New York, or to learn more about getting involved, visit [www.specialolympicsNY.org](http://www.specialolympicsNY.org).*



## City Council Testimony

### Education

9/21/22

Submitted respectfully by Anne Dempsey

Queens Parent of Two High School Students in DOE schools since Kindergarten

Thank you for the opportunity to submit written testimony to the Education Committee of the City Council regarding students with disabilities and, specifically, the subject of school refusal.

My son, currently a senior in high school, has demonstrated signs of school refusal on and off since Kindergarten. In 5th grade, he was recognized to have a significant anxiety disorder and in 8th grade was diagnosed with ADHD. These diagnoses were provided after my husband and I sought treatment through private clinics and therapists. **At no time**, in all the years he has demonstrated school refusal signs and symptoms, was he referred for special education evaluation. No teacher, principal, social worker, or guidance counselor ever suggested that a special education evaluation might be needed. Clearly, the DOE needs to examine and revise their policies around school refusal and absenteeism and provide training to school personnel. Rather than think about absenteeism policies **only** from the perspective of social control (making sure that children are safe by policing parents), the policies and training for school personnel should emphasize an assessment of the whole child and the barriers preventing them from attending school, i.e., poverty, trauma, disability, etc.

My son's school refusal was intermittent throughout elementary school. The solution was for school personnel to hold him crying and struggling while I left him at the door, after cajoling, carrying, and driving him to school every day. He was never referred to the guidance counselor and was never referred for special education evaluation. His academic performance was very strong, so school refusal, as an indication of anxiety and executive functioning challenges, was ignored. Combined with significant medical issues (asthma and a life threatening food allergy), my son's school (and homework) refusal was tremendously stressful for our whole family for years, and, in particular for my son, could be characterized as traumatic.

Surprisingly, in middle school, his school refusal was significantly reduced. I credit the environment in his middle school (mindful breathing 4 times per day, a focus on the whole child, room for creativity in completing assignments, room for submitting assignments late, a focus on teaching executive functioning skills to the whole student body, rather than relying on harsh, traditional, punitive measures, and more). In 8th grade, we requested a special education evaluation that was started in Spring 2019 and not completed until October 2019 when the IEP meeting was held at his new high school. At this high school, where my son had applied to study film, he was offered SETTS in **an additional 10th period** where he would study executive functioning skills **unconnected** to his actual school work. For a child who has difficulty sitting still in classes all day, who needs to learn through doing things that are relevant to real life, who is anxious and already exhibiting signs of school refusal, why in the world would an additional 10th period be the solution? We refused this service and ended up transferring him to another school in January of his 9th grade year, after the original high school was unable to offer any

support to re-engage him in school. The principal and the guidance counselor were kind but they had no tools or policies to offer. They did not support us in the process of transferring him to a new setting. At all times, my son's school refusal was seen as his problem/our problem and not anything the school could do much about.

Several weeks after transferring to the new high school in January 2020, the pandemic hit and my son had to learn remotely like everyone else. Ironically, remote learning was a disaster for him. Though he has often refused school, he needed structure and face-to-face interaction with engaging teachers and social interaction with peers. He became severely anxious and depressed, had significant trouble returning to school in Fall 2021, experienced a suicide attempt and hospitalization, and just now has been able to return to school in Fall 2022. Though I think the school personnel at his current school still do not have tools, guidance, training to manage school refusal, they have been flexible, supportive, and creative in finding ways to help our son stay on track academically. Finally, in 12th grade, we are almost at the end of a new special education evaluation that we hope can provide services to help him with school refusal, executive functioning challenges, and planning for his future.

We considered requesting alternative placement through the process of suing the DOE, and the lawyer we consulted certainly felt we had a strong case and would be successful, but our son very much wanted to return to his high school. I am holding my breath hoping that his success in attending the first two weeks of school will continue. I also hope this new IEP process will result in support that helps him examine his learning style and needs and make plans for his future. A child whose grades were always very strong has barely passed his high school classes and is wavering about attending college.

One-size-fits-all, punitive, cold responses to school refusal do not work. School refusal means the student **CANNOT** attend school because they have learning needs that are not being addressed; it does **not** mean that they **WON'T** attend school or the parents are failing.

I respectfully request that the DOE do the following:

- Engage with experts to determine best practices around school refusal, create new policies, and train school personnel.
- Acknowledge that insensitive, developmentally inappropriate measures are causing additional trauma to students and families.
- Offer age-appropriate, developmentally sound solutions to families.
- Allow for flexibility to work with families around gradual exposure and avoid ACS involvement after appropriate assessment.
- If the DOE wants to avoid placement in expensive therapeutic schools, the DOE needs to respond with school-level policies that support students/families experiencing school refusal.



**Special Support Services, LLC | 1060 Ocean Avenue, Suite F8 | Brooklyn, NY 11226 | 631-403-0569**

---

**Testimony regarding Oversight - Meeting the Needs of All Students with Disabilities (T2022-2033)**

**New York City Council Education Committee**

9.21. 2022

My name is Amber Decker. I'm a Brooklyn resident, a parent of a high school student with an IEPs, and I am a special education advocate at Special Support Services.

In response to the legislation on national suicide, Can we add that [Int 0610-2022](#) NYC DOE social workers be required to get training perhaps from DOHMH and required to report on follow through on referrals for IEP Students for waiver services such as those offered by OPWDD and OMH, we should require reporting on this too...  
a national helpline is not enough.

The committee report on the calendar for today sadly does not include a description of New York State Alternative Assessment (NYSAA) see page 9 footnote 62 is missing.

The committee report states:

*“ACES classes follow the NYS Learning Standards, and Principles of Universal Design for Learning (UDL), of which essential skill building is a part of the program.”<sup>[1]</sup> Students participate in alternate assessment, including NYS Alternate Assessment”*

The report has left out that all of the students in this ACES program are automatically placed on NYS Alternative Assessment and are automatically placed on a non-diploma track.

There is a lack of legislation on the New York State Alternative Assessment.

There is no city reporting and no oversight on how or if parents are ever informed about what it means for their child to be on Alternative Assessment and no reporting on how a student is found eligible for NYSAA (which bars them from getting a highschool diploma).

Students who have New York State Alternative Assessment on their IEPs have little to no options after highschool. No high school diploma, no high school credit even for classes that they have and can participate and in, in which there are no Alternative Assessments.

NYC should be leading the way on ensuring that students have the right to earn a high school diploma, heck or even a path to a high school equivalency diploma.

There were no questions asked today about the IEP students whose IEPs are mandated to New York State Alternative Assessment

It does not seem that the city council knows what it means when a student's IEP is mandated to New York State Alternative Assessment

It means that the IEP student will get no credit towards the 44 credit highschool diploma requirement here in NYC.

And does anyone know how to even get section 504 ADA testing accommodations on the High School Equivalency Exam ?

How many disabled students age out and are still trying to get a High School Equivalency Diploma?  
How many of those adults get testing accommodations after age 21 under ADA and section 504 ?

I ask that the NYC council put diploma pathways for IEP students on their agenda and  
That the legislation on today's agenda with respect to ADA/504 accessibility [Int 0582-2022](#) also add  
New York State Alternative Assessment data, perhaps an education subcommittee can even be created

Thank you.

Amber Decker

Managing Member and Advocate

Special Support Services, LLC

**New York City Council**  
**Committee on Education Hearing**  
**Chair: Council Member Rita Joseph**  
**Wednesday, September 21, 2022 at 1:00PM**

Testimony Written By: AYANNA BATES  
[ab5481@columbia.edu](mailto:ab5481@columbia.edu)

**RE: Vote FAVORABLY on Int. 0610-2022 to Save Students' Lives!**

Good afternoon Chair Joseph and Members of the Committee on Education. Thank you for holding this hearing today focused on the needs of students with disabilities, including those living mental health conditions.

Hello, my name is Ayanna Bates, and I am a constituent of Council Member James F. Gennaro in District 24. In my spare time, I also serve as an Advocacy Ambassador with the National Alliance on Mental Illness of NYC (NAMI-NYC). NAMI-NYC is a grassroots mental health advocacy organization, and one of the largest affiliates of the National Alliance on Mental Illness, serving peers, family members, friends and caregivers in New York City for 40 years.

**As a person who lives with bipolar disorder and an eating disorder, I'd like to share my story with you and ask for your support of students across New York City living with mental health conditions by voting FAVORABLY upon Int. 0610-2022**, otherwise known as a "Local Law to amend the administrative code of the City of New York, in relation to requiring the Department of Education to provide information on the new National Suicide Prevention Hotline and other related resources." This bill would bring life-saving information regarding 988 to all New York City schools at a time when 1 in 5 students lives with a mental illness, but only 20% get the help they need.<sup>1</sup> According to NAMI-NYC, suicide is also the second-leading cause of death among youth ages 15 to 24.<sup>2</sup>

I am personally invested in this issue because at 14 years old, as a freshman in high school, I started to experience suicidal thoughts and depressive episodes. It was scary because at the time, I did not know how to describe what was happening to me. I had a loving family, friends, and good grades, so why was I so sad? Why was I crying all the time? Why did I want to hurt myself? I didn't know. And as a way to cope with these dark thoughts I started skipping meals and trying to control my weight. Things spiraled out of control.

During my sophomore year of high school, my English teacher noticed my mood changes and withdrawal from class, and referred me to our school counselor. Although they gave me a safe space to talk through my mental health struggles, they were not a mental health professional and my condition continued to deteriorate. After I graduated high school, I sought out a therapist and later, a psychiatrist, and with their help, I was diagnosed with bipolar disorder and an eating disorder. They finally helped to validate my experience and give me hope that recovery is possible. I did this by myself with very little support or guidance from others.

---

<sup>1</sup> National Alliance on Mental Illness of New York City, Inc. (2022, May 6). *Ending the Silence* - NAMI-NYC. Request a Speaker: Ending the Silence. Retrieved September 19, 2022, from [https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20\(ETS,understanding%20of%20a%20misunderstood%20topic](https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20(ETS,understanding%20of%20a%20misunderstood%20topic).

<sup>2</sup> *Id.*

Today, I am stronger, I have found my voice and use it to help others who are living with mental illness. I am now certified in Mental Health First Aid and advocate for mental health treatment access.

However, not everyone has access to the information or resources to identify their own mental health challenges and to advocate for themselves to receive care, especially in the midst of a crisis. Those children and adolescents who do, face many barriers when trying to access treatment, such as financial constraints and time limitations.

According to the New York State Comptroller's most recent audit report of the NYC Department of Education (DOE):

- 563 of the 1,524 (37%) schools audited do not have any of the six structured mental health programs that DOE claims it offers within all schools;<sup>3</sup>
- 64% of NYC schools do not meet the recommended school counselor-to-student ratio needed to support our students;<sup>4</sup>
- 28% of schools do not even have a social worker on staff;<sup>5</sup>
- Of the schools that do have a social worker on staff, 80% do not meet the recommended ratio of 1 social worker on staff per every 250 students.<sup>6</sup>

**In short, I am concerned because DOE and the City have been falling short when it comes to the mental health of our student population.**

Since our city is currently not doing what it needs to in order to prevent mental health crises in schools, the least this Council can do is introduce 988 resource information to students in order to avert present and future crises.

988 launched nationwide on July 16th, 2022. During the first full month of its operation, the new, three-digit crisis line responded to 318,048 calls, texts and chats from anyone experiencing a mental health, substance use or suicide crisis. Despite this success so far, there is still little public awareness about the crisis line among the general population, let alone among our most vulnerable youth.

**One way to address this issue is to let students know that they do not have to navigate a crisis alone and that they can dial 988 to talk through their troubles.** I am concerned about

---

<sup>3</sup> *Audit: Mental Health Education, Supports, and Services in Schools*. New York State Comptroller. (2022, August). Retrieved September 22, 2022, from <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2022-20n7.pdf>

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

the inability of out-of-state area codes to be able to connect directly to New York City call centers since 988 does not operate using geolocation services, but rather connects callers to help according to their area codes. For this reason, I hope the Committee on Education would consider voting on this bill FAVORABLY out of committee with **the small amendment to include information about NYC WELL**, which is the 988 call center servicing our city. I would like students to know that they can call 1-888-NYC-WELL or text WELL to 65173, or chat NYC WELL on their website directly in order to get connected to the support that they need should they have an out-of-city or out-of-state area code. I also hope the City Council considers issuing a Resolution to Congress calling upon them to immediately address the geolocation issue, so that 988 can fully operate for all New Yorker– students and adults– without any delays or hindrances.

**I hope this Committee seriously considers my testimony seriously in support of Introduction 0610-2022, with this small amendment, and votes this bill FAVORABLY to help save students' lives and begin the dialogue among our school-aged youth to break the mental health stigma.**

Thank you for listening to my testimony.

Respectfully,

Ayanna

**New York City Council**  
**Committee on Education Hearing**  
**Chair: Council Member Rita Joseph**  
**Wednesday, September 21, 2022 at 1:00PM**

Testimony Written By: BLAIR MARSHALL

**RE: Vote FAVORABLY on Int. 0610-2022 to Save Students' Lives!**

Good afternoon Chair Joseph and Members of the Committee on Education. Thank you for holding this hearing today focused on the needs of students with disabilities, including those living mental health conditions.

Hello, my name is Blair Marshall, and I am a constituent of Council Member Sandra Ung in District 20. In my spare time, I volunteer for Voters for Animal Rights and People for the Ethical Treatment of Animals (PETA) and co-wrote the blog "My Dog is My Home," which focuses on why people experiencing homelessness should not be separated from their companion animals. I also assist the visually impaired and volunteer with the Queens Botanical Garden. Furthermore, I serve as an Advocacy Ambassador with the National Alliance on Mental Illness of NYC (NAMI-NYC). NAMI-NYC is a grassroots mental health advocacy organization, and one of the largest affiliates of the National Alliance on Mental Illness, serving peers, family members, friends and caregivers in New York City for 40 years.

**I am submitting testimony today to come out in SUPPORT of Int. 0610-2022**, otherwise known as a "Local Law to amend the administrative code of the City of New York, in relation to requiring the Department of Education to provide information on the new National Suicide Prevention Hotline and other related resources." This bill would bring life-saving information regarding 988 to all New York City schools at a time when 1 in 5 students lives with a mental illness, but only 20% get the help they need.<sup>1</sup> According to NAMI-NYC, suicide is also the second-leading cause of death among youth ages 15 to 24.<sup>2</sup>

**I am personally invested in this issue because I am an individual diagnosed with Major Depressive Disorder and someone who grew up in an abusive household. Growing up, I attended a private, all-girls school in Manhattan (which wasn't for me) and fell under the radar.** I tried to do my homework, but things were so chaotic, abusive and unpredictable at home. (I was also responsible for primarily raising a special needs half-sibling. My stepfather even attempted to kill me via strangulation at one point while intoxicated). My older brother was diagnosed with ulcers and had to move out of our home at age 14 to live with his friend's family due to the stress.

My ability to focus on schoolwork was a luxury that I did not have. My grades took a major hit from my inability to do work at home, despite my academic capabilities. When the school received my SAT scores, and saw that they were high, one teacher said, "I didn't know you were

---

<sup>1</sup> National Alliance on Mental Illness of New York City, Inc. (2022, May 6). *Ending the Silence* - NAMI-NYC. Request a Speaker: Ending the Silence. Retrieved September 19, 2022, from [https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20\(ETS,understanding%20of%20a%20misunderstood%20topic](https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20(ETS,understanding%20of%20a%20misunderstood%20topic).

<sup>2</sup> *Id.*

smart, Blair.” Another time, I was able to stay in my grandmother’s empty apartment for a month, and there was finally quiet. My grades immediately shot up to “A’s” and “B+’s,” and another teacher looked at me and said, “Blair, you finally learned how to study.”

Suicide runs in my family, and its an intragenerational trauma. I wish I had more resources to combat thoughts of suicide. I really felt like there was no way out and no one could ever understand. Now, I know differently.

**Much of mental illness is a response to abuse and toxic environments. So many kids have fallen through the cracks. When we present as “average,” we fall below the radar. More students need to know about 988 as a resource, so it is hopefully no longer underutilized.**

Brining 988 to NYC schools is especially crucial now when:

- 563 of the 1,524 (37%) schools do not have any of the six structured mental health programs that DOE claims it offers within all schools;<sup>3</sup>
- 64% of NYC schools do not meet the recommended school counselor-to-student ratio needed to support our students;<sup>4</sup>
- 28% of schools do not even have a social worker on staff;<sup>5</sup>
- Of the schools that do have a social worker on staff, 80% do not meet the recommended ratio of 1 social worker on staff per every 250 students.<sup>6</sup>

**In short, I am concerned because DOE and the City have been falling short when it comes to the mental health of our student population.**

Since our city is currently not doing what it needs to in order to prevent mental health crises in schools, the least this Council can do is introduce 988 resource information to students in order to avert present and future crises.

988 launched nationwide on July 16th, 2022. During the first full month of its operation, the new, three-digit crisis line responded to 318,048 calls, texts and chats from anyone experiencing a mental health, substance use or suicide crisis. Despite this success so far, there is still little public awareness about the crisis line among the general population, let alone among our most vulnerable youth. According to the last available Youth Behavioral Risk Factor Surveillance System (YBRFSS) study report, “18.8% of high school students seriously considered attempting

---

<sup>3</sup> *Audit: Mental Health Education, Supports, and Services in Schools*. New York State Comptroller. (2022, August). Retrieved September 22, 2022, from <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2022-20n7.pdf>

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

suicide and 8.9% actually attempted suicide” nationwide.<sup>7</sup> **However, researchers collected this data *before* the pandemic. My concern is: how many youth are we missing from this figure now, and how can we save them?**

One way is to let them know that they do not have to navigate a crisis alone and that they can dial 988 to talk through their troubles. I do have a concern about certain issues with the capability of out-of-state area codes to be able to connect directly to New York City call centers since 988 does not operate using geolocation services, but rather connects callers to help according to their area codes. For this reason, I hope the Committee on Education would consider voting on this bill FAVORABLY out of committee with **the small amendment to include information about NYC WELL**, which is the 988 call center servicing our city. I would like students to know that they can call 1-888-NYC-WELL or text WELL to 65173, or chat NYC WELL on their website directly in order to get connected to the support that they need should they have an out-of-city or out-of-state area code. I also hope the City Council considers issuing a Resolution to Congress calling upon them to immediately address the geolocation issue, so that 988 can fully operate for all New Yorkers– students and adults– without any delays or hindrances.

**I hope this Committee seriously considers my testimony seriously in support of Introduction 0610-2022, with this small amendment, and votes this bill FAVORABLY to help save students’ lives and begin the dialogue among our school-aged youth to break the mental health stigma.**

Thank you for listening to my testimony.

Respectfully,

Blair

---

<sup>7</sup> United Health Foundation. (2019). *2021 Health of Women and Children Report: Teen Suicide in New York*. America's Health Rankings. Retrieved September 19, 2022, from [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen\\_suicide/state/NY](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen_suicide/state/NY)

**New York City Council**  
**Committee on Education Hearing**  
**Chair: Council Member Rita Joseph**  
**Wednesday, September 21, 2022 at 1:00PM**

Testimony Written By: CARLA CHERRY  
[cmcmagicone@gmail.com](mailto:cmcmagicone@gmail.com)

**RE: Vote FAVORABLY on Int. 0610-2022 to Save Students' Lives!**

Good afternoon Chair Joseph and Members of the Committee on Education. Thank you for holding this hearing today focused on the needs of students with disabilities, including those living mental health conditions.

Hello, my name is Carla Cherry, and I am a constituent of Council Member Kevin C. Riley in District 12. I am a teacher and the mother of a son who lives with a mental health condition. In my spare time, I also serve as an Advocacy Ambassador with the National Alliance on Mental Illness of NYC (NAMI-NYC). NAMI-NYC is a grassroots mental health advocacy organization, and one of the largest affiliates of the National Alliance on Mental Illness, serving peers, family members, friends and caregivers in New York City for 40 years.

**I am submitting testimony today to come out in SUPPORT of Int. 0610-2022**, otherwise known as a “Local Law to amend the administrative code of the City of New York, in relation to requiring the Department of Education to provide information on the new National Suicide Prevention Hotline and other related resources.” This bill would bring life-saving information regarding 988 to all New York City schools at a time when 1 in 5 students lives with a mental illness, but only 20% get the help they need.<sup>1</sup> According to NAMI-NYC, suicide is also the second-leading cause of death among youth ages 15 to 24.<sup>2</sup>

I am personally invested in this issue because I believe 988 is important for young people, so they can have info about this phone line and we must ensure they understand the purpose it serves. If youth are experiencing a mental health crisis or don't know who to call, this is very critical. As a teacher, I have students who may be benefitted from the information that will be provided by Intro 610. Additionally, back in 2016, my son who lives with a mental health condition had to have 911 called and I wish he would have had a 988 number to call that doesn't immediately connect to police response.

I also know that, according to the New York State Comptroller's most recent audit report of the NYC Department of Education (DOE):

- 563 of the 1,524 (37%) schools audited do not have any of the six structured mental health programs that DOE claims it offers within all schools;<sup>3</sup>

---

<sup>1</sup> National Alliance on Mental Illness of New York City, Inc. (2022, May 6). *Ending the Silence - NAMI-NYC*. Request a Speaker: Ending the Silence. Retrieved September 19, 2022, from [https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20\(ETS,understanding%20of%20a%20misunderstood%20topic](https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20(ETS,understanding%20of%20a%20misunderstood%20topic).

<sup>2</sup> *Id.*

<sup>3</sup> ● *Audit: Mental Health Education, Supports, and Services in Schools*. New York State Comptroller. (2022, August). Retrieved September 22, 2022, from <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2022-20n7.pdf>

- 64% of NYC schools do not meet the recommended school counselor-to-student ratio needed to support our students;<sup>4</sup>
- 28% of schools do not even have a social worker on staff;<sup>5</sup>
- Of the schools that do have a social worker on staff, 80% do not meet the recommended ratio of 1 social worker on staff per every 250 students.<sup>6</sup>

**In short, I am concerned because the City has been falling short when it comes to the mental health of our student population.**

Since our city is currently not doing what it needs to in order to prevent mental health crises in schools, the least this Council can do is introduce 988 resource information to students in order to avert present and future crises.

988 launched nationwide on July 16th, 2022. During the first full month of its operation, the new, three-digit crisis line responded to 318,048 calls, texts and chats from anyone experiencing a mental health, substance use or suicide crisis. Despite this success so far, there is still little public awareness about the crisis line among the general population, let alone among our most vulnerable youth. According to the last available Youth Behavioral Risk Factor Surveillance System (YBRFSS) study report, “18.8% of high school students seriously considered attempting suicide and 8.9% actually attempted suicide” nationwide.<sup>7</sup> **However, researchers collected this data *before* the pandemic. My concern is: how many youth are we missing from this figure now, and how can we save them?**

One way is to let them know that they do not have to navigate a crisis alone and that they can dial 988 to talk through their troubles. I do have a concern about certain issues with the capability of out-of-state area codes to be able to connect directly to New York City call centers since 988 does not operate using geolocation services, but rather connects callers to help according to their area codes. For this reason, I hope the Committee on Education would consider voting on this bill FAVORABLY out of committee with **the small amendment to include information about NYC WELL**, which is the 988 call center servicing our city. I would like students to know that they can call 1-888-NYC-WELL or text WELL to 65173, or chat NYC WELL on their website directly in order to get connected to the support that they need should they have an out-of-city or out-of-state area code. I also hope the City Council considers issuing a Resolution to Congress calling upon them to immediately address the geolocation issue,

---

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> United Health Foundation. (2019). *2021 Health of Women and Children Report: Teen Suicide in New York*. America's Health Rankings. Retrieved September 19, 2022, from [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen\\_suicide/state/NY](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen_suicide/state/NY)

so that 988 can fully operate for all New Yorker– students and adults– without any delays or hindrances.

**I hope this Committee seriously considers my testimony seriously in support of Introduction 0610-2022, with this small amendment, and votes this bill FAVORABLY to help save students' lives and begin the dialogue among our school-aged youth to break the mental health stigma.**

Thank you for listening to my testimony.

Respectfully,

Carla

To the Committee on Education,

I'm writing to discuss anxiety induced School Avoidance. This is a growing concern among parents and students. Student's mental health problems exacerbated by the pandemic seem to be on the rise. As you are well aware our city has an overwhelming amount of mental healthcare issues, issues that are not resolved through punishment or the criminal justice system. Our school system shares the great responsibility of managing mental illness among it's students and in addition enjoys the opportunity to lead our city, our children and other municipalities in state of the art care.

Unfortunately getting the care and understanding that our students and parents need from the DOE is becoming increasingly frustrating and needlessly bureaucratic. Few schools recognize School Avoidance as a mental health issue. Counselors and School Psychologists are not trained to treat School Avoidance. Too often School Avoidance is simply called "truancy" and treated as such. Of course this further stigmatizes students and parents driving them further away from the schools which is the exact opposite of the treatment that is needed.

I would like to urge the Committee to take up this concern and show some compassionate leadership on this growing mental health issue. New York City can lead the way in treating anxiety induced School Avoidance instead of punishing parents and students. Our schools can do better. Our kids deserve better.

Thank you,

Ernie Sandidge

**New York City Council**  
**Committee on Education Hearing**  
**Chair: Council Member Rita Joseph**  
**Wednesday, September 21, 2022 at 1:00PM**

Testimony

Written  
[hudsmail17@gmail.com](mailto:hudsmail17@gmail.com)

By:

Huda

Ismail

**RE: Vote FAVORABLY on Int. 0610-2022 to Save Students' Lives!**

Good afternoon Chair Joseph and Members of the Committee on Education. Thank you for holding this hearing today focused on the needs of students with disabilities, including those living mental health conditions.

Hello, my name is Huda Ismail, and I am a constituent of Council Member Sandy Nurse in District 37. In my spare time, I also serve as an Advocacy Ambassador and a volunteer speaker with the *In Our Own Voice* program through the National Alliance on Mental Illness of NYC (NAMI-NYC). NAMI-NYC is a grassroots mental health advocacy organization, and one of the largest affiliates of the National Alliance on Mental Illness, serving peers, family members, friends and caregivers in New York City for 40 years.

**As someone who lives with social anxiety and depression, I would like to share my story with you today and ask for your SUPPORT of Int. 0610-2022**, otherwise known as a “Local Law to amend the administrative code of the City of New York, in relation to requiring the Department of Education to provide information on the new National Suicide Prevention Hotline and other related resources.” This bill would bring life-saving information regarding 988 to all New York City schools at a time when 1 in 5 students lives with a mental illness, but only 20% get the help they need.<sup>1</sup> According to NAMI-NYC, suicide is also the second-leading cause of death among youth ages 15 to 24.<sup>2</sup>

I am personally invested in this issue because I first noticed something was wrong when I stopped attending high school for days in a row. I would purposely miss the bus, sleep through the entire day, and stop communicating with my friends and family. I did not have a name for it at that time. Nothing changed and nothing got better. I just learned how to hide my symptoms better, and somehow I even made it to college.

Once in college, I wasn't able to hide those symptoms anymore and I started by seeing the school counseling and psychological services therapist. I thought that was the start of me getting better, my recovery. However, I still struggled. I eventually stopped attending those sessions and was put off by therapy for several years. Then, things eventually got even worse, I got into an abusive relationship and all my problems magnified.

After I reached my lowest points, I finally got help and was diagnosed with depression, social

---

<sup>1</sup> National Alliance on Mental Illness of New York City, Inc. (2022, May 6). *Ending the Silence* - NAMI-NYC. Request a Speaker: Ending the Silence. Retrieved September 19, 2022, from [https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20\(ETS,understanding%20of%20a%20misunderstood%20topic.](https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20(ETS,understanding%20of%20a%20misunderstood%20topic.)

<sup>2</sup> *Id.*

anxiety, with symptoms of ocd, ptsd, and bpd.

I am continuing my education with a Masters program in Forensic Mental Health Counseling. I no longer isolate myself from friends and family when times get tough. Instead, I lean on them for support. A strong support system has a proven track record of saving lives and leading individuals to recover.

However, not all young people with similar stories as mine eventually make it through. This is why we need 988 information in schools.

988 launched nationwide on July 16th, 2022. During the first full month of its operation, the new, three-digit crisis line responded to 318,048 calls, texts and chats from anyone experiencing a mental health, substance use or suicide crisis. Despite this success so far, there is still little public awareness about the crisis line among the general population, let alone among our most vulnerable youth. According to the last available Youth Behavioral Risk Factor Surveillance System (YBRFSS) study report, “18.8% of high school students seriously considered attempting suicide and 8.9% actually attempted suicide” nationwide.<sup>3</sup> **However, researchers collected this data before the pandemic.**

We know that the issue is way worse now. One way to show up for students is to let them know that they do not have to navigate a crisis alone and that they can dial 988 to talk through their troubles.

One small amendment I would suggest is to **include information about NYC WELL**, which is the 988 call center servicing our city. I would like students to know that they can call 1-888-NYC-WELL or text WELL to 65173, or chat NYC WELL on their website directly in order to get connected to the support that they need should they have an out-of-city or out-of-state area code. This amendment comes from concerns about out-of-state area codes currently being unable to connect directly to New York City call centers, since 988 does not operate using geolocation services, but rather connects callers according to their area codes.

**I hope this Committee seriously considers my testimony seriously in support of Introduction 0610-2022, with this small amendment, and votes this bill FAVORABLY to help save students’ lives and begin the dialogue among our school-aged youth to break the mental health stigma.** I also hope the City Council considers issuing a Resolution to Congress in the future calling upon them to immediately address the geolocation issue, so that 988 can fully operate for all New Yorkers— students and adults— without any delays or hindrances.

---

<sup>3</sup> United Health Foundation. (2019). *2021 Health of Women and Children Report: Teen Suicide in New York*. America's Health Rankings. Retrieved September 19, 2022, from [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen\\_suicide/state/NY](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen_suicide/state/NY)

Thank you for listening to my testimony.

Respectfully,

Huda

**New York City Council**  
**Committee on Education Hearing**  
**Chair: Council Member Rita Joseph**  
**Wednesday, September 21, 2022 at 1:00PM**

Testimony Written By: Jessica Marshall  
marshallbelhumeur@gmail.com

**RE: Vote FAVORABLY on Int. 0610-2022 to Save Students' Lives!**

Good afternoon Chair Joseph and Members of the Committee on Education. Thank you for holding this hearing today focused on the needs of students with disabilities, including those living mental health conditions.

Hello, my name is Jessica Marshall, and I am a constituent of Council Member Erik Bottcher District 3. I am also the mother of a child who has been diagnosed with borderline personality disorder. Because of what my family has been through, I also serve as an Advocacy Ambassador with the National Alliance on Mental Illness of NYC (NAMI-NYC). NAMI-NYC is a grassroots mental health advocacy organization, and one of the largest affiliates of the National Alliance on Mental Illness, serving peers, family members, friends and caregivers in New York City for 40 years.

**I am submitting testimony today to come out in SUPPORT of Int. 0610-2022**, otherwise known as a “Local Law to amend the administrative code of the City of New York, in relation to requiring the Department of Education to provide information on the new National Suicide Prevention Hotline and other related resources.” This bill would bring life-saving information regarding 988 to all New York City schools at a time when 1 in 5 students lives with a mental illness, but only 20% get the help they need.<sup>1</sup> According to NAMI-NYC, suicide is also the second-leading cause of death among youth ages 15 to 24.<sup>2</sup>

I am personally invested in this issue because I know how incredibly hard it is to find effective treatment when you need it most. I know what it’s like to have a child who believes the only thing left for them is to die – and to have nowhere to turn. I know how desperate you have to be , when you think you’re about to get help. Things don’t get better when that happens. 988 is the beginning of a sane, research supported approach to supporting loved ones in crisis and their families. Young people need to know there is a safe, reliable option to help them when they need it most – and you are in a position to get that information to them. You are in a position to save the lives of young New Yorkers.

I also know that, according to the New York State Comptroller’s most recent audit report of the NYC Department of Education (DOE):

---

<sup>1</sup> National Alliance on Mental Illness of New York City, Inc. (2022, May 6). *Ending the Silence* - NAMI-NYC. Request a Speaker: Ending the Silence. Retrieved September 19, 2022, from [https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20\(ETS,understanding%20of%20a%20misunderstood%20topic.](https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20(ETS,understanding%20of%20a%20misunderstood%20topic.)

<sup>2</sup> *Id.*

- 563 of the 1,524 (37%) schools audited do not have any of the six structured mental health programs that DOE claims it offers within all schools;<sup>3</sup>
- 64% of NYC schools do not meet the recommended school counselor-to-student ratio needed to support our students;<sup>4</sup>
- 28% of schools do not even have a social worker on staff;<sup>5</sup>
- Of the schools that do have a social worker on staff, 80% do not meet the recommended ratio of 1 social worker on staff per every 250 students.<sup>6</sup>

**In short, I am concerned because DOE and the City have been falling short when it comes to the mental health of our student population.**

Since our city is currently not doing what it needs to in order to prevent mental health crises in schools, the least this Council can do is introduce 988 resource information to students in order to avert present and future crises.

988 launched nationwide on July 16th, 2022. During the first full month of its operation, the new, three-digit crisis line responded to 318,048 calls, texts and chats from anyone experiencing a mental health, substance use or suicide crisis. Despite this success so far, there is still little public awareness about the crisis line among the general population, let alone among our most vulnerable youth. According to the last available Youth Behavioral Risk Factor Surveillance System (YBRFSS) study report, “18.8% of high school students seriously considered attempting suicide and 8.9% actually attempted suicide” nationwide.<sup>7</sup> **However, researchers collected this data before the pandemic. My concern is: how many youth are we missing from this figure now, and how can we save them?**

One way is to let them know that they do not have to navigate a crisis alone and that they can dial 988 to talk through their troubles. I do have a concern about certain issues with the capability of out-of-state area codes to be able to connect directly to New York City call centers since 988 does not operate using geolocation services, but rather connects callers to help according to their area codes. For this reason, I hope the Committee on Education would consider voting on this bill FAVORABLY out of committee with **the small amendment to include information about NYC WELL**, which is the 988 call center servicing our city. I

---

<sup>3</sup> *Audit: Mental Health Education, Supports, and Services in Schools*. New York State Comptroller. (2022, August). Retrieved September 22, 2022, from <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2022-20n7.pdf>

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> United Health Foundation. (2019). *2021 Health of Women and Children Report: Teen Suicide in New York*. America's Health Rankings. Retrieved September 19, 2022, from [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen\\_suicide/state/NY](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen_suicide/state/NY)

would like students to know that they can call 1-888-NYC-WELL or text WELL to 65173, or chat NYC WELL on their website directly in order to get connected to the support that they need should they have an out-of-city or out-of-state area code. I also hope the City Council considers issuing a Resolution to Congress calling upon them to immediately address the geolocation issue, so that 988 can fully operate for all New Yorkers– students and adults– without any delays or hindrances.

**I hope this Committee seriously considers my testimony seriously in support of Introduction 0610-2022, with this small amendment, and votes this bill FAVORABLY to help save students' lives and begin the dialogue among our school-aged youth to break the mental health stigma.**

Thank you for listening to my testimony.

Respectfully,

Jessica

My name is Josephine S.

I am the parent of a 14-year-old NYC public school student who went from an ADHD diagnosis to a psychiatric hospital because his school didn't understand ADHD and the associated behaviors.

We live in Brooklyn, and my son is a student in Manhattan. My son's name has been changed for privacy.

I have two now teenage sons who are both students in the NYC public school system. My older son is a neurotypical, high achieving student. My younger son Max was born with a neurological disability, ADHD (Attention-Deficit/Hyperactivity Disorder).

ADHD is one of the most common neurodevelopmental disorders of childhood.  
[Approximately 1 in 10 children aged 6-11 are diagnosed with ADHD](#) in the United States.

Children with ADHD may have trouble paying attention, controlling impulsive behaviors (may act without thinking about what the result will be), or be overly active. ADHD is called an "invisible disability" - Max can walk, talk, hear, and speak normally, but his behaviors are compromised by a prefrontal cortex that does not function optimally. ADHD often causes emotional reactivity, low frustration tolerance, and low motivation to initiate or complete non-preferred or overly challenging tasks.

The American Academy of Pediatrics (AAP) treatment guidelines for ADHD are:

- Parent training in behavior management
- Behavioral classroom interventions
- FDA-approved medications

The AAP does **not** recommend psychotherapy for children.

ADHD is a spectrum disorder, meaning that it presents differently in each child. Girls are more likely to be inattentive, while boys are more likely to present as hyperactive and impulsive.

My son Max was formally diagnosed with ADHD and ODD (Oppositional Defiant Disorder - a diagnosis that is rarely used now due to it being a description of ADHD behaviors possibly due to being misunderstood and not supported) at age 8 when he was in 3rd grade.

Many school staff mistakenly believe that a student with ADHD is a “bad” kid due to ineffective or problematic parenting. ADHD is not caused by bad parenting.

ADHD is the most common underlying psychiatric condition that leads to the “[school to prison pipeline](#).”

**I consider myself to be an expert on ADHD at this point in time, and am advocating at this hearing for more training for school staff on the biology and symptoms of ADHD in order to support and nurture them in a learning environment.**

**I feel strongly that, to ensure that students with ADHD can consistently access the curriculum and make progress at the same rate as their neurotypical peers, there should also be specialized public schools with staff who have been specifically trained in working with students with ADHD.**

So how does an ADHD diagnosis result in a psychiatric emergency?

Here’s an overview of what went wrong in the public system:

1. The free DOE evaluation was flawed because it lacked a diagnosis.

At the start of Max's Pre-K, his teachers requested that he be evaluated for impulsive and aggressive behaviors in the classroom (after the social worker questioned us about our use of corporal punishment at home, which we did not use).

The DOE-commissioned psychoeducational report concluded that my son had high cognitive capabilities alongside inappropriate impulsive behaviors.

The evaluation recommended a "challenging academic environment" with the related services of Counseling and Occupational Therapy at school to help him modify his unwanted behaviors.

**There was no mention of ADHD, nor was there a recommendation for further evaluation for ADHD or potential treatment by either his evaluator or his school psychologist upon reading the report.** Neither my husband nor I are childhood education professionals – we are creative professionals trying to parent a child with behavior challenges. If the school had suggested that we have an outside evaluation for ADHD, we may have been able to avoid the trauma that resulted from this untreated condition.

As a result of incomplete information, the IEP that was subsequently developed for him lacked adequate information about him that possibly could have helped teachers and school staff better understand my son and his behavior.

Without knowing what was behind my son's behavior in class, teachers and school staff erroneously assumed he was a neurologically typical child who was just poorly behaved. He was then subjected to inappropriate and punitive punishment by an uninformed principal.

2. We were excluded from the IEP meeting.

The school created an IEP with the label “Emotional Disturbance” for Max which would provide him with the recommended counseling and occupational therapy. I was invited to attend the meeting but not informed that I had the right to be an active participant in the decision making process. This meant that I was not asked at the meeting about my concerns as a parent, I was not involved in the team discussion of goals and service mandates.

Despite the school being out of compliance with both DOE policy as per the Standard Operating Procedures Manual and federal law under IDEA, the IEP was implemented and my son was placed in an ICT classroom.

### 3. We needed to pay for an expensive outside evaluation to get a diagnosis.

As the DOE evaluations were incomplete without any diagnostic information, we paid thousands of dollars for a private evaluation when my son was in 3rd grade. We wanted his challenging behaviors to be identified and diagnosed, which would hopefully help us and the school staff better understand Rex, and also give us treatment options.

Max was diagnosed with ADHD and ODD at this time – a neurological condition that, had it been identified earlier by the DOE, may have prevented years of distress in school for my child.

We tried to find a private school that would be a better learning environment for Max, but due to the ODD diagnosis he was not accepted into more nurturing schools. If we could have sent him to a school which was knowledgeable and supportive of students like my son, I would have done so many years ago.

Unfortunately, our family has a modest income and cannot afford the yearly cost of \$7,000 to \$15,000 to retain a lawyer to assist us in filing for due process to secure a more appropriate education for our son at a non-public school.

We certainly do not have the money to put down the two to three years of \$60k-\$70k / year tuition in the hopes of being reimbursed.

The Special Education system of paying upfront and seeking tuition reimbursement using due process is so incredibly inequitable that only the wealthiest of families can afford to get their children into a nurturing educational environment.

At Max's end of year IEP meeting in 3rd grade, we were told that the school had "done everything that they could" to support Max, but it wasn't working. His IEP team made the decision that he be placed in a "non-public school" setting for students with emotional disturbance. We learned (through a friend, not the school) that Max was entitled to be with peers of similar cognitive capabilities, and in the least restrictive setting. We learned that we had the right to choose, and sent him back to his community school.

#### 4. My son was subjected to discrimination and exclusion from class events because of his disability.

When Max was 10, and in 5th grade, the school principal banned him from the end of year overnight class trip. The principal told us that Max would not be allowed to go on this trip because of his "inability to stay in place."

Due to this decision, Max was excluded from the 5th grade community building events throughout the year such as crafting parties for fundraisers, bake sales, and class information sessions about the much anticipated graduation event.

As the year progressed, Max began to show concerning signs of despair and irritability. He believed that he was "stupid" and that there was "something wrong" with his brain. His school counselor told me that she felt strongly that he needed to see a "therapist" outside of school to address his mood. She did not give me any concrete referrals, and

was incorrect in insisting that Max see a psychotherapist. Psychotherapy is ineffective if not counterproductive for children with a neurological disorder by pathologizing something that they cannot change. The correct recommendation would have been for behavior training done by an ADHD specialist.

Following her recommendation, I looked for a therapist - therapists skilled in working with ADHD are not easy to find, and over the two months that it took me to find a clinician with availability, the school counselor told me that she believed that I was being "neglectful."

When I was able to secure an intake at an affordable institution for pediatric psychiatric and psychological care, we then had to wait another six weeks for the initial appointment.

In the meantime, Max was being excessively punished at his school by the principal for his impulsivity. In January 2019, with his appointment only 2 weeks away, Max was given a highly restrictive punishment at school. Max had an ongoing and escalating conflict with a female student in his class. This student had reported to her parents that Max was bothering her, and her parents called the principal to complain. The Principal then restricted Max from being within 20 feet of the other student at all times, including recess. Because they were in the same friend group, this meant that Max would be isolated for much of recess.

Max found this unfair, and was so angry and upset as a result of this punishment that he told his school counselor that he wanted to die. This triggered a suicidal ideation questionnaire, and she sent him for a mandatory emergency psychological evaluation at Bellevue Hospital.

After Max had spent more than six hours locked inside of the Children's Emergency Psychiatric Ward at Bellevue, I was informed that my custodial rights were waived (Mental Hygiene Law) and that Max would spend the night there so he could be

evaluated the next morning after the intake team of social workers, psychologists, and psychiatrists had arrived for work. Once the evaluation was finished, he was released to us. The hospitalization was a traumatic experience for him that led to nightmares and school refusal. Max's school refusal lasted for more than two months.

During this time he was seeing a psychiatrist and behaviorist at NYU Langone. For reasons I do not understand, the medical treatment took over 8 weeks to begin.

After an angry outburst with his psychiatrist, Max was sent involuntarily and against our wishes to a psychiatric hospital at age 10 for being a "danger to others." Once there, he was put on the proper dose of stimulant medication and turned around instantly - his mood improved immediately and he was excited to go back to school to be with his friends and graduate from elementary school.

The 5th grade end of year class trip was a month away. Despite his hospitalization and the medication, the principal still refused to allow him to join his classmates on this trip.

I was incredulous, and called Advocates for Children for advice.

They explained to me that excluding a child with a disability is illegal. When I communicated this to the principal, he told me that he often told students that they couldn't attend and that I was the only parent who had ever questioned him. He called the DOE's legal department, and learned that I was correct.

Max went on the camping trip and had a great time.

5. The school refused to conduct a FBA and instead relied on a pseudo-BIP that was developed without parent input.

When Max started 6th grade at a local middle school the following September, despite his IEP, he was given five Principal's Suspensions in the first five months of school. The

infractions were minor issues including taking a pencil off of a teacher's desk without permission (he had forgotten his), grabbing a basketball from the PE teacher, and cursing under his breath at his advisor.

Each of these suspensions meant that he was removed from his classes and had to sit in another classroom for the entire day being watched by a teacher. He could not attend lunch with his peers. He was not provided with any classwork, so he missed the instruction his peers were receiving that day.

He was excluded from the school block party and had to sit in the principal's office.

Again, incredulous that this could be happening, I contacted [Advocates for Children](#). They told me that a Functional Behavior Assessment with a corresponding Positive Behavior Plan (also known as a Behavior Intervention Plan or BIP) need to be requested and initiated by the school immediately (this box was checked on his IEP, and I should not have had to request it).

I was told by the principal that the school "is bending over backwards for Max" and that the FBA would only make it worse for him.

He also told me that the school had a Behavior Intervention Plan in place. I learned later that this Principal believed that the BIP was something that the school's "Culture Team" (Dean's office) developed, and consisted of corresponding punishments including detention and suspensions.

I myself had to correct the Principal by sending an article from a DOE document detailing the Positive Behavior Plan.

At the end of last year (8th grade), Max's principal wanted to exclude Max from both the Prom and the class trip to an amusement park. Fortunately I now know the law around disabilities and he was able to go.

Academically, Max barely passed all classes. His grade point average was 68.

Over the last 3 years of middle school, I have spent several hours every week supporting my son as his advocate - communicating basic information about ADHD and the school's responsibility in supporting him. I am astounded that most staff members at his school have had little to no training on ADHD behaviors, given that it is such a common diagnosis.

At great expense, I have had to pull in Advocates and Special Education experts to work with the school to support my son.

#### 6. Teachers are rarely aware of the IEP

Max is currently starting his first grade of high school at this same school. As of the third day of school this year, none of his teachers had read his IEP and were not aware of his disability. Every year I have to be the one to communicate his IEP accommodations to his subject teachers (frequent breaks, extra time for tests, reduced homework, etc), and in many cases they are ignored. The school simply does not have the resources to provide these accommodations.

The Dean's Office at my son's school changed their name to "Culture Team" to align with recommendations for restorative justice practice, but in reality they were never trained in restorative justice and rely on outdated disciplinary techniques such as detention (they call it "reflection time") and school removals. These techniques have been proven to be detrimental to students with ADHD. The culture team is also not aware that many of their practices are illegal for students with disabilities.

I worry every day that there will be some sort of mishap.

**If even one of his teachers was knowledgeable about ADHD, at least I would feel that he has an advocate in his school who can support him.**

7. Many NYC public schools aren't equipped to support students with ADHD.

I have come to realize that the IDEA Act may have been a good concept, but in reality it doesn't work. I would also go so far as to state that the Public School System destroyed my child. Max was a spirited, happy, loving, if not rambunctious young boy, who was so mistreated by his school staff that he was beaten down and made to feel badly about himself. I can only hope that one day he will understand his strengths and his weaknesses and gain back the inner spirit that he had when he was a young child.

My son's story is not unique.

**Again, I would argue that the DOE should establish specialized schools that support students with ADHD.**

Written Testimony for the Committee on Education  
Wednesday, September 21st, 2022

My name is Julia Garland. I am a public school elementary teacher and parent of a child with special needs.

I am angry that the chancellor of our schools has accused me of “gaming the system” as I work to provide my child with an appropriate education. Someone who *games the system* finds a way to get an advantage over others. I’m confused about what advantage Chancellor Banks thinks I have.

Is my advantage the 10 years of finding and paying for private counseling and therapy? When my son was in first grade the clinical team at his public school stated that his needs were beyond their scope of expertise. Even if I could find decent services covered by insurance I’d be out the \$15-30 co-pay at one to two sessions a week. Rough math puts that at \$800-\$1,600 a year. Not to mention the time cost in finding these service providers. Also not to mention the transportation cost in getting to these service providers. This doesn’t feel like an advantage to me.

Is my advantage spending hours of my life in IEP meetings where I was educating teachers in appropriate methods of teaching children with my son’s diagnosis? Then, after we were sent to the CBST, the hours were spent researching and visiting private schools to determine which one might work for my son. These are all hours I would rather have spent WITH MY SON. It doesn’t feel like an advantage to me.

Is my advantage having to pay for a private school up front and wait months or more likely years to be reimbursed? NYC private day school tuition for children with special needs has run my family between \$58,000-\$89,000 a year depending on our son’s need for a paraprofessional. I don’t think even Chancellor Banks has a spare \$70,000 lying around that he can spend freely and wait 18 months to get it all back. Without interest. Or does Chancellor Banks think that my advantage is becoming a Connors case which then means that most private schools wouldn’t accept my son because they know how late the funding would arrive? Again- it just does not feel like an advantage to me.

Is my advantage the need to engage a private lawyer to navigate the complex and often opaque system to get reimbursed by the DOE? A cost of between \$4,000-\$10,000 a year doesn’t feel like an advantage. The range in this cost depends on whether or not we went to a hearing. And speaking of hearings, does Chancellor Banks think that spending the hours and hours preparing for a hearing is an advantage? Taking that time away from our work or families? This one doesn’t feel like an advantage to me either.

Maybe my advantage is in needing DOE provided bussing for my son. Bussing that rarely showed up the first week or so of school. Bussing that led to my child being on a bus for four hours to get to school one day AND NO ONE KNEW WHERE THE BUS WAS. Bussing that has not always had functioning air conditioning or heat. Bussing that led to my 8 year old son being dropped off *across the street* from his school one day with another, younger, ASD child, so they crossed Broadway in the financial district BY THEMSELVES. Doesn't feel like an advantage to me.

I'm angry about being called a cheater. But I am also sad. I'm sad that my son's needs kept our family from being part of our neighborhood community. I wanted nothing more than to keep my son in his zoned school. I wanted to enjoy walking to school with him in the mornings. I wanted to make playground plans in the afternoon with groups of his friends.

Please do what you can, all you can, to make schools capable of providing for the needs of all of their students.

Please, Chancellor Banks, apologize to me. Apologize to the many parents who would have rather not have used the system New York City has in place for our children to be educated appropriately. We are not "gaming the system", we are sacrificing huge amounts of time and money and causing ourselves severe stress just to educate our children.



New York City Council  
Committee on Education Hearing  
Wednesday, September 21, 2022 at 1:00PM

Testimony By: Kimberly Blair, MPH  
Director of Public Policy & Advocacy  
National Alliance on Mental Illness of NYC (NAMI-NYC)

## **RE: Save Students Lives by PASSING Int. 0610-2022 and Bring 988 to Schools!**

Good afternoon Chair Joseph and members of the Committee on Education. Thank you for holding this hearing today focused on the needs of students with disabilities, including those living mental health conditions.

My name is Kimberly Blair, and I serve as the Director of Public Policy and Advocacy for the National Alliance on Mental Illness of NYC (NAMI-NYC). We are a grassroots mental health advocacy organization, and one of the largest affiliates of the National Alliance on Mental Illness. On a personal note, I also identify as someone who has lived with mental health diagnoses since a young age, so I know firsthand what it is like to be a student navigating through some of the challenges we have been discussing today.

The focus of NAMI-NYC's testimony today is to come out in support of **Int. 0610-2022**, a Local Law to amend the administrative code of the City of New York, in relation to requiring the Department of Education to provide information on the new National Suicide Prevention Hotline and other related resources.

First and foremost, before we delve into the bill, I think it is important to orient you as to what my organization does. NAMI-NYC has been a leading service organization to the mental health community for 40 years in New York City. Our organization provides groundbreaking advocacy, education, and support services for individuals affected by mental illness, their families, and the greater public, all completely free of charge. Our renowned peer- and evidence-based services are unique in that they are led both for and by members of the mental health community and are reflective of the diversity across New York City.

As part of our support efforts, we also run a NAMI Ending the Silence (ETS) program that we have brought to an average of 104 NYC schools over the past three years upon request, free of charge. The ETS curriculum includes two leaders: one who shares an informative presentation in addition to a young adult with a mental health condition who shares their journey of recovery. We then open the floor for participants to ask questions and gain understanding of misunderstood topics pertaining to mental health. We host three separate training sessions for (1) students, (2) teachers and school staff and (3) parents, families and caregivers. The ultimate goal of this program is to "end the silence" and break the stigma by discussing mental health within the school setting. For the sake of time, I have included more information about our ETS program as **APPENDIX A** to this testimony.<sup>1</sup>

The reason I bring up our ETS program is because my organization has a primary look into the school setting, the concerns raised by students, parents, teachers and school staff, as well as the secondary pandemic that has hit our NYC schools, which is the mental health crisis in our

---

<sup>1</sup> National Alliance on Mental Illness of New York City, Inc. (2022, May 6). *Ending the Silence - NAMI-NYC*. Request a Speaker: Ending the Silence. Retrieved September 19, 2022, from [https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20\(ETS,understanding%20of%20a%20misunderstood%20topic](https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20(ETS,understanding%20of%20a%20misunderstood%20topic).

youth. Anecdotally, we have heard about the increased anxiety students experience due to the ever-changing context of the pandemic. We also have heard from teachers who are part of our Ambassador Program how they had to return to the school context without increased resources to refer students to who exhibited depressive symptoms and suicidal ideation. The reason we have to rely on these anecdotes is because in the 2021-2022 school year, DOE launched an initiative to screen all students for mental health needs based on SEL competencies; the public still does not know how they have been using that data to inform student support programming, mental health professional staffing needed or trends in the mental health outcomes of students rights now or identifying students at risk to intervene with resources.<sup>2</sup>

However, what we do have available to the public is the New York State Comptroller's most recent audit report of the NYC Department of Education (DOE). The findings from this audit report most align with NAMI-NYC's experience so far within the schools. The report finds that 563 of the 1,524 (37%) schools audited do not have any of the six structured mental health programs that DOE claims it offers within all schools. I have also provided a map from this audit report as **APPENDIX B** to my testimony so that this Committee can see for themselves the disparity in which school districts have access to mental health programming and which do not. Those that do not are districts which have been historically marginalized and under-resourced. Moreover, 64% of NYC schools in this report do not meet the recommended school counselor to student ratio needed to support our students, and 28% of schools do not even have a social worker on staff. Of the schools that do have a social worker on staff, 80% do not meet the recommended ratio of 1 social worker on staff per every 250 students.<sup>3</sup> All of these are failings on behalf of DOE to our student population.

While introducing the 988 crisis line to students will not resolve many of the structural issues we have presented in this testimony so far, it is a first step this City Council can take to show up for students at a time when nothing else is being done to address the mental health of students and when suicide is the second leading cause of death among youth aged 18-24.<sup>4</sup>

For those who do not know about 988, it is a new, three-digit that launched nationally on July 16th of this year responding to anyone experiencing a mental health, substance use or suicide crisis. So far, the line has answered 318,048 calls, texts and chats during the first full month of its operation. Despite this success so far, there is still little awareness about the resource among the general population, let alone among our most vulnerable youth. If interested in learning more, I have included in **APPENDIX C** links to a public awareness video<sup>5</sup> NAMI-NYC published online this summer as well as a video recording of our event titled *What's the 411 on 988?*,<sup>6</sup>

---

<sup>2</sup> *Parent leaders demand halt to DESSA, DOE's social emotional screener amid privacy, security, and transparency concerns.* PLACE NYC. (2021, November 5). Retrieved September 21, 2022, from <https://placenyc.org/2021/11/05/halt-dessa-amid-concerns/>

<sup>3</sup> *Audit: Mental Health Education, Supports, and Services in Schools.* New York State Comptroller. (2022, August). Retrieved September 22, 2022, from <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2022-20n7.pdf>

<sup>4</sup> See n.1.

<sup>5</sup> [https://www.youtube.com/watch?v=DoE-3HDX\\_s](https://www.youtube.com/watch?v=DoE-3HDX_s)

<sup>6</sup> <https://www.youtube.com/watch?v=F8cXL7pTD0A>

which we held with Kelly Clarke, the Program Director of NYC Well with Vibrant Emotional Health and Denise Balzer, the Director of Crisis, Emergency and Stabilization Initiatives at the NYS Office of Mental Health.

**Based on our work with these two offices, we suggest that this Council pass this bill FAVORABLY, but with the small amendment to include information about NYC WELL because there is currently a geolocation issue with 988 that we are working at the federal level to rectify.** Until then, 988 callers who have out-of-city area codes may have their call routed to a call center outside of NYC, and we would not want that for a student in crisis who needs immediate attention in the NYC area. Since NYC WELL is the 988 call center servicing our city, we would like students to know that they can call 1-888-NYC-WELL or text WELL to 65173, or chat NYC WELL on their website directly in order to get connected to the support that they need. Resources attached to the 988 materials for students should also include examples of scenarios where students and/or family members can call 988 for support if they may be trying to avert a suspected mental health crisis coming on. Our organization also calls upon City Council to send a Resolution to Congress calling for them to immediately address the geolocation issue so that 988 can fully function for anyone located in the NYC area who needs it and who may have an out-of-city area code.

**Again, we hope this Committee seriously considers NAMI-NYC's testimony in support of Int. 0610-2022 and votes this bill FAVORABLY with the suggested amendment in order to show up for our students facing increased mental health crises at this time.**

Thank you for your time.

Kimberly Blair, MPH  
Director of Public Policy & Advocacy

**National Alliance on Mental Illness of NYC (NAMI-NYC)**

**Please Note Our New Address:**

307 West 38th Street, 8th Floor  
New York, NY 10018  
Office: 212-684-3365  
Direct Dial: 212-417-0953  
Helpline: 212-684-326

## **APPENDIX A**

### **Descriptions of NAMI-NYC's Ending the Silence Programs**

#### **NAMI Ending the Silence for Students**

A 50-minute presentation designed for middle and high school students that includes warning signs, facts and statistics and how to get help for themselves or a friend. Research has shown that NAMI Ending the Silence for Students is effective in changing middle and high school students' knowledge and attitudes toward mental health conditions and toward seeking help.

#### **NAMI Ending the Silence for Staff**

A 1-hour presentation for school staff members that includes information about warning signs, facts and statistics, how to approach students and how to work with families.

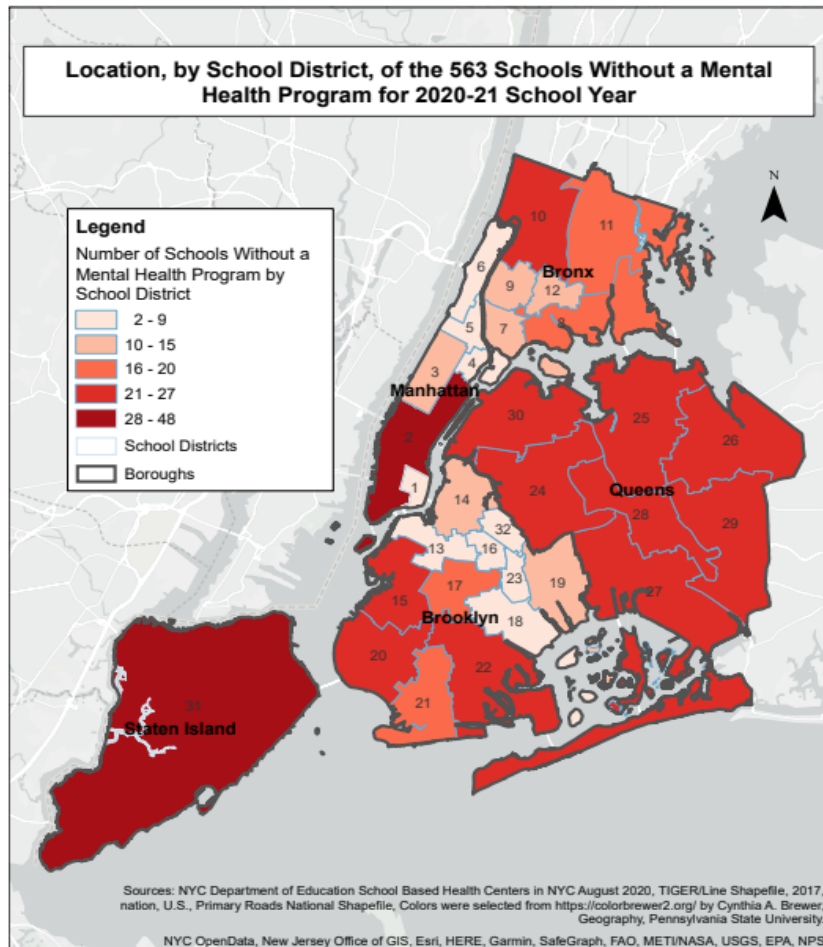
#### **NAMI Ending the Silence for Families**

A 1-hour presentation for parents, guardians, and other family members of middle or high school aged youth that includes warning signs, facts and statistics, how to talk with your child and how to work with school staff.

*Excerpt from:*

[https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20\(ETS.understanding%20of%20a%20misunderstood%20topic.](https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20(ETS.understanding%20of%20a%20misunderstood%20topic.)

## APPENDIX B



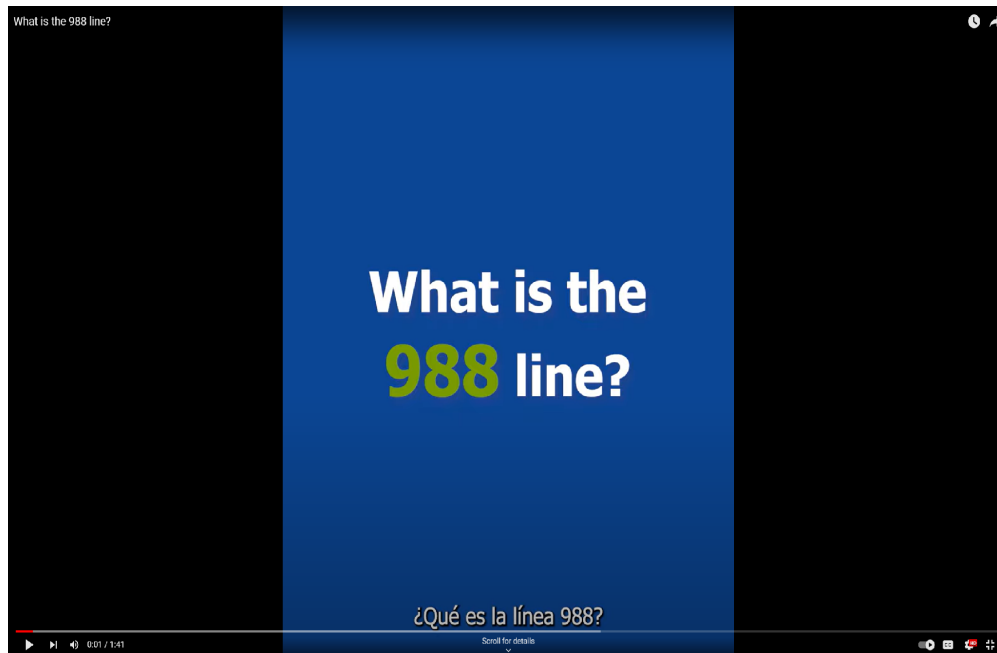
Source: *Audit: Mental Health Education, Supports, and Services in Schools*. New York State Comptroller. (2022, August), p. 21. Retrieved September 22, 2022, from <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2022-20n7.pdf>

## APPENDIX C

What's the 988 Line? (short clip)

[YouTube](#)

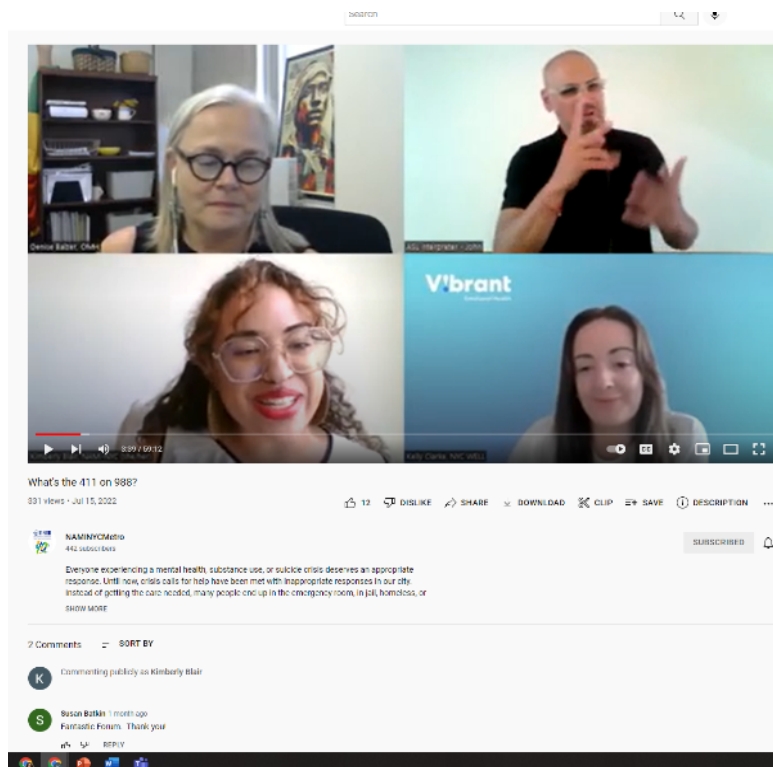
[Instagram](#)



What's the 411 on 988? (event recording)

[English](#)

[Spanish](#)



Re: IEP Compliance & Gifted Programs

To Whom It May Concern:

In 2021, our second child was admitted to the same G&T school/program their older sibling attended, but after speaking to a half dozen families from the school about how their child's IEPs were handled (largely ignored, with vacancies and turnover for positions like occupational therapist reportedly so frequent the services could not be relied upon) and receiving no response from the administration about how our child's needs would be met, we decided it was better for them to attend a school they had already been accepted to that was known for its ability to serve students with special needs and disabilities and compliance with individualized education plans.

In an attempt to serve at least one set of our child's needs successfully, we now have children who attend Brooklyn public schools 30 minutes apart, which is an enormous strain on our family. Meanwhile, our second child is still reading and doing math far ahead of grade level and is bored by their current curriculum, which in turn exacerbates some of the issues that require the IEP.

There would be no need for this situation if compliance with IEPs was truly a given, but it is not in NYC. This lack of compliance also seems to be a common feature of G&T programs and specialized high schools, which are already known to often serve as a filter for racial and economic privilege rather than a truly differentiated curriculum for learners with non-mainstream needs.

-M.M.

## **NYC City Council Education Committee Testimony**

Miriam A. Nunberg, Esq.

September 21, 2022

My name is Miriam Nunberg. I am a civil rights attorney working as an advocate for students with disabilities in New York City. I am also the parent of a current and former DOE student with IEPs. My professional experience includes 14 years as an attorney for the US Department of Education's Office for Civil Rights, the agency that enforces the anti-discrimination laws in schools, including Section 504 and the ADA. In that capacity, I worked with hundreds of school districts across New York and New Jersey. I have never encountered a district that so flagrantly disregards the most basic requirements of these regulations as New York City. While I have encountered a vast host of special education compliance violations that reflect a total failure of the DOE to properly train staff and hold them accountable for ensuring the rights of students, today I will focus on two key areas - IEP evaluations and Section 504 compliance. At a time when students across the country are experiencing a well documented [surge](#) in mental health issues, in particular, these failings represent an across the board failure to provide key supports for our students by the DOE.

### **Evaluations**

First, I'd like to address the terrible quality of the evaluations provided by the DOE. Under both the IDEA and Section 504, schools must proactively offer comprehensive, technically valid evaluations capable of thoroughly assessing all of a student's potential disabilities, including ADHD and mental health conditions.<sup>1</sup> No matter how smart a child is, if she cannot pay attention in school due to depression, anxiety, ADHD, etc., her educational experience will be compromised without appropriate supports in schools; evaluations must be capable of assessing these conditions, not simply a child's IQ.<sup>2</sup> Evaluations must also be offered within 60 days from the date the parent provides consent.<sup>3</sup> Evaluations form the mandated bedrock of all services and accommodations provided to students on IEPs and 504 Plans, which cannot legally be developed without a thorough understanding of the child's needs and disabilities. Despite these two laws' explicit evaluation requirements, in my experience working with dozens of families across the city, generally the only children who are able to obtain the kinds of comprehensive evaluations required by law are those whose families can either pay \$6000 on average out of pocket, or who have the resources to hire someone like me to

---

<sup>1</sup> See, [34 C.F. R. §300.304](#) (IDEA's evaluation requirement) and [34 C.F. R. §104.35](#) (Section 504's evaluation requirement).

<sup>2</sup> See, for example, [34 C.F. R. §300.304\(c\)\(4\)](#), requiring that children be "assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities" (*emphasis added*).

<sup>3</sup> [20 U.S.C. §1414](#)

advocate for the DOE to do its job. Otherwise, students either never receive an evaluation or are only given the DOE's usually flimsy and superficial "psycho-educational" evaluation done in-house by the DOE's overworked school psychologists.

The DOE psycho-educational evaluations that I have reviewed are uniformly below par and cookie cutter. In contrast with the multiple days of testing provided by private evaluators, which are necessary to meet the legal evaluation standard, DOE evaluations are conducted over a span of a few hours, always include the identical oversimplified assessment tools, and are almost never individualized based on the student's presenting difficulties. Most notably, in the multiple cases I have had recently where the student has a history of serious mental health issues including psychiatric hospitalization, the DOE psychologist barely acknowledges these issues, if at all; rather, they simply assess the child's intelligence and academic level of knowledge, which often have nothing to do with the reason why a child is being left behind in school. Occasionally the assessment tools are supplemented with ratings scales that address psychological issues, but these scales are often only partially administered and are used without additional context to assess the child. I have also been personally told that the DOE does not assess for ADHD, and that I must obtain a private diagnosis if I wanted my child assessed.

Some examples of recent evaluations I have seen conducted by DOE psychologists: 1) A psychologist at a middle school evaluated a student who had a psychiatric hospitalization earlier in the year. The school psychologist's evaluation of this child only included IQ's and grade equivalent scores. Nowhere does it reference the child's serious history of mental health issues and their impact on her school avoidance and plummeting academic performance. The family is now paying thousands of dollars out of pocket for a private evaluation; 2) A family who had been asking their high school for a year for an evaluation of their child due to suspected autism and other issues was finally given one at the end of his junior year. The psychologist failed to administer any valid instruments capable of assessing autism or his other issues at question. Without my involvement, it is likely he would have started his senior year of high school without an IEP and never had the opportunity to demonstrate his exceptional intelligence. 3) A student with a very superior IQ and likely ADHD was continually getting into trouble at school and was severely underperforming as a result. The DOE psychologist failed to administer any assessments for ADHD and thus the IEP team would not have been able to fashion adequate supports for this child.

The sub-par evaluations provided by the DOE create a double tier of students who come in front of IEP teams. Families who can afford to hire private neuropsychologists do so routinely and rarely rely on DOE evaluations; as a result, these more affluent families are much more likely to have a hope that the IEPs developed for their children will be based on a complete profile of their child. In contrast, families who cannot afford

the thousands of dollars usually required for a high quality, comprehensive evaluation, are able to provide a full picture of their child's needs and strengths, and thus have at least a hope that the IEPs developed for their children will be based on this necessary data.

### Section 504 Compliance

As a former attorney for the USDOE's Office for Civil Rights, I consider myself to have developed an expertise in the requirements of Section 504 of the Rehabilitation Act of 1973 (though I am not testifying on behalf of OCR in any way). Section 504 affords a basic level of protection to students with disabilities much broader than the IDEA (the law which governs IEPs). As a result, it should serve as a safety net for the multitude of students with disabilities who don't qualify for IEPs, often because their grades are too high. For example, despite a high GPA, a student with anxiety or OCD may still require accommodations in school; they may routinely stay up all night completing homework assignments due to their fear of getting low grades, or may require extra time on exams. Additionally, students with these and other mental health needs routinely require breaks from class, modified schedules or homework assignments, or counseling. All of these accommodations or modifications should be provided by schools to qualified students under the auspices of 504 plans. My experience with a number of families over the past year suggests that across the board, the DOE routinely fails to offer these plans, or if they do, they are so minimal that they are not worth the paper they are written on.

Over the past year, I have worked with multiple families at different DOE schools whose children have undergone psychiatric hospitalizations only to return to school with no supports whatsoever, despite the school's knowledge of the hospitalization and the reasons for it. These experiences have led me to conclude that the DOE's failures with respect to 504 compliance are multiple.

Let's take my client who I'll call Mark. He was a senior in a DOE high school who had always done very well and was accepted to a prestigious university. After the disruption of the pandemic however, Mark became clinically depressed and suicidal, causing him to be hospitalized for a month during the school year, thus missing a great deal of school work. Upon his discharge and return to school at the beginning of his last semester, his guidance counselor was well aware of the reason for his absence, but simply told Mark to go to all his teachers individually and work out a plan for dealing with the missed work. Mark was still too overwhelmed to manage to do this, and thus never spoke to his teachers. His graduation from high school was then jeopardized by his plummeting grades, putting his college acceptance at risk. Despite the families' repeated requests for assistance, the DOE did nothing until the family hired me to advocate for an appropriate 504 plan. I witnessed an identical pattern in the cases of at least two other students at different schools in similar positions following psychiatric

hospitalizations, where the school had essentially done nothing to support the child other than offering vague statements such as to come see their guidance counselor or talk to their teachers if they were overwhelmed.

Had the DOE held the schools accountable for complying with Section 504, things would have gone differently with Mark and my other clients left to fend for themselves in a large school while recovering from a psychiatric hospitalization. First, Section 504 contains what is called a “Child Find” requirement, which puts an affirmative burden on schools to notice that a child might have a disability and take appropriate steps in response.<sup>4</sup> Translated, this means that upon notification that a student has a mental health condition (ie, was discharged from a psychiatric facility), the DOE should be on notice that they might need to accommodate the student with a formal 504 plan.

Then, the first step to develop any accommodation under 504 is to evaluate the student to determine if their condition meets the legal standard for a student with a disability.<sup>5</sup> I can categorically state that I have never seen the DOE evaluate a student who might qualify for 504 accommodations rather than an IEP. Rather, the DOE’s own 504 [webpage](#)<sup>6</sup> requires families requesting 504 accommodations to submit a “**Diagnosis and Suggestions from (Their) Child’s Doctor**” and states that a “child’s doctor must complete the Medical Accommodations Request Form” in order to initiate the 504 eligibility review process (*emphasis added*). Nowhere on this page, nor in the DOE’s [Student and Family 504 Accommodations Guide](#)<sup>7</sup>, does it anywhere reference its legal mandate to provide evaluations for 504 eligibility. The USDOE has repeatedly stated that school districts must provide specialized assessments under Section 504 at no cost to the parent.<sup>8</sup> Nonetheless, in every single 504 case I have handled, parents have been required to provide their own evaluations.

In addition, the 504 Plans that I have seen in a number of cases are routinely so vague and skeletal that they are incapable of providing what is called a free, appropriate public

---

<sup>4</sup> [34 C.F.R. §104.32](#): A recipient that operates a public elementary or secondary education program or activity shall annually: (a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and (b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

<sup>5</sup> [34 C.F.R. §104.35](#): (a) *Preplacement evaluation*. A recipient that operates a public elementary or secondary education program or activity shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement.

<sup>6</sup> <https://www.schools.nyc.gov/school-life/health-and-wellness/504-accommodations>

<sup>7</sup> <https://www.schools.nyc.gov/docs/default-source/default-document-library/504-accommodations-student-and-family-guide>

<sup>8</sup> See, for example, *OCR Parent and Educator Section 504 Resource Guide*, <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>.

education or FAPE (which is required by both Section 504<sup>9</sup> and the IDEA). Despite the USDOE's guidance<sup>10</sup> that clearly explains that FAPE under Section 504 can include anything that the student needs in order to mitigate the impact of their disability upon their capacity to access the educational environment, the plans offered to Mark and many of my other clients are so limited and unclear that they are incapable of providing them with FAPE.

Finally, two other major areas in which the DOE routinely violates Section 504. First is its standard for defining disability. Section 504 clearly states that a student qualifies as having a disability if she is "substantially limited in a major life activity."<sup>11</sup> It is well established that a student can qualify as a person with a disability even if they are not limited in the major life activity of learning and manages to achieve high grades. Nonetheless, I have seen a number of cases where the DOE denies students with high grades 504 accommodations because they are considered too "smart." Second, the DOE used to have an across the board policy that 504 plans automatically expire at the end of each year, thus requiring parents to renew their application and get new outside professional documentation of the disability every year. Although this language has been removed from the DOE's policy, it is still routinely applied at schools across the system.

Thank you for your consideration of my testimony.

---

<sup>9</sup> [34 C.F.R. §104.33](#): a) *General*. A recipient that operates a public elementary or secondary education program or activity shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

<sup>10</sup> See, for example, US. Department of Education's *Dear Colleague Letter and Resource Guide on Students with ADHD* <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201607-504-adhd.pdf>

<sup>11</sup> [34 C.F.R. §104.3\(j\)](#): (1) *Handicapped persons* means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. (2) As used in paragraph (j)(1) of this section, the phrase: (i) *Physical or mental impairment* means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito- urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (ii) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

**New York City Council**  
**Committee on Education Hearing**  
**Chair: Council Member Rita Joseph**  
**Wednesday, September 21, 2022 at 1:00PM**

Testimony

Written

By:

Scarlett Jin  
jinyutongo@gmail.com

**RE: Vote FAVORABLY on Int. 0610-2022 to Save Students' Lives!**

Good afternoon Chair Joseph and Members of the Committee on Education. Thank you for holding this hearing today focused on the needs of students with disabilities, including those living mental health conditions.

Hello, my name is Scarlett Jin and I am a constituent of Council Member Julie Menin District #5. I am living with C-PTSD which has not been formally recognized in DSM-5. In my spare time, I also serve as an Advocacy Ambassador with the National Alliance on Mental Illness of NYC (NAMI-NYC). NAMI-NYC is a grassroots mental health advocacy organization, and one of the largest affiliates of the National Alliance on Mental Illness, serving peers, family members, friends and caregivers in New York City for 40 years.

**I am submitting testimony today to come out in SUPPORT of Int. 0610-2022**, otherwise known as a “Local Law to amend the administrative code of the City of New York, in relation to requiring the Department of Education to provide information on the new National Suicide Prevention Hotline and other related resources.” This bill would bring life-saving information regarding 988 to all New York City schools at a time when 1 in 5 students lives with a mental illness, but only 20% get the help they need.<sup>1</sup> According to NAMI-NYC, suicide is also the second-leading cause of death among youth ages 15 to 24.<sup>2</sup>

I am personally invested in this issue because in my school (an ivy league university), there has been students who committed suicides almost every year, mostly for academic and personal reasons. Including myself, also had thought about suicide although I’ve never not acted on it...in my school there has been long-standing insufficiency of mental health care. This bill, if passed, can certainly provide college students in NYC one more place to turn to when they are thinking about end their life.

I also know that, according to the New York State Comptroller’s most recent audit report of the NYC Department of Education (DOE):

- 563 of the 1,524 (37%) schools audited do not have any of the six structured mental health programs that DOE claims it offers within all schools;<sup>3</sup>

---

<sup>1</sup> National Alliance on Mental Illness of New York City, Inc. (2022, May 6). *Ending the Silence - NAMI-NYC*. Request a Speaker: Ending the Silence. Retrieved September 19, 2022, from [https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20\(ETS,understanding%20of%20a%20misunderstood%20topic.](https://naminycmetro.org/request-a-speaker/ending-the-silence/#:~:text=NAMI%20Ending%20the%20Silence%20(ETS,understanding%20of%20a%20misunderstood%20topic.)

<sup>2</sup> *Id.*

<sup>3</sup> *Audit: Mental Health Education, Supports, and Services in Schools*. New York State Comptroller. (2022, August). Retrieved September 22, 2022, from <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2022-20n7.pdf>

- 64% of NYC schools do not meet the recommended school counselor-to-student ratio needed to support our students;<sup>4</sup>
- 28% of schools do not even have a social worker on staff;<sup>5</sup>
- Of the schools that do have a social worker on staff, 80% do not meet the recommended ratio of 1 social worker on staff per every 250 students.<sup>6</sup>

**In short, I am concerned because DOE and the City have been falling short when it comes to the mental health of our student population.**

Since our city is currently not doing what it needs to in order to prevent mental health crises in schools, the least this Council can do is introduce 988 resource information to students in order to avert present and future crises.

988 launched nationwide on July 16th, 2022. During the first full month of its operation, the new, three-digit crisis line responded to 318,048 calls, texts and chats from anyone experiencing a mental health, substance use or suicide crisis. Despite this success so far, there is still little public awareness about the crisis line among the general population, let alone among our most vulnerable youth. According to the last available Youth Behavioral Risk Factor Surveillance System (YBRFSS) study report, “18.8% of high school students seriously considered attempting suicide and 8.9% actually attempted suicide” nationwide.<sup>7</sup> **However, researchers collected this data before the pandemic. My concern is: how many youth are we missing from this figure now, and how can we save them?**

One way is to let them know that they do not have to navigate a crisis alone and that they can dial 988 to talk through their troubles. I do have a concern about certain issues with the capability of out-of-state area codes to be able to connect directly to New York City call centers since 988 does not operate using geolocation services, but rather connects callers to help according to their area codes. For this reason, I hope the Committee on Education would consider voting on this bill FAVORABLY out of committee with **the small amendment to include information about NYC WELL**, which is the 988 call center servicing our city. I would like students to know that they can call 1-888-NYC-WELL or text WELL to 65173, or chat NYC WELL on their website directly in order to get connected to the support that they need should they have an out-of-city or out-of-state area code. I also hope the City Council considers issuing a Resolution to Congress calling upon

---

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> United Health Foundation. (2019). *2021 Health of Women and Children Report: Teen Suicide in New York*. America's Health Rankings. Retrieved September 19, 2022, from [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen\\_suicide/state/NY](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/teen_suicide/state/NY)

them to immediately address the geolocation issue, so that 988 can fully operate for all New Yorkers– students and adults– without any delays or hindrances.

**I hope this Committee seriously considers my testimony seriously in support of Introduction 0610-2022, with this small amendment, and votes this bill FAVORABLY to help save students' lives and begin the dialogue among our school-aged youth to break the mental health stigma.**

Thank you for listening to my testimony.

Respectfully,

Scarlett Jin

To: COMMITTEE ON EDUCATION  
Meeting of September 21, 2022

Written Testimony of Taras M. Czebiniak  
Submitted Online

**On September 17, the NY Post reported that New York City fired 850 teachers and aides for not receiving the Covid injection (EXHIBIT 5). The pandemic is over, according to President Joe Biden (EXHIBIT 2). Why are teachers, police, fire fighters, nurses, and other still being fired? The City Council must act TODAY to end these dangerous abuses of power by Mayor Adams.**

The purpose of this written testimony with supporting exhibits is to make it easy for future historians of New York City to confirm that you, the City Council, together with Mayor Eric Adams commit and perpetuate human rights violations here with your full personal knowledge and consent. There remains a legal mandate in New York City that all City workers **including teachers and aides**, and all private workers, receive a Covid injection in order to earn a living (the “Mandate”). (See [Emergency Executive Order No. 317, December 15, 2021](#).) The Mandate is inconsistent, hypocritical, dangerous, it goes against the global consensus against mRNA injection mandates, and it violates the Nuremberg Code established after examination of the Nazi atrocities of World War II.

**You can no longer claim ignorance of, or deny your full complicity with, Human Rights Violations in New York City in 2022.**

The City Council has the power to stop the human rights violations, but up until today, the Council has refused to stand against the Mayor, and the Council therefore stands against human rights.

**1. According to President Joe Biden, the pandemic is over.** The President stated this twice in a [CBS News interview on September 18, 2022](#). With the pandemic over, all exercises of emergency executive authority are illegitimate and unlawful, including all Covid injection mandates for all NYC workers. This Council must pass a resolution to declare that the pandemic is over, and the Council must also pass laws to prevent future abuses of power by the Mayor.

**2. The Mandate violates the fundamental human right of every New Yorker to choose his or her medical interventions, a right enunciated in the Nuremberg Code of August 1947.** EXHIBIT 1 provides the relevant text of the Nuremberg Code. The threat of being fired from one’s job, losing one’s pension or retirement benefits, and any and all other methods of coercion and duress to force the Covid injection violate the Nuremberg Code -- period. The Nuremberg Code is clear, it is written in plain English, and it is accessible and understandable by every human citizen on each. One need not be an ‘expert’ of any kind to understand and demand the rights confirmed by the Nuremberg Code.

**3. Private employers continue to block non-injected workers from working, and they threaten existing workers with an ultimatum to take the injection and return to the office, or else be fired.** The Mayor has stated that he is not personally enforcing the private employer mandate. But he has done something even more pernicious: he deputized private employers who enforce on his behalf. My personal friend was given an ultimatum to either permit Mayor Adams to violate her bodily autonomy and take a Covid injection, or else be fired. (See NEW YORK CITY COUNCIL, Testimony of Taras M. Czebiniak, [online video of the proceedings of the September 9, 2022 meeting of the Committee on Civil Service and Labor](#), time index: 3 hours 44 minutes.) Large private employers will not violate standing law, regardless of a politician’s promise not to enforce, therefore the Mandate remains pernicious to private workers and violates them. As another

example, Goldman Sachs has dropped all of its Covid injection mandates – except in New York City and Lima, Peru. (See BLOOMBERG, August 30, 2022, [Goldman Lifts Most Vaccination Rules for Staff in Office.](#)) This is because only those cities still require Covid injection from employees where Goldman Sachs maintains offices. (Regarding the worker mandates in Lima, Peru, see ACTUALIDAD CIVIL, March 28, 2022, [A partir del 1 de abril, trabajadores deberán tener las tres dosis de la vacuna contra el covid-19.](#))

**4. The Mandate forces a medically dangerous intervention, that both government and pharmaceutical companies have provably lied about, for nearly 2 years.** A recent study published in VACCINE confirms that the Covid mRNA injections, those most prevalent in the United States, carry a 1 in 800 rate of serious adverse events, defined by the Code of Federal Regulations ([21 C.F.R. section 312.32\(a\)](#)) as death, life-threatening illness, hospitalization or prolongation of hospitalization, permanent disability, congenital anomaly, or birth defect. Government and Big Pharma have refused to release the underlying data for analysis. Consent to any medical procedure is not informed, as required by medical ethics, when material information is withheld, obfuscated, censored, and outright lied about by those in power. (EXHIBIT 3: VACCINE 40:40, 22 September 2022, pages 5798-5805, [Serious adverse events of special interest following mRNA COVID-19 vaccination in randomized trials in adults.](#)) The authors of the VACCINE study confirm that both the federal FDA and Pfizer-BioNTech have the underlying data, but they refuse to release it to unbiased third parties to determine safety and efficacy. Finally, the [German Health Ministry has confirmed](#) that 1 in 5,000 Germans have experienced “serious side effects” from Covid injections.

**5. Most other countries have long since ended their Covid injection mandates. Denmark has gone even further: Denmark no longer recommends Covid injections to anyone under 50 years without other health risks.** The Danish Health Authority now recognizes that the Covid injections no longer have a benefit for individuals under 50. The injections are not even recommended. (See EXHIBIT 4: Danish Health Authority, updated September 13, 2022, [Vaccination against covid-19.](#)) Mayor Adams is not a physician nor a public health official, and yet he claims to magically know more about Covid than virtually every other country on earth that has eliminated mandates and even recommendations to continue injecting.

**6. The Mandate exempts celebrities and athletes and treats them differently from everyday New Yorkers, including teachers. This policy which has absolutely no scientific or medical basis. The Mandate must end for all.** On March 4, 2022, Mayor Adams exempted performing artists and their staff, as well as professional athletes and their staff, from the private sector Covid injection mandate. ([Emergency Executive Order 62.](#)) There is no study demonstrating any scientific or medical reason for exempting rich, elite artists and athletes from the mandate. The only science here is that the Mayor wants to be popular.

### **CONCLUSIONS**

It is a **crime against humanity** to coerce under duress harmful medical interventions to individuals without their free, voluntary, and informed consent to the intervention.

Mayor Adams has directly and indirectly **violated the bodies of tens of thousands of New Yorkers** by maintaining his Covid injection requirement to earn a living in New York City, which is a human right.

The New York **City Council is complicit in crimes against humanity** through its inaction to rein in this dictatorial Mayor and return and restore proper representation to the citizens of New York City.

**Historians will look upon the 2022 New York City Council and the Mayor with absolute horror.** You are fully aware of your perpetuation of crimes against humanity, yet, you have done nothing to stop this. Today is the day for the Council to draft and pass legislation to END the Mayor’s Covid injection mandate.

Best regards,  
Taras M. Czebiniak  
[TarasMC@gmail.com](mailto:TarasMC@gmail.com)

## EXHIBIT 1

### Nuremberg Code, August 1947

#### **1. The voluntary consent of the human subject is absolutely essential.**

This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.

The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

Source: <https://www.ushmm.org/information/exhibitions/online-exhibitions/special-focus/doctors-trial/nuremberg-code>

**EXHIBIT 2**

**Joe Biden Declares the Pandemic Is Over**

See attached.

60 MINUTES - NEWSMAKERS &gt;

## President Joe Biden: The 2022 60 Minutes Interview

60

BY SCOTT PELLEY

SEPTEMBER 18, 2022 / 7:43 PM / CBS NEWS



Summer was going so well for the president; the White House threw a party last week with a concert by James Taylor. Mr. Biden's streak began in June when he signed a bipartisan gun safety law. Then, in August, over Republican objections, he signed the largest investment ever on climate change, a minimum tax on corporations, a law to lower prescription drug prices, and student loan forgiveness. But Tuesday, as James Taylor sang "Fire and Rain," it seemed like both descended on the president's party. The Dow plummeted nearly 1,300 points after a dismal inflation report. At the White House on Thursday, we spoke to President Biden about the economy, Ukraine, those top secret

documents in Donald Trump's home and whether Mr. Biden will run again. The president made news and will ignite a few controversies.

Scott Pelley: Mr. President, as you know, last Tuesday the annual inflation rate came in at 8.3%. The stock market nosedived. People are shocked by their grocery bills. What can you do better and faster?

President Joe Biden: Well, first of all, let's put this in perspective. Inflation rate month to month was just-- just an inch, hardly at all,

---

## Sign up for 60 Minutes

Sign Up

By signing up, you agree to the CBS [Terms of Use](#) and acknowledge the data practices in our [Privacy Policy](#).

☐ Receive updates, offers & other information from the CBS family of companies & our partners. Opt out through the unsubscribe link in any marketing email.

---

Scott Pelley: You're not arguing that 8.3% is good news.

President Joe Biden: No, I'm not saying it is good news. But it was 8.2% or-- 8.2% before. I mean, it's not-- you're ac-- we act-- make it sound like all of a sudden, "My god, it went to 8.2%." It's been--

Scott Pelley: It's the highest inflation rate, Mr. President, in 40 years.

President Joe Biden: I got that. But guess what we are. We're in a position where, for the last several months, it hasn't spiked. It has just barely-- it's been basically even. And in the meantime, we created all these jobs and-- and prices-- have-- have gone up, but they've come down for energy. The fact is that we've created 10 million new jobs. We're in-- since we came to office. We're in a situation where the-- the unemployment rate is about 3.7%. one of the lowest in history. We're in a situation where manufacturing is coming back to the United States in a big way. And look down the road, we have mas-- massive investments being made in computer chips and-- and employment. So, I-- look, this is a process. This is a process.

- **[President Biden discusses the tax code, MAGA Republicans, and China](#)**

Watch CBS News

- **President Biden says he hasn't decided on 2024 reelection run**
- **Biden tells 60 Minutes U.S. troops would defend Taiwan, but White House says this is not official U.S. policy**

Scott Pelley: Is the economy going to get worse before it gets better?

President Joe Biden: No. I don't think so. We hope we can have what they say, "a soft landing," a transition to a place where we don't lose the gains that I ran to make in the first place for middle-class folks, being able to generate good-paying jobs and-- expansion. And at the same time-- make sure that we-- we are-- are able to continue to grow.

Scott Pelley: And you would tell the American people that inflation is going to continue to decline?

President Joe Biden: No, I'm telling the American people that we're gonna get control of inflation. And their prescription drug prices are gonna be a hell of a lotta lower. Their health care costs are gonna be a lot lower. Their basic costs for everybody, their energy prices are gonna be lower. They're gonna be in a situation where they begin to gain control again. I'm-- more optimistic than I've been in a long time.

Scott Pelley: Sir, with the Federal Reserve rapidly raising interest rates, what can you do to prevent a recession?

President Joe Biden: Continue to grow the economy. And we're growing the economy. It's growing in-- in a way that it hasn't in years and years.

Scott Pelley: How so?

President Joe Biden: We're growing entire new industries. Six hundred and ninety-five, I think it is, or eighty-five thousand new manufacturing jobs just since I've become president in United States. Continue to grow the economy and continue to give hard-working people a break in terms of we pay the highest drug prices in the world of any industrialized nation. Making sure that Medicare can negotiate down those prices by the way, we've also reduced the debt and reduced the deficit by \$350 billion my first year. This year, it's gonna be over \$1.5 trillion reduced the debt. So, to continue to put people in a position to be able to make a decent living and grow, and grow, and increase their capacity

to grow.  
Watch CBS News

President Joe Biden and 60 Minutes correspondent Scott Pelley tour the Detroit Auto Show

To see what he means, we went with Mr. Biden to the Detroit Auto Show last Wednesday. He celebrated his new funding of a network of charging stations for electric vehicles. But the newly crowded convention center brought a different question to mind.

Scott Pelley: Mr. President, first Detroit Auto Show in three years. Is the pandemic over?

**President Joe Biden: The pandemic is over.** We still have a problem with COVID. We're still doing a lotta work on it. It's-- but **the pandemic is over.** if you notice, no one's wearing masks. Everybody seems to be in pretty good shape. And so I think it's changing. And I think this is a perfect example of it.

The car show was a reminder that gasoline prices hit a historic high last June—in part because Russia cut fuel supplies in its war on Ukraine.

Scott Pelley: Mr. President, the price of gasoline is down about 26% from the \$5 high. What can you do to keep that price down while Vladimir Putin is throttling energy supplies?

President Joe Biden: Well, there's-- there's a couple things we've done. For example, remember I got some criticism for releasing a million barrels of oil a day from the Strategic

Petroleum Reserve. And then along came the industry saying they'd produce another million barrels a day by the spring. So, I think we're in relatively good shape.

Scott Pelley: Vladimir Putin is going to try to break your will on Ukraine and use energy prices to do it.

President Joe Biden: Sure he is. But, you know, we, the United States, are in much better shape than-- than anyone else is, and relative to Russia particularly. But-- he's been trying that for a while. He's not gonna succeed.

But at this very moment that Mr. Biden steered for the future, a 19th century form of transport threatened to wreck the economy. A deadline for a national rail strike was two days away. The White House brokered a deal, Thursday, after a 20-hour marathon of negotiations.

President Joe Biden: One of the things that happens in negotiations, particularly if they've been elongated like these have, is people say and do things where they-- the pride gets engaged as well. And it's awful hard to back off of some of these things. They both sat down, in my view-- and they were in the office today saying, "Well, we finally figured it out. This is fair on both sides." And it took that time to focus. And-- and the alternative was just not thinkable.

Scott Pelley: What do you mean?

President Joe Biden: If, in fact, they'd gone on a strike, the supply chains in this country would've come to a screeching halt. We would've seen a real economic crisis.

**EXHIBIT 3**

**Scientific Journal VACCINE, volume 40, issue 40, September 22, 2022**

***Serious Adverse Events of Special Interest Following mRNA  
Covid-19 Vaccination in Randomized Trials in Adults***

See attached.



# Serious adverse events of special interest following mRNA COVID-19 vaccination in randomized trials in adults

Joseph Fraiman<sup>a</sup>, Juan Erviti<sup>b</sup>, Mark Jones<sup>c</sup>, Sander Greenland<sup>d</sup>, Patrick Whelan<sup>e</sup>, Robert M. Kaplan<sup>f</sup>, Peter Doshi<sup>g,\*</sup>

<sup>a</sup>Thibodaux Regional Health System, Thibodaux, LA, USA

<sup>b</sup>Unit of Innovation and Organization, Navarre Health Service, Spain

<sup>c</sup>Institute of Evidence-Based Healthcare, Bond University, Gold Coast, QLD, Australia

<sup>d</sup>Fielding School of Public Health and College of Letters and Science, University of California, Los Angeles, CA, USA

<sup>e</sup>Geffen School of Medicine, University of California, Los Angeles, CA, USA

<sup>f</sup>Clinical Excellence Research Center, School of Medicine, Stanford University, CA, USA

<sup>g</sup>School of Pharmacy, University of Maryland, Baltimore, MD, USA

## ARTICLE INFO

### Article history:

Received 31 May 2022

Received in revised form 21 July 2022

Accepted 1 August 2022

Available online 31 August 2022

### Keywords:

SARS-CoV-2

COVID-19

Vaccines

COVID-19 vaccines

mRNA vaccines

Pfizer-BioNTech COVID-19 vaccine

BNT162b2

Moderna COVID-19 vaccine mRNA-1273

NCT04368728

NCT04470427

Serious adverse events

Adverse events of special interest

Brighton Collaboration

Coalition for Epidemic Preparedness

Innovations

Safety Platform for Emergency vACCines

## ABSTRACT

**Introduction:** In 2020, prior to COVID-19 vaccine rollout, the Brighton Collaboration created a priority list, endorsed by the World Health Organization, of potential adverse events relevant to COVID-19 vaccines. We adapted the Brighton Collaboration list to evaluate serious adverse events of special interest observed in mRNA COVID-19 vaccine trials.

**Methods:** Secondary analysis of serious adverse events reported in the placebo-controlled, phase III randomized clinical trials of Pfizer and Moderna mRNA COVID-19 vaccines in adults (NCT04368728 and NCT04470427), focusing analysis on Brighton Collaboration adverse events of special interest.

**Results:** Pfizer and Moderna mRNA COVID-19 vaccines were associated with an excess risk of serious adverse events of special interest of 10.1 and 15.1 per 10,000 vaccinated over placebo baselines of 17.6 and 42.2 (95 % CI −0.4 to 20.6 and −3.6 to 33.8), respectively. Combined, the mRNA vaccines were associated with an excess risk of serious adverse events of special interest of 12.5 per 10,000 vaccinated (95 % CI 2.1 to 22.9); risk ratio 1.43 (95 % CI 1.07 to 1.92). The Pfizer trial exhibited a 36 % higher risk of serious adverse events in the vaccine group; risk difference 18.0 per 10,000 vaccinated (95 % CI 1.2 to 34.9); risk ratio 1.36 (95 % CI 1.02 to 1.83). The Moderna trial exhibited a 6 % higher risk of serious adverse events in the vaccine group; risk difference 7.1 per 10,000 (95 % CI −23.2 to 37.4); risk ratio 1.06 (95 % CI 0.84 to 1.33). Combined, there was a 16 % higher risk of serious adverse events in mRNA vaccine recipients; risk difference 13.2 (95 % CI −3.2 to 29.6); risk ratio 1.16 (95 % CI 0.97 to 1.39).

**Discussion:** The excess risk of serious adverse events found in our study points to the need for formal harm-benefit analyses, particularly those that are stratified according to risk of serious COVID-19 outcomes. These analyses will require public release of participant level datasets.

© 2022 The Authors. Published by Elsevier Ltd. This is an open access article under the CC BY license (<http://creativecommons.org/licenses/by/4.0/>).

## 1. Introduction

In March 2020, the Brighton Collaboration and the Coalition for Epidemic Preparedness Innovations partnership, Safety Platform for Emergency vACCines (SPEAC), created and subsequently

updated a “priority list of potential adverse events of special interest relevant to COVID-19 vaccine trials.” [1] The list comprises adverse events of special interest (AESIs) based on the specific vaccine platform, adverse events associated with prior vaccines in general, theoretical associations based on animal models, and COVID-19 specific immunopathogenesis. [1] The Brighton Collaboration is a global authority on the topic of vaccine safety and in May 2020, the World Health Organization's Global Advisory Committee on Vaccine Safety endorsed and recommended the reporting of AESIs based on this priority list. To our knowledge, however, the list has not been applied to serious adverse events in randomized trial data.

\* Corresponding author at: Peter Doshi, 220 N Arch Street, Baltimore, MD 21201, USA.

E-mail addresses: [josephfraiman@gmail.com](mailto:josephfraiman@gmail.com) (J. Fraiman), [jervitil@navarra.es](mailto:jervitil@navarra.es) (J. Erviti), [majones@bond.edu.au](mailto:majones@bond.edu.au) (M. Jones), [lesdomes@g.ucla.edu](mailto:lesdomes@g.ucla.edu) (S. Greenland), [PWhelan@mednet.ucla.edu](mailto:PWhelan@mednet.ucla.edu) (P. Whelan), [Bob.Kaplan@stanford.edu](mailto:Bob.Kaplan@stanford.edu) (R.M. Kaplan), [pdoshi@rx.umaryland.edu](mailto:pdoshi@rx.umaryland.edu) (P. Doshi).

We sought to investigate the association between FDA-authorized mRNA COVID-19 vaccines and serious adverse events identified by the Brighton Collaboration, using data from the phase III randomized, placebo-controlled clinical trials on which authorization was based. We consider these trial data against findings from post-authorization observational safety data. Our study was not designed to evaluate the overall harm-benefit of vaccination programs so far. To put our safety results in context, we conducted a simple comparison of harms with benefits to illustrate the need for formal harm-benefit analyses of the vaccines that are stratified according to risk of serious COVID-19 outcomes. Our analysis is restricted to the randomized trial data, and does not consider data on post-authorization vaccination program impact. It does however show the need for public release of participant level trial datasets.

## 2. Methods

Pfizer and Moderna each submitted the results of one phase III randomized trial in support of the FDA's emergency use authorization of their vaccines in adults. Two reviewers (PD and RK) searched journal publications and trial data on the FDA's and Health Canada's websites to locate serious adverse event results tables for these trials. The Pfizer and Moderna trials are expected to follow participants for two years. Within weeks of the emergency authorization, however, the sponsors began a process of unblinding all participants who elected to be unblinded. In addition, those who received placebo were offered the vaccine. These self-selection processes may have introduced nonrandom differences between vaccinated and unvaccinated participants, thus rendering the post-authorization data less reliable. Therefore, to preserve randomization, we used the interim datasets that were the basis for emergency authorization in December 2020, approximately 4 months after trials commenced.

The definition of a serious adverse event (SAE) was provided in each trial's study protocol and included in the supplemental material of the trial's publication. [2–4] Pfizer and Moderna used nearly identical definitions, consistent with regulatory expectations. An SAE was defined as an adverse event that results in any of the following conditions: death; life-threatening at the time of the event; inpatient hospitalization or prolongation of existing hospitalization; persistent or significant disability/incapacity; a congenital anomaly/birth defect; medically important event, based on medical judgment.

In addition to journal publications, we searched the websites of the FDA (for advisory committee meeting materials) and Health Canada (for sections of the dossier submitted by sponsors to the regulator). [5] For the FDA website, we considered presentations by both the FDA and the sponsors. [6] Within each of these sources, we searched for SAE results tables that presented information by specific SAE type; we chose the most recent SAE table corresponding to the FDA's requirement for a safety median follow-up time of at least 2 months after dose 2.

For each trial, we prepared blinded SAE tables (containing SAE types without results data). Using these blinded SAE tables, two clinician reviewers (JF and JE) independently judged whether each SAE type was an AESI. SAE types that matched an AESI term verbatim, or were an alternative diagnostic name for an AESI term, were included as an AESI. For all other SAE types, the reviewers independently judged whether that SAE type was likely to have been caused by a vaccine-induced AESI, based on a judgment considering the disease course, causative mechanism, and likelihood of the AESI to cause the SAE type. Disagreements were resolved through consensus; if consensus could not be reached, a third clinician reviewer (PW) was used to create a majority opinion. For each

included SAE, we recorded the corresponding Brighton Collaboration AESI category and organ system. When multiple AESIs could potentially cause the same SAE, the reviewers selected the AESI that they judged to be the most likely cause based on classical clinical presentation of the AESI.

We used an AESI list derived from the work of Brighton Collaboration's Safety Platform for Emergency vACCines (SPEAC) Project. This project created an AESI list which categorizes AESIs into three categories: those included because they are seen with COVID-19, those with a proven or theoretical association with vaccines in general, and those with proven or theoretical associations with specific vaccine platforms. The first version was produced in March 2020 based on experience from China. Following the second update (May 2020), the WHO Global Advisory Committee on Vaccine Safety (GACVS) adopted the list, and Brighton commenced a systematic review process "to ensure an ongoing understanding of the full spectrum of COVID-19 disease and modification of the AESI list accordingly." [7] This resulted in three additional AESIs being added to the list in December 2020. The subsequent (and most recent fourth) update did not result in any additional AESIs being added to the list. [1].

We matched SAEs recorded in the trial against an expanded list of AESIs created by combining Brighton's SPEAC COVID-19 AESI list with a list of 29 clinical diagnoses Brighton identified as "known to have been reported but not in sufficient numbers to merit inclusion on the AESI list." [7] Sensitivity analysis was used to determine whether use of the original versus expanded list altered our results.

Risk ratios and risk differences between vaccine and placebo groups were calculated for the incidence of AESIs and SAEs. We excluded SAEs that were known efficacy outcomes (i.e. COVID-19), consistent with the approach Pfizer (but not Moderna) used in recording SAE data. The Pfizer study trial protocol states that COVID-19 illnesses and their sequelae consistent with the clinical endpoint definition were not to be reported as adverse events, "even though the event may meet the definition of an SAE." [8] For unspecified reasons, Moderna included efficacy outcomes in their SAE tables, effectively reporting an all-cause SAE result. Because we did not have access to individual participant data, to account for the occasional multiple SAEs within single participants, we reduced the effective sample size by multiplying standard errors in the combined SAE analyses by the square root of the ratio of the number of SAEs to the number of patients with an SAE. This adjustment increased standard errors by 10 % (Pfizer) and 18 % (Moderna), thus expanding the interval estimates. We estimated combined risk ratios and risk differences for the two mRNA vaccines by averaging over the risks using logistic regression models which included indicators for trial and treatment group.

We used a simple harm-benefit framework to place our results in context, comparing risks of excess serious AESIs against reductions in COVID-19 hospitalization.

## 3. Results

Serious adverse event tables were located for each of the vaccine trials submitted for EUA in adults (age 16 + for Pfizer, 18 + for Moderna) in the United States: Pfizer-BioNTech COVID-19 vaccine BNT162b2 (NCT04368728) [2,9,10] and Moderna COVID-19 vaccine mRNA-1273 (NCT04470427). [3,11,12] (Table 1).

### 3.1. Reporting windows and serious adverse events

Moderna reported SAEs from dose 1 whereas Pfizer limited reporting from dose 1 to 1 month after dose 2. Both studies

**Table 1**

Data sources for phase III trials.

Trial	Data cutoff date	Journal articles	FDA sources	Health Canada sources
Pfizer trial in ages 16 and above (NCT04368728)	14 Nov 2020 (supported Dec 2020 EUA)	<b>Aggregate data only</b>	<b>Table 23 in sponsor briefing document</b>	<b>Table 55 in sponsor document C4591001 Final Analysis Interim Report Body</b>
Moderna trial in ages 18 and above (NCT04470427)	25 Nov 2020 (supported Dec 2020 EUA)	<b>Table S11 in publication</b>	<b>Table 27 in sponsor briefing document</b>	<b>Table 14.3.1.13.3 in sponsor document mRNA-1273-P301 Unblinded Safety Tables Batch 1 (DS2)</b>

Note: bolded font indicates dataset chosen for analysis; EUA = Emergency Use Authorization.

reported all data at the time of data cutoff (14 Nov 2020 for Pfizer, 25 Nov 2020 for Moderna). 17 SAEs that were efficacy endpoints were removed from the Moderna trial (16 “COVID-19” SAEs and 1 “COVID-19 pneumonia” SAE). One such efficacy endpoint meeting the definition of a SAE was removed from the Pfizer trial (“SARS-CoV-2 test positive” SAE).

The Pfizer trial exhibited a 36 % higher risk of serious adverse events in vaccinated participants in comparison to placebo recipients: 67.5 per 10,000 versus 49.5 per 10,000; risk difference 18.0 per 10,000 vaccinated participants (95 % compatibility<sup>1</sup> interval 1.2 to 34.9); risk ratio 1.36 (95 % CI 1.02 to 1.83). The Moderna trial exhibited a 6 % higher risk of SAEs in vaccinated individuals compared to those receiving placebo: 136 per 10,000 versus 129 per 10,000; risk difference 7.1 per 10,000 (95 % CI –23.2 to 37.4); risk ratio 1.06 (95 % CI 0.84 to 1.33). Combined, there was a 16 % higher risk of SAEs in mRNA vaccine recipients than placebo recipients: 98 per 10,000 versus 85 per 10,000; risk difference 13.2 (95 % CI –3.2 to 29.6); risk ratio 1.16 (95 % CI 0.97 to 1.39). (Table 2).

### 3.2. Serious adverse events of special interest

Regarding whether each SAE type was included on the SPEAC derived AESI list, agreement between the two independent clinician reviewers was 86 % (281/325); 40 of the 44 disagreements were resolved through consensus, and only four disagreements necessitated a third clinician reviewer. Supplemental Table 1 includes a full list of included and excluded SAEs across both trials.

In the Pfizer trial, 52 serious AESI (27.7 per 10,000) were reported in the vaccine group and 33 (17.6 per 10,000) in the placebo group. This difference corresponds to a 57 % higher risk of serious AESI (RR 1.57 95 % CI 0.98 to 2.54) and a risk difference of 10.1 serious AESI per 10,000 vaccinated participants (95 % CI –0.4 to 20.6). In the Moderna trial, 87 serious AESI (57.3 per 10,000) were reported in the vaccine group and 64 (42.2 per 10,000) in the placebo group. This difference corresponds to a 36 % higher risk of serious AESI (RR 1.36 95 % CI 0.93 to 1.99) and a risk difference of 15.1 serious AESI per 10,000 vaccinated participants (95 % CI –3.6 to 33.8). Combining the trials, there was a 43 % higher risk of serious AESI (RR 1.43; 95 % CI 1.07 to 1.92) and a risk difference of 12.5 serious AESI per 10,000 vaccinated participants (95 % CI 2.1 to 22.9). (Table 2).

Of the 236 serious AESIs occurring across the Pfizer and Moderna trials, 97 % (230/236) were adverse event types included as AESIs because they are seen with COVID-19. In both Pfizer and Moderna trials, the largest excess risk occurred amongst the Brighton category of coagulation disorders. Cardiac disorders have been of central concern for mRNA vaccines; in the Pfizer trial more cardiovascular AESIs occurred in the vaccine group than in the placebo group, but in the Moderna trial the groups differed by only 1 case. (Tables 3 and 4).

<sup>1</sup> A compatibility interval is identical to a confidence interval, but relabeled to emphasize that it is not a Bayesian posterior interval (as is improperly suggested by the “confidence” label).<sup>13,14</sup>

### 3.3. Sensitivity analysis

As a sensitivity analysis, we restricted the serious AESI analysis to those AESIs listed in SPEAC’s COVID-19 AESI list (i.e. separating out Brighton’s list of 29 clinical diagnoses “known to have been reported but not in sufficient numbers to merit inclusion on the AESI list.”) This reduced the total number of AESIs across the two trials by 48 (35 vaccine group, 13 placebo group). There was still a higher risk of serious AESI when limited to the SPEAC COVID-19 AESI list, but the magnitude of the excess (in both relative and absolute terms) was smaller than when using the larger AESI list. (Supplemental Table 2).

### 3.4. Harm-benefit considerations

In the Moderna trial, the excess risk of serious AESIs (15.1 per 10,000 participants) was higher than the risk reduction for COVID-19 hospitalization relative to the placebo group (6.4 per 10,000 participants). [3] In the Pfizer trial, the excess risk of serious AESIs (10.1 per 10,000) was higher than the risk reduction for COVID-19 hospitalization relative to the placebo group (2.3 per 10,000 participants).

## 4. Comparison with FDA reviews

In their review of SAEs supporting the authorization of the Pfizer and Moderna vaccines, the FDA concluded that SAEs were, for Pfizer, “balanced between treatment groups,” [15] and for Moderna, were “without meaningful imbalances between study arms.” [16] In contrast to the FDA analysis, we found an excess risk of SAEs in the Pfizer trial. Our analysis of Moderna was compatible with FDA’s analysis, finding no meaningful SAE imbalance between groups.

The difference in findings for the Pfizer trial, between our SAE analysis and the FDA’s, may in part be explained by the fact that the FDA analyzed the total number of participants experiencing any SAE, whereas our analysis was based on the total number of SAE events. Given that approximately twice as many individuals in the vaccine group than in the placebo group experienced multiple SAEs (there were 24 more events than participants in the vaccine group, compared to 13 in the placebo group), FDA’s analysis of only the incidence of participants experiencing any SAE would not reflect the observed excess of multiple SAEs in the vaccine group.

A more important factor, however, may be that FDA’s review of non-fatal SAEs used a different analysis population with different follow-up windows. The FDA reported 126 of 21,621 (0.6 %) of vaccinated participants experienced at least one SAE at data cutoff compared to 111 of 21,631 (0.5 %) of placebo participants. In contrast, our analysis found 127 SAEs among 18,801 vaccine recipients versus 93 SAEs among 18,785 placebo recipients. [15] While summary results for the population we analyzed was provided in a table, FDA did not report an analysis of them. The substantially larger denominators in FDA’s analysis (5,666 more participants) reflect the fact that their analysis included all individuals receiving at least one dose (minus 196 HIV-positive participants), irrespec-

# 12.5 out of 10,000 is a 1-in-800 serious adverse event rate.

**Table 2**

Serious adverse events.

	Total events (events per 10,000 participants) <sup>a</sup>		Risk difference per 10,000 participants (95 % CI) <sup>e</sup>	Risk ratio (95 % CI) <sup>e</sup>
Trial	Vaccine	Placebo		
Serious adverse events				
Pfizer <sup>b</sup>	127 (67.5)	93 (49.5)	18.0 (1.2 to 34.9)	1.36 (1.02 to 1.83)
Moderna <sup>c,d</sup>	206 (135.7)	195 (128.6)	7.1 (-23.2 to 37.4)	1.06 (0.84 to 1.33)
Combined <sup>f</sup>	333 (98.0)	288 (84.8)	13.2 (-3.2 to 29.6)	1.16 (0.97 to 1.39)
Serious adverse events of special interest				
Pfizer	52 (27.7)	33 (17.6)	10.1 (-0.4 to 20.6)	1.57 (0.98 to 2.54)
Moderna	87 (57.3)	64 (42.2)	15.1 (-3.6 to 33.8)	1.36 (0.93 to 1.99)
Combined <sup>f</sup>	139 (40.9)	97 (28.6)	12.5 (2.1 to 22.9)	1.43 (1.07 to 1.92)

<sup>a</sup> Denominators for Pfizer were 18,801 in the vaccine group and 18,785 in the placebo group, and for Moderna were 15,185 in the vaccine group and 15,166 in the placebo group.

<sup>b</sup> Pfizer excluded efficacy outcomes from its SAE table (COVID-19 illnesses and their sequelae meeting the definition of an SAE). However, at least one SAE appears to have been inadvertently included, which we removed from our calculations (“SARS-CoV-2 test positive”: 0 vaccine group; 1 placebo group).

<sup>c</sup> Moderna included efficacy outcomes in its SAE table (COVID-19 illnesses and their sequelae meeting the definition of an SAE). We removed efficacy SAEs outcomes that could be identified: “COVID-19” and “COVID-19 pneumonia.” Lacking access to participant level data, SAEs that were sequelae of serious COVID-19 could not be identified and therefore remain included in this analysis.

<sup>d</sup> “All SAEs” for Moderna was calculated using the “Number of serious AEs” row in Moderna’s submission to FDA.<sup>11</sup>

<sup>e</sup> Standard errors used to estimate 95% CIs were inflated by the factor  $\sqrt{[\#SAE]/[\#patients\ with\ SAE]}$  to account for multiple SAE within patients.

<sup>f</sup> The combined risk differences and risk ratios were computed from the fitted logistic regression models and so may not exactly equal comparisons computed from the first two columns.

**Table 3**

Serious AESIs, Pfizer trial.

Brighton category	Vaccine	Placebo	Vaccine events per 10,000	Placebo events per 10,000	Difference in events per 10,000	Risk ratio
<b>Association with immunization in general</b>						
Anaphylaxis	1	1	0.5	0.5	0.0	1.00
<b>Association with specific vaccine platform(s)</b>						
Encephalitis/encephalomyelitis	0	2	0.0	1.1	–1.1	0.00
<b>Seen with COVID-19</b>						
Acute kidney injury	2	0	1.1	0.0	1.1	N/A
Acute liver injury	0	1	0.0	0.5	–0.5	0.00
Acute respiratory distress syndrome	2	1	1.1	0.5	0.5	2.00
Coagulation disorder	16	10	8.5	5.3	3.2	1.60
Myocarditis/pericarditis	2	1	1.1	0.5	0.5	2.00
Other forms of acute cardiac injury	16	12	8.5	6.4	2.1	1.33
Subtotal	39	28	20.7	14.9	5.8	1.39
<b>Brighton list of 29 clinical diagnoses seen with COVID-19</b>						
Abscess	4	1	2.1	0.5	1.6	4.00
Cholecystitis	4	2	2.1	1.1	1.1	2.00
Colitis/Enteritis	1	1	0.5	0.5	0.0	1.00
Diarrhea	1	0	0.5	0.0	0.5	N/A
Hyperglycemia	1	1	0.5	0.5	0.0	1.00
Pancreatitis	1	0	0.5	0.0	0.5	N/A
Psychosis	1	0	0.5	0.0	0.5	N/A
Subtotal	13	5	6.9	2.7	4.3	2.60
<b>Total</b>	<b>52</b>	<b>33</b>	<b>27.7</b>	<b>17.6</b>	<b>10.1</b>	<b>1.57</b>

tive of the duration of post-injection follow-up time. In contrast, our analysis was based on the study population with median follow-up  $\geq 2$  months after dose 2 (minus 120 HIV-positive participants), of which 98.1 % had received both doses. [2,17] The FDA’s analysis of SAEs thus included thousands of additional participants with very little follow-up, of which the large majority had only received 1 dose.

## 4.1. Comparison with post-authorization studies

Although the randomized trials offer high level evidence for evaluating causal effects, the sparsity of their data necessitates that harm-benefit analyses also consider observational studies. Since their emergency authorization in December 2020, hundreds of millions of doses of Pfizer and Moderna COVID-19 vaccines have been administered and post-authorization observational data offer a complementary opportunity to study AESIs. Post-authorization observational safety studies include cohort studies (which make use of medical claims or electronic health records) and disproportionality analyses (which use spontaneous adverse event reporting systems).

In July 2021, the FDA reported detecting four potential adverse events of interest: pulmonary embolism, acute myocardial infarction, immune thrombocytopenia, and disseminated intravascular coagulation following Pfizer’s vaccine based on medical claims data in older Americans. [18] Three of these four serious adverse event types would be categorized as coagulation disorders, which is the Brighton AESI category that exhibited the largest excess risk in the vaccine group in both the Pfizer and Moderna trials. FDA stated it would further investigate the findings but at the time of our writing has not issued an update. Similarly, spontaneous-reporting systems have registered serious adverse reactions including anaphylaxis (all COVID-19 vaccines), thrombocytopenia syndrome among premenopausal females (Janssen vaccine), and myocarditis and pericarditis among younger males (Pfizer and Moderna vaccines). [19,20].

Using data from three postmarketing safety databases for vaccines (VAERS, EudraVigilance, and Vigibase), disproportionality studies have reported excess risks for many of the same SAE types as in

**Table 4**  
Serious AESIs, Moderna trial.

Brighton category	Vaccine	Placebo	Vaccine events per 10,000	Placebo events per 10,000	Difference in events per 10,000	Risk ratio
<b>Association with specific vaccine platform(s)</b>						
Bell's Palsy	1	0	0.7	0.0	0.7	N/A
Encephalitis/encephalomyelitis	1	0	0.7	0.0	0.7	N/A
<b>Seen with COVID-19</b>						
Acute kidney injury	1	3	0.7	2.0	−1.3	0.33
Acute liver injury	1	0	0.7	0.0	0.7	N/A
Acute respiratory distress syndrome	7	4	4.6	2.6	2.0	1.75
Angioedema	0	2	0.0	1.3	−1.3	0.00
Coagulation disorder	20	13	13.2	8.6	4.6	1.54
Generalized Convulsions	2	0	1.3	0.0	1.3	N/A
Myelitis	0	1	0.0	0.7	−0.7	0.00
Myocarditis/pericarditis	4	5	2.6	3.3	−0.7	0.80
Other forms of acute cardiac injury	26	26	17.1	17.1	0.0	1.00
Other rash	1	1	0.7	0.7	0.0	1.00
Rhabdomyolysis	0	1	0.0	0.7	−0.7	0.00
Single Organ Cutaneous Vasculitis	1	0	0.7	0.0	0.7	N/A
Subtotal	65	56	42.8	36.9	5.9	1.16
<b>Brighton list of 29 clinical diagnoses seen with COVID-19</b>						
Abscess	1	0	0.7	0.0	0.7	N/A
Arthritis	3	1	2.0	0.7	1.3	3.00
Cholecystitis	4	0	2.6	0.0	2.6	N/A
Colitis/Enteritis	6	3	4.0	2.0	2.0	2.00
Diarrhea	2	1	1.3	0.7	0.7	2.00
Hyperglycemia	1	0	0.7	0.0	0.7	N/A
Hyponatremia	1	1	0.7	0.7	0.0	1.00
Pancreatitis	2	0	1.3	0.0	1.3	N/A
Pneumothorax	0	1	0.0	0.7	−0.7	0.00
Psychosis	1	1	0.7	0.7	0.0	1.00
Thyroiditis	1	0	0.7	0.0	0.7	N/A
Subtotal	22	8	14.5	5.3	9.2	2.75
<b>Total</b>	<b>87</b>	<b>64</b>	<b>57.3</b>	<b>42.2</b>	<b>15.1</b>	<b>1.36</b>

the present study. [21–23] For example, a study using VAERS and EudraVigilance comparing the disproportionality of adverse event reports between the influenza vaccine versus the mRNA COVID-19 vaccines reported excess risks for the following Brighton AESIs: cardiovascular events, coagulation events, hemorrhages, gastrointestinal events, and thromboses. [22] While CDC published a protocol [24] in early 2021 for using proportional reporting ratios for signal detection in the VAERS database, results from the study have not yet been reported. [25] Among self-controlled case series, one reported a rate ratio of 1.38 (95 % CI 1.12–1.71) for hemorrhagic stroke following Pfizer vaccine, [26] another reported 0.97 (95 % CI 0.81–1.15), [27] while a cohort study [28] reported 0.84 (95 % CI 0.54–1.27).

## 5. Discussion

Using a prespecified list of AESI identified by the Brighton Collaboration, higher risk of serious AESI was observed in the mRNA COVID-19 vaccine group relative to placebo in both the Pfizer and Moderna adult phase III trials, with 10.1 (Pfizer) and 15.1 (Moderna) additional events for every 10,000 individuals vaccinated. Combined, there was a risk difference of 12.5 serious AESIs per 10,000 individuals vaccinated (95 % CI 2.1 to 22.9). These results raise concerns that mRNA vaccines are associated with more harm than initially estimated at the time of emergency authorization. In addition, our analysis identified a 36 % higher risk of serious adverse events in vaccinated participants in the Pfizer trial: 18.0 additional SAEs per 10,000 vaccinated (95 % CI 1.2 to 34.9). Consistent with the FDA evaluation, our analysis found no clear difference in SAEs between groups in the Moderna trial.

Results between the Pfizer and Moderna trials were similar for the AESI analysis but exhibited substantial variation in the SAE analysis. Caution is needed in interpreting this variation as it may be substantially explained by differences in SAE recording

practices in the trials rather than differences in actual vaccine harm profiles. For reasons that are not documented in the trial protocol, Moderna included efficacy outcomes in its SAE tabulations, while Pfizer excluded them. As a result, Moderna's SAE table did not present a traditional SAE analysis but rather an all-cause SAE analysis. The FDA analysis of the Moderna trial presented an all-cause SAE analysis, which estimates total vaccine effects on SAEs, including effects transmitted via effects on COVID-19. It did not however present a traditional SAE analysis with efficacy endpoints removed, which attempts to estimate only the direct effects on SAEs. While our analysis attempted to perform a traditional SAE analysis by excluding efficacy SAEs (serious COVID-19 and its sequelae), our effort was hindered because we did not have access to patient level data. Easily recognizable efficacy SAEs ("COVID-19", "COVID-19 pneumonia," and "SARS-CoV-2 test positive") could be removed, but many participants who experienced a COVID-19 SAE likely experienced multiple other SAEs (e.g. pneumonia, hypoxia, and thrombotic events) which could not be identified and therefore remain included in our analysis. Of 17 total efficacy SAEs (16 "COVID-19" and 1 "COVID-19 pneumonia") removed from our analysis of the Moderna trial, 16 were in the placebo arm. As a consequence, the background SAE risk (risk in absence of COVID-19) would be overestimated by the Moderna placebo group, resulting in underestimation of the actual risk of SAEs and AESIs attributable to the vaccine in the Moderna comparisons as well as in the combined analysis. Access to patient-level data would allow adjustments for this problem.

Rational policy formation should consider potential harms alongside potential benefits. [29] To illustrate this need in the present context, we conducted a simple harm-benefit comparison using the trial data comparing excess risk of serious AESI against reductions in COVID-19 hospitalization. We found excess risk of serious AESIs to exceed the reduction in COVID-19 hospitalizations in both Pfizer and Moderna trials.

This analysis has the limitations inherent in most harm-benefit comparisons. First, benefits and harms are rarely exact equivalents, and there can be great variability in the degree of severity within both benefit and harm endpoints. For example, intubation and short hospital stay are not equivalent but both are counted in “hospitalization”; similarly, serious diarrhea and serious stroke are not equivalent but both are counted in “SAE.” Second, individuals value different endpoints differently. Third, without individual participant data, we could only compare the number of individuals hospitalized for COVID-19 against the number of serious AESI events, not the number of participants experiencing any serious AESI. Some individuals experienced multiple SAEs whereas hospitalized COVID-19 participants were likely only hospitalized once, biasing the analysis towards exhibiting net harm. To gauge the extent of this bias, we considered that there were 20 % (Pfizer) and 34 % (Moderna) more SAEs than participants experiencing any SAE. As a rough sensitivity calculation, if we divide the Pfizer excess serious AESI risk of 10.1 by 1.20 it becomes 8.4 compared to a COVID-19 hospitalization risk reduction of 2.3; if we divide the Moderna excess serious AESI risk of 15.1 by 1.34 it becomes 11.3 compared to a COVID-19 hospitalization risk reduction of 6.4.

Harm-benefit ratios will be different for populations at different risk for serious COVID-19 and observation periods that differ from those studied in the trials. Presumably, larger reductions in COVID-19 hospitalizations would have been recorded if trial follow-up were longer, more SARS-CoV-2 was circulating, or if participants had been at higher risk of serious COVID-19 outcomes, shifting harm-benefit ratios toward benefit. Conversely, harm-benefit ratios would presumably shift towards harm for those with lower risk of serious COVID-19 outcomes—such as those with natural immunity, younger age or no comorbidities. Similarly, waning vaccine effectiveness, decreased viral virulence, and increasing degree of immune escape from vaccines might further shift the harm-benefit ratio toward harm. Large, randomized trials in contemporary populations could robustly answer these questions. Absent definitive trials, however, synthesis of multiple lines of evidence will be essential. [30,48,49].

Adverse events detected in the post-marketing period have led to the withdrawal of several vaccines. An example is intussusception following one brand of rotavirus vaccine: around 1 million children were vaccinated before identification of intussusception, which occurred in around 1 per 10,000 vaccinees. [31] Despite the unprecedented scale of COVID-19 vaccine administration, the AESI types identified in our study may still be challenging to detect with observational methods. Most observational analyses are based on comparing the risks of adverse events “observed” against a background (or “expected”) risk, which inevitably display great variation, by database, age group, and sex. [32] If the actual risk ratio for the effect was 1.4 (the risk ratio of the combined AESI analysis), it could be quite difficult to unambiguously replicate it with observational data given concerns about systematic as well as random errors. [33–35].

In addition, disproportionality analyses following COVID-19 vaccination also have limitations, particularly with respect to the type of adverse events seen in our study. The majority of SAEs that contributed to our results are relatively common events, such as ischemic stroke, acute coronary syndrome, and brain hemorrhage. This complicates signal detection because clinical suspicion of an adverse vaccine reaction following an event commonly seen in clinical practice will be lower than for SAEs like myocarditis.[50] For this reason, clinical suspicion leading to the filing of an individual case safety report—may be far less common in the post-authorization setting than in the trials. At the same time, heightened awareness about COVID-19 vaccine SAEs can result in under and overreporting. Public health messages assuring vaccine safety may lower clinical suspicion of potential causal relationships,

whereas messages about potential harms can conversely stimulate reports that otherwise may not have been made. These factors can lead to bias both directions, further complicating interpretation. In contrast to these problems, in the randomized trials used in this analysis, all SAEs were to be recorded, irrespective of clinical judgment regarding potential causality.

Although our analysis is secondary, reanalyses of clinical trial data have led to the detection of adverse events well after the market entry of major drugs such as rofecoxib and rosiglitazone. [36,37] Our analysis has an advantage over postmarketing observational studies in that the data are from blinded, placebo-controlled randomized trials vetted by the FDA, which were matched against a list of adverse events created before the availability of the clinical-trial results and designed for use in COVID-19 vaccine trials.

Our study has several important limitations. First, Pfizer’s trial did not report SAEs occurring past 1 month after dose 2. This reporting threshold may have led to an undercounting of serious AESIs in the Pfizer trial. Second, for both studies, the limited follow up time prevented an analysis of harm-benefit over a longer period. Third, all SAEs in our analysis met the regulatory definition of a serious adverse event, but many adverse event types which a patient may themselves judge as serious may not meet this regulatory threshold. Fourth, decisions about which SAEs to include or exclude as AESIs requires subjective, clinical judgements in the absence of detailed clinical information about the actual SAEs. We encourage third party replication of our study, with access to complete SAE case narratives, to determine the degree to which these decisions affected our findings. For additional sensitivity analyses, such replication studies could also make use of other AESI lists, such as those prepared by FDA, [38–41] CDC, [24], Pfizer, [42], or a *de novo* AESI list derived from a list of COVID-19 complications understood to be induced via SARS-CoV-2’s spike protein. [43,44].

A fifth important limitation is our lack of access to individual participant data, which forced us to use a conservative adjustment to the standard errors. The 95 % CIs [13,14] calculated are therefore only approximate because we do not know which patients had multiple events. Finally, as described above, in the Moderna analysis, the SAEs that were sequelae of serious COVID-19 could not be identified and therefore remain included in our calculations. Because the vaccines prevent SAEs from COVID-19 while adding SAE risks of their own, this inclusion makes it impossible to separately estimate SAEs due to the vaccine from SAEs due to COVID-19 in the available Moderna data, as must be done to extrapolate harm-benefit to other populations. These study limitations all stem from the fact that the raw data from COVID-19 vaccine clinical trials are not publicly available. [45,46].

We emphasize that our investigation is preliminary, to point to the need for more involved analysis. The risks of serious AESIs in the trials represent only group averages. SAEs are unlikely to be distributed equally across the demographic subgroups enrolled in the trial, and the risks may be substantially less in some groups compared to others. Thus, knowing the actual demographics of those who experienced an increase in serious AESI in the vaccine group is necessary for a proper harm-benefit analysis. In addition, clinical studies are needed to see if particular SAEs can be linked to particular vaccine ingredients as opposed to unavoidable consequences of exposure to spike protein, as future vaccines could then be modified accordingly or sensitivities can be tested for in advance. In parallel, a systematic review and meta-analysis using individual participant data should be undertaken to address questions of harm-benefit in various demographic subgroups, particularly in those at low risk of serious complications from COVID-19. Finally, there is a pressing need for comparison of SAEs and harm-benefit for different vaccine types; some initial work has already begun in this direction. [47].

Full transparency of the COVID-19 vaccine clinical trial data is needed to properly evaluate these questions. Unfortunately, as we approach 2 years after release of COVID-19 vaccines, participant level data remain inaccessible. [45,46].

### Author contributions

All authors had full access to all of the data in the study (available at <https://doi.org/10.5281/zenodo.6564402>), and take responsibility for the integrity of the data and the accuracy of the data analysis.

Study concept and design: All authors.

Acquisition of data: Doshi.

Analysis and interpretation: All authors.

Statistical analysis: Jones, Greenland.

Drafting of the manuscript: Fraiman, Doshi.

Critical revision of the manuscript for important intellectual content: All authors.

### Data availability

All of the data in the study is available at <https://doi.org/10.5281/zenodo.6564402>

### Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

### Acknowledgements

We thank Jean Rees for help identifying sources of data.

### Funding

This study had no funding support.

### Ethical review statement

This research was confirmed to be Not Human Subjects Research (NHSR) by University of Maryland, Baltimore (HP-00102561).

### Conflicts of interest

JF, JE, MJ, SG, PW, RK: none to declare. PD has received travel funds from the European Respiratory Society (2012) and Uppsala Monitoring Center (2018); grants from the FDA (through University of Maryland M-CERSI; 2020), Laura and John Arnold Foundation (2017–22), American Association of Colleges of Pharmacy (2015), Patient-Centered Outcomes Research Institute (2014–16), Cochrane Methods Innovations Fund (2016–18), and UK National Institute for Health Research (2011–14); was an unpaid IMEDS steering committee member at the Reagan-Udall Foundation for the FDA (2016–2020) and is an editor at The BMJ. The views expressed here are those of the authors and do not necessarily reflect those of their employers.

### Appendix A. Supplementary data

Supplementary data to this article can be found online at <https://doi.org/10.1016/j.vaccine.2022.08.036>.

### References

- [1] Law B, Pim C. SO2-D2.1.3 Priority List of COVID-19 Adverse events of special interest [Internet]. 2021 Oct [cited 2022 Feb 17]. Available from: [https://brightoncollaboration.us/wp-content/uploads/2021/11/SO2-D2.1.3\\_COVID-19\\_AESI-update\\_V1.0\\_Part-2\\_09Nov2021.pdf](https://brightoncollaboration.us/wp-content/uploads/2021/11/SO2-D2.1.3_COVID-19_AESI-update_V1.0_Part-2_09Nov2021.pdf).
- [2] Polack FP, Thomas SJ, Kitchin N, Absalon J, Gurtman A, Lockhart S, et al. Safety and Efficacy of the BNT162b2 mRNA Covid-19 Vaccine. *N Engl J Med* 2020;383(27):2603–15.
- [3] Baden LR, El Sahly HM, Essink B, Kotloff K, Frey S, Novak R, et al. Efficacy and Safety of the mRNA-1273 SARS-CoV-2 Vaccine. *N Engl J Med* 2021;384(5):403–16.
- [4] Sadoff J, Gray G, Vandebosch An, Cárdenas V, Shukarev G, Grinsztejn B, et al. Safety and Efficacy of Single-Dose Ad26.COV2.S Vaccine against Covid-19. *N Engl J Med* 2021;384(23):2187–201.
- [5] Health Canada. Search for clinical information on drugs and medical devices [Internet]. 2019 [cited 2021 Nov 9]. Available from: <https://clinical-information.canada.ca/>.
- [6] Food and Drug Administration. Meeting Materials, Vaccines and Related Biological Products Advisory Committee [Internet]. U.S. Food and Drug Administration. 2022 [cited 2022 Feb 18]. Available from: <https://www.fda.gov/advisory-committees/vaccines-and-related-biological-products-advisory-committee/meeting-materials-vaccines-and-related-biological-products-advisory-committee>.
- [7] Law B. SO2-D2.1.2 Priority List of COVID-19 Adverse events of special interest: Quarterly update December 2020 [Internet]. 2020 Dec [cited 2020 Dec 20]. Available from: [https://brightoncollaboration.us/wp-content/uploads/2021/01/SO2-D2.1.2\\_V1.2\\_COVID-19\\_AESI-update-23Dec2020-review\\_final.pdf](https://brightoncollaboration.us/wp-content/uploads/2021/01/SO2-D2.1.2_V1.2_COVID-19_AESI-update-23Dec2020-review_final.pdf).
- [8] Pfizer. PF-07302048 (BNT162 RNA-Based COVID-19 Vaccines) Protocol C4591001 [Internet]. 2020 [cited 2022 Jul 17]. Available from: [https://cdn.pfizer.com/pfizercom/2020-11/C4591001\\_Clinical\\_Protocol\\_Nov2020.pdf](https://cdn.pfizer.com/pfizercom/2020-11/C4591001_Clinical_Protocol_Nov2020.pdf).
- [9] Pfizer-BioNTech. PFIZER-BIONTECH COVID-19 VACCINE (BNT162, PF-07302048) VACCINES AND RELATED BIOLOGICAL PRODUCTS ADVISORY COMMITTEE BRIEFING DOCUMENT. [cited 2021 Dec 20]; Available from: <https://www.fda.gov/media/144246/download#page=87>.
- [10] Pfizer. Final Analysis Interim Report: A Phase 1/2/3, Placebo-Controlled, Randomized, Observer-Blind, Dose-Finding Study to Evaluate the Safety, Tolerability, Immunogenicity, and Efficacy of SARS-CoV-2 RNA Vaccine Candidates Against COVID-19 in Healthy Individuals (Protocol C4591001) [Internet]. [cited 2022 May 3]. Available from: <https://clinical-information.canada.ca/ci-rc/item/244906>; [https://clinical-information.canada.ca/ci-rc-vu.pdf?file=m5/c45/c4591001-fa-interim-report-body\\_Unblinded\\_Redacted.pdf&id=244906](https://clinical-information.canada.ca/ci-rc-vu.pdf?file=m5/c45/c4591001-fa-interim-report-body_Unblinded_Redacted.pdf&id=244906).
- [11] Moderna. Sponsor briefing document [Internet]. 2020 Dec [cited 2022 Feb 21]. Available from: <https://www.fda.gov/media/144452/download>.
- [12] Moderna. Unblinded Safety Tables Batch 1 (DS2) [Internet]. [cited 2022 May 3]. Available from: <https://clinical-information.canada.ca/ci-rc/item/244946>; <https://clinical-information.canada.ca/ci-rc-vu.pdf?file=m5/5.3.5.1/m5351-mrna-1273-p301-p-unblinded-safety-tables-batch-1.pdf&id=244946>.
- [13] Amrhein V, Greenland S, McShane B. Scientists rise up against statistical significance. *Nature* 2019;567(7748):305–7. <https://doi.org/10.1038/d41586-019-00857-9>.
- [14] Rafi Z, Greenland S. Semantic and cognitive tools to aid statistical science: replace confidence and significance by compatibility and surprise. *BMC Med Res Methodol* [Internet]. 2020 Sep 30;20(1):244. Available from: <http://dx.doi.org/10.1186/s12874-020-01105-9>.
- [15] Food and Drug Administration. Emergency Use Authorization for Pfizer-BioNTech COVID-19 Vaccine Review Memo [Internet]. 2020 Dec [cited 2022 Feb 21]. Available from: <https://www.fda.gov/media/144416/download>.
- [16] Food and Drug Administration. Moderna COVID-19 Vaccine EUA FDA review memorandum [Internet]. 2020 Dec [cited 2022 Feb 21]. Available from: <https://www.fda.gov/media/144673/download>.
- [17] Food and Drug Administration. Pfizer-BioNTech COVID-19 vaccine EUA review memorandum [Internet]. 2020 Dec [cited 2022 Mar 30]. Available from: <https://www.fda.gov/media/144416/download>.
- [18] Food and Drug Administration. Initial Results of Near Real-Time Safety Monitoring COVID-19 Vaccines [Internet]. 2021 [cited 2022 Mar 30]. Available from: <https://www.fda.gov/vaccines-blood-biologics/safety-availability-biologics/initial-results-near-real-time-safety-monitoring-covid-19-vaccines-persons-aged-65-years-and-older>.
- [19] Centers for Disease Control and Prevention. Selected adverse events reported after COVID-19 vaccination [Internet]. 2021 [cited 2021 May 28]. Available from: <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/adverse-events.html>.
- [20] Krug A, Stevenson J, Høeg TB. BNT162b2 Vaccine-Associated Myo/Pericarditis in Adolescents: A Stratified Risk-Benefit Analysis. *Eur J Clin Invest* [Internet]. 2022 May;52(5):e13759. Available from: <http://dx.doi.org/10.1111/eci.13759>.
- [21] Dutta S, Kaur R, Charan J, Bhardwaj P, Ambwani SR, Babu S, et al. Analysis of Neurological Adverse Events Reported in VigiBase From COVID-19 Vaccines. *Cureus* 2022;14(1):e21376. <https://doi.org/10.7759/cureus.21376>.
- [22] Montano D. Frequency and Associations of Adverse Reactions of COVID-19 Vaccines Reported to Pharmacovigilance Systems in the European Union and the United States. *Front Public Health* [Internet]. 2021;9:756633. Available from: <http://dx.doi.org/10.3389/fpubh.2021.756633>.

- [23] Jeet Kaur R, Dutta S, Charan J, Bhardwaj P, Tandon A, Yadav D, et al. Cardiovascular Adverse Events Reported from COVID-19 Vaccines: A Study Based on WHO Database. *Int J Gen Med* [Internet]. 2021 Jul 27;14:3909–27. Available from: <http://dx.doi.org/10.2147/IJGM.S324349>.
- [24] Centers for Disease Control and Prevention. Vaccine Adverse Event Reporting System (VAERS) Standard Operating Procedures for COVID-19 (as of 29 January 2021) [Internet]. 2021 Jan [cited 2022 Mar 30]. Available from: <https://www.cdc.gov/vaccinesafety/pdf/VAERS-v2-SOP.pdf>.
- [25] Centers for Disease Control and Prevention. Vaccine safety publications [Internet]. 2022 [cited 2022 Mar 31]. Available from: <https://www.cdc.gov/vaccinesafety/research/publications/index.html>.
- [26] Patone M, Handunnetthi L, Saatci D, Pan J, Katikireddi SV, Razvi S, et al. Neurological complications after first dose of COVID-19 vaccines and SARS-CoV-2 infection. *Nat Med* 2021;27(12):2144–53. <https://doi.org/10.1038/s41591-021-01556-7>.
- [27] Jabagi MJ, Botton J, Bertrand M, Weill A, Farrington P, Zureik M, et al. Myocardial Infarction, Stroke, and Pulmonary Embolism After BNT162b2 mRNA COVID-19 Vaccine in People Aged 75 Years or Older. *JAMA* 2022;327(1):80–2. <https://doi.org/10.1001/jama.2021.21699>.
- [28] Barda N, Dagan N, Ben-Shlomo Y, Kepten E, Waxman J, Ohana R, et al. Safety of the BNT162b2 mRNA Covid-19 Vaccine in a Nationwide Setting. *N Engl J Med* 2021;385(12):1078–90. <https://doi.org/10.1056/NEJMoa2110475>.
- [29] Mörl F, Günther M, Rockenfeller R. Is the Harm-to-Benefit Ratio a Key Criterion in Vaccine Approval? *Frontiers in Medicine* [Internet]. 2022;9. Available from: <https://www.frontiersin.org/articles/10.3389/fmed.2022.879120>.
- [30] Greenhalgh T, Fisman D, Cane DJ, Oliver M, Macintyre CR. Adapt or die: how the pandemic made the shift from EBM to EBM+ more urgent. *BMJ Evid Based Med* [Internet]. 2022 Jul 19;bmjebm – 2022–111952. Available from: <https://ebm.bmj.com/lookup/doi/10.1136/bmjebm-2022-111952>.
- [31] Hampton LM, Aggarwal R, Evans SJW, Law B. General determination of causation between Covid-19 vaccines and possible adverse events. *Vaccine* 2021;39(10):1478–80. <https://doi.org/10.1016/j.vaccine.2021.01.057>.
- [32] Li X, Ostropolets A, Makadia R, Shoaibi A, Rao G, Sena AG, et al. Characterising the background incidence rates of adverse events of special interest for covid-19 vaccines in eight countries: multinational network cohort study. *BMJ* [Internet]. 2021 Jun 14 [cited 2022 Mar 28];373. Available from: <https://www.bmj.com/content/373/bmj.n1435>.
- [33] Lash TL, Fox MP, Fink AK. Applying Quantitative Bias Analysis to Epidemiologic Data [Internet]. Springer New York; 2009. 192 p. Available from: <https://play.google.com/store/books/details?id=a32fDAEACAAJ>.
- [34] MacLehose RF, Ahern TP, Lash TL, Poole C, Greenland S. The Importance of Making Assumptions in Bias Analysis. *Epidemiology* [Internet]. 2021 Sep 1;32(5):617–24. Available from: <http://dx.doi.org/10.1097/EDE.0000000000001381>.
- [35] Greenland S. Invited Commentary: Dealing With the Inevitable Deficiencies of Bias Analysis-and All Analyses. *Am J Epidemiol*. 2021 Aug 1;190(8):1617–21. Available from: <http://doi.org/10.1093/aje/kwab069>.
- [36] Krumholz HM, Ross JS, Presler AH, Egilman DS. What have we learnt from Vioxx? *BMJ* 2007;334(7585):120–3. <https://doi.org/10.1136/bmj.39024.487720.68>.
- [37] Nissen SE, Wolski K. Effect of Rosiglitazone on the Risk of Myocardial Infarction and Death from Cardiovascular Causes. *N Engl J Med* 2007;356(24):2457–71. <https://doi.org/10.1056/NEJMoa072761>.
- [38] Anderson S. CBER Plans for Monitoring COVID-19 Vaccine Safety and Effectiveness [Internet]. VRBPAC Meeting; 2020 Oct 22 [cited 2022 Jul 19]. Available from: <https://www.fda.gov/media/143557/download#page=17>.
- [39] Anderson S. An Update of FDA Monitoring COVID-19 Vaccine Safety and Effectiveness [Internet]. VRBPAC Meeting; 2021 Feb 26 [cited 2022 Jul 19]. Available from: <https://www.fda.gov/media/146268/download#page=8>.
- [40] Anderson S. FDA Updates of COVID-19 Vaccine Safety Activities [Internet]. VRBPAC Meeting; 2021 Jun 10 [cited 2022 Jul 19]. Available from: <https://www.fda.gov/media/150051/download#page=9>.
- [41] Food and Drug Administration. Background Rates of Adverse Events of Special Interest for COVID-19 Vaccine Safety Monitoring [Internet]. 2021 Jan [cited 2021 Jul 19]. Available from: <https://bestinitiative.org/wp-content/uploads/2022/01/C19-Vax-Safety-AESI-Bkgd-Rate-Protocol-FINAL-2020.pdf#page=12>.
- [42] Pfizer. 5.3.6 Cumulative analysis of post-authorization adverse event reports of PF-07302048 (BNT162b2) received through 28-Feb-2021 [Internet]. 2021 Apr [cited 2022 Jul 19]. Available from: [https://phmpt.org/wp-content/uploads/2022/04/reissue\\_5.3.6-postmarketing-experience.pdf#page=30](https://phmpt.org/wp-content/uploads/2022/04/reissue_5.3.6-postmarketing-experience.pdf#page=30).
- [43] Gupta A, Madhavan MV, Sehgal K, Nair N, Mahajan S, Sehrawat TS, et al. Extrapulmonary manifestations of COVID-19. *Nat Med* 2020;26(7):1017–32. <https://doi.org/10.1038/s41591-020-0968-3>.
- [44] Lei Y, Zhang J, Schiavon CR, He M, Chen L, Shen H, et al. SARS-CoV-2 Spike Protein Impairs Endothelial Function via Downregulation of ACE 2. *Circ Res* 2021;128(9):1323–6. <https://doi.org/10.1161/CIRCRESAHA.121.318902>.
- [45] Tanveer S, Rowhani-Farid A, Hong K, Jefferson T, Doshi P. Transparency of COVID-19 vaccine trials: decisions without data. *BMJ Evid Based Med* [Internet]. 2021 Aug 9; Available from: <http://dx.doi.org/10.1136/bmjebm-2021-111735>.
- [46] Doshi P, Godlee F, Abbasi K. Covid-19 vaccines and treatments: we must have raw data, now. *BMJ* [Internet]. 2022 Jan 19;376:o102. Available from: <http://dx.doi.org/10.1136/bmj.o102>.
- [47] Benn CS, Schaltz-Buchholzer F, Nielsen S, Netea MG, Aaby P. Randomised Clinical Trials of COVID-19 Vaccines: Do Adenovirus-Vector Vaccines Have Beneficial Non-Specific Effects? [Internet]. 2022 [cited 2022 May 9]. Available from: <https://papers.ssrn.com/abstract=4072489>.
- [48] Murad MH, Saadi S. Evidence-based medicine has already adapted and is very much alive. *BMJ Evidence-based Medicine* 2022. <https://doi.org/10.1136/bmjebm-2022-112046>. , <https://ebm.bmj.com/content/early/2022/07/19/bmjebm-2022-112046>.
- [49] Munro A. The Pandemic Evidence Failure, <https://alasdairmunro.substack.com/p/the-pandemic-evidence-failure>, ; 2022.
- [50] Mansanguan S, Charunwatthana P, Piyaphanee W, Dechkhajorn W, Poolcharoen A, Mansanguan C. Cardiovascular Manifestation of the BNT162b2 mRNA COVID-19 Vaccine in Adolescents. *Trop. Med. Infect. Dis.* 2022;7(8):196. <https://doi.org/10.3390/tropicalmed7080196>.

**EXHIBIT 4**

**Danish Health Authority, *Vaccination against covid-19***

See attached.

COVID-19

# Vaccination against covid-19

The Danish Health Authority expects that the number of covid-19 infections will increase during autumn and winter. **Therefore, we recommend vaccination of people aged 50 years and over as well as selected risk groups.** Read more about the autumn vaccination programme [here](#).



With the autumn vaccination programme, we aim to prevent serious illness, hospitalisation and death. The risk of becoming severely ill from covid-19 increases with age. **Therefore, people who have reached the age of 50 and particularly vulnerable people will be offered vaccination.** We expect that many people will be infected with covid-19 during autumn and winter. It is therefore important that the population remembers the guidance on how to prevent infection, which also applies to a number of other infectious diseases.

> [See the guidance here: Prevent being infected with covid-19](#)

On this page, you can read who will be offered vaccination, which vaccines we plan to use and when the programme will begin.

## Q&A about vaccination

### Who will be offered vaccination against covid-19?

People aged 50 years and over will be offered vaccination.

People aged under 50 who are at a higher risk of becoming severely ill from covid-19 will also be offered vaccination against covid-19.

Staff in the healthcare and elderly care sector as well as in selected parts of the social services sector who have close contact with patients or citizens who are at higher risk of becoming severely ill from covid-19 will also be offered booster vaccination against covid-19.

In addition, we recommend that relatives of persons at particularly higher risk accept the offer of vaccination to protect their relatives who are at particularly higher risk.

---

### Why do we need to re-vaccinate?

We have achieved very high population immunity in Denmark. This is due both to the high adherence to the vaccination programme and to many people previously having been infected with covid-19. However, we expect that this immunity will gradually decrease over time. In addition, we know that covid-19 is a seasonal disease and that the number of infections are expected to increase during autumn and winter. We expect that a large part of the population will become infected with covid-19 during the autumn, and we therefore want to vaccinate those having the highest risk so that they are protected from severe illness if they become infected.

---

### When will I be offered vaccination?

Nursing home residents and people aged 85 and over will be offered vaccination from mid-September. For others, the vaccination programme against covid-19 will begin on 1 October 2022.

---

### I have a specific disease or condition – will I be offered vaccination?

People aged under 50 who are at higher risk of becoming severely ill are recommended vaccination against covid-19. This may, for example, be people who have a severely impaired immune system.

[> Read more here](#)

---

### Will I get an invitation for vaccination?

If you are offered vaccination based on your age, you will receive an invitation in e-Boks/mit.dk. You will be offered vaccination against covid-19, influenza and pneumococci. For nursing home residents, there will be a special offer of local vaccination without appointment.

If you are in the target group for vaccination based on your illness/condition or your work, you will not receive an invitation. When the programme starts on 1 October, you can instead either:

- Fill in a solemn declaration and booking an appointment for vaccination on [www.vacciner.dk](https://www.vacciner.dk). If you are in doubt about whether you are in the target group for vaccination, you can fill in a guiding questionnaire, which is also available on [www.vacciner.dk](https://www.vacciner.dk), and then book an appointment if you are in the target group.
- Talk to your doctor, who can set up a vaccination process at [www.vacciner.dk](https://www.vacciner.dk) for you with the vaccines you are offered. You can then book an appointment yourself. In some cases, your doctor will be able to vaccinate you immediately.

If you are a healthcare professional or elderly care worker or employed in selected parts of the social services sector, your workplace can inform you about whether they offer vaccination of their staff.

---

## Why are people aged under 50 not to be re-vaccinated?



The purpose of the vaccination programme is to prevent severe illness, hospitalisation and death. Therefore, people at the highest risk of becoming severely ill will be offered booster vaccination. The purpose of vaccination is not to prevent infection with covid-19, and people aged under 50 are therefore currently not being offered booster vaccination.

People aged under 50 are generally not at particularly higher risk of becoming severely ill from covid-19. In addition, younger people aged under 50 are well protected against becoming severely ill from covid-19, as a very large number of them have already been vaccinated and have previously been infected with covid-19, and there is consequently good immunity among this part of the population.

It is important that the population also remembers the guidance on how to prevent the spread of infection, including staying at home in case of illness, frequent aeration or ventilation, social distancing, good coughing etiquette, hand hygiene and cleaning.

---

## Variant-updated vaccines

### What does it mean that a vaccine is variant updated?



The Danish Health Authority will offer variant-updated mRNA vaccines in the autumn vaccination programme. These vaccines have been approved by the European Medicines Agency.

The vaccination, which will be offered during autumn/winter 2022-2023, consists of a variant-updated vaccine. The influenza vaccines are updated every year, and the covid-19 vaccines have likewise also been updated to target the Omicron variant more effectively.

The variant-updated vaccines have been adapted to the variant that is dominant in society.

---

## What side effects do the vaccines have?



All vaccines cause side effects, including the covid-19 vaccines. In general, the side effects are mild and transient, and we consider the vaccines to be very safe and highly documented.

Studies of the variant-updated vaccines have shown that the side effects do not differ from those seen in connection with the vaccines we have previously used in Denmark.

### Mild side effects

Most people will experience pain at the injection site. Other common side effects include fatigue, headache, pain in muscles and joints, chills, a slight fever as well as redness and swelling at the injection site. These are generally signs that your body's immune system is reacting as it should to the vaccine. You do not need to call your doctor if you experience these known and transient side effects. If you are among those who do not experience side effects, you should not worry that the vaccine is not working, because it will regardless of whether you experience side effects.

We know from other vaccines that almost all side effects occur within the first six weeks of vaccination. It is very rare for them to occur later than this. Both Danish and European medicines agencies monitor the vaccines closely after they have been approved both in relation to how well they work and how many side effects they cause.

However, there is a difference in how well the immune system of older and younger people responds to vaccines. Elderly people will typically have poorer-responding immune systems, and they will therefore typically experience fewer side effects.

### Rare side effects

In rare cases, severe immediate allergic reactions (anaphylaxis) may occur, which may be caused by, for example, allergy to the additives in the vaccine. If you have previously had a severe allergic reaction immediately after being vaccinated or after being injected with a medicinal product, you should contact your doctor before being vaccinated against covid-19. If you have a known allergy to macrogols/PEG/polyethylene glycol, you should not be vaccinated with the mRNA vaccines.

---

## Vaccination of children against covid-19

Children and adolescents rarely become severely ill from the Omicron variant of covid-19.

From 1 July 2022, it was no longer possible for children and adolescents aged under 18 to get the first injection and, from 1 September 2022, it was no longer possible for them to get the second injection.

A very limited number of children at particularly higher risk of becoming severely ill will still be offered vaccination based on an individual assessment by a doctor.

## Should I be vaccinated?

## Can I tolerate being vaccinated?



### Can I tolerate being vaccinated?

#### Situations in which you should not be vaccinated

##### You should not be vaccinated against covid-19 if you have:

- A known, ascertained allergy to the vaccine (for example an immediate allergic reaction (anaphylaxis) in connection with the first injection)
- A known allergy to one of the excipients in the vaccine

#### Situations in which you should postpone vaccination

- You are acutely ill with a fever above 38°. You can be vaccinated if you only have a slight fever or light infections such as a common cold. However, you should always consider whether you might have covid-19 in this connection.
- You have covid-19 or suspect that you have covid-19.
- You have had covid-19 within one month before vaccination.
- You have been tested due to suspicion of covid-19 or because you are a close contact of an infected person.
- You are to undergo surgery within one week before or after vaccination.

#### Situations in which you should consult a doctor before being vaccinated

- You have been informed that there is a suspicion of allergy to macrogol/PEG/polyethylene glycol.
- You have previously had an immediate allergic reaction (anaphylaxis) after vaccination or after injection of another medicinal product.
- You have previously repeatedly had an immediate allergic reaction (anaphylaxis) after ingestion of other medicinal products (for example laxatives, stomach acid drugs).
- You have mastocytosis (a rare disease of the body's mast cells).

#### Situations in which you can be vaccinated

##### Most people tolerate the vaccine well. You can be vaccinated even if:

- You are waiting for the result of a covid-19 test
- You have developed a skin rash after taking other medicinal products (for example penicillin, ibuprofen).
- You cannot tolerate or experience discomfort from strong pills (for example painkillers).
- You have experienced common, known side effects after the first injection of the vaccine.
- You are allergic to foods (for example eggs, shellfish, nuts).
- You are allergic to insecticides, latex or the like.

- You have pollen allergy/hay fever, allergy to animals or asthma eczema.
- You are undergoing fertility treatment.
- You have received another vaccine (for example against influenza or pneumococci) on the same day/recently.
- You are a cancer patient and are undergoing treatment
- You have an impaired/weakened immune system<sup>1</sup>
- A family member has had an allergic reaction after vaccination.
- You do not want to consume products made from pigs.
- You have previously had treatment with botox.
- You are on ordinary blood-thinning medication.
- You have previously had a blood clot or there is a tendency to blood clots in your family.

<sup>1</sup>People with impaired/weakened immune system may have a poorer effect of the vaccine and should pay special attention to following

[> The Danish Health Authority's guidance on how to prevent infection](#)

#### Need further advice?

Healthcare professionals can contact Statens Serum Institut or the regional pharmacovigilance units/side effect managers.

---

#### Can I be vaccinated if I am ill?



If you have a fever of 38 degrees or more or have an acute severe infection such as pneumonia, your vaccination must be postponed.

You can be vaccinated if, for example, you only have a slight fever or a light infection such as a common cold, but you must always consider whether you may have covid-19.

---

#### Publications, etc.

Please click on the arrow to view our current publications, etc. on COVID-19 vaccination.



**EXHIBIT 5**

**NYC Fires 850 Teachers and Aides**

See attached.

METRO **EXCLUSIVE**

584

## 850 more unvaxxed NYC teachers, aides fired for not complying with mandate

By Susan Edelman

September 17, 2022 12:24pm Updated



The NYC Department of Education fired another 850 teachers and classroom aides for failure to comply with a COVID-19 vaccine mandate.

Gregory P. Mango

**MORE ON:**  
**COVID VACCINE**

**Marine Corps removes harsh COVID vax penalties for religious accommodations****Mets could have vaccine disaster if they were to face this team in World Series****Seniors face significant Alzheimer's risk after surviving Covid: Study**

The city Department of Education has axed another 850 teachers and classroom aides — bringing the total to nearly 2,000 school employees fired for failure to comply with a vaccine mandate increasingly **struck down in court**.

About 1,300 DOE employees who took a year's unpaid leave — with benefits — agreed to show proof of COVID vaccination by Sept. 5 or be “deemed to have voluntarily resigned.”

Of those staffers, 450 got a shot by the deadline and “are returning to their prior schools or work locations,” DOE officials told The Post. They include some 225 teachers and 135 paraprofessionals.

The 850 let go makes roughly 1,950 DOE staffers terminated since the vaccine mandate took effect on Oct. 29, 2021.

Rachelle Garcia, an elementary school teacher in Brooklyn for 15 years and mother of two, worked fully in person during the pandemic and never got sick, she said.

But she refused to get vaccinated, finally taking leave after the DOE denied her requests for a religious exemption.





“I really put my eggs in one basket, hoping and praying that at the last minute our mayor would turn everything around in time for me to go back to work,” she said.

Mayor Adams never lifted the vaccine mandate, while other cities and states are dropping such requirements due to **relaxed CDC guidelines**.

“I’m angry, I’m hurt, to be cast aside like I was nothing. Because I couldn’t give a proper goodbye to my students, other teachers told me they kept asking, ‘When is Ms. Garcia coming back?’ That made me cry so much.”



1 of 2



Around 1,950 NYC DOE staff members have been let go since the vaccine mandate took effect on Oct. 29, 2021.

She is now applying for jobs on Long Island.

In all, **NYC has fired** more than 2,600 municipal workers not fully vaccinated, according to City Hall tallies.

But last week, a Manhattan judge ruled that an unvaccinated NYPD officer, one of the dozens terminated, can't be fired because the city gave no explanation of why it rejected his religious exemption request.

*Additional reporting by Cayla Bamberger*

FILED UNDER **TEACHERS** , **CORONAVIRUS IN NY** , **COVID VACCINE** , **DEPARTMENT OF EDUCATION** , **ERIC ADAMS** , **9/17/22**

**READ NEXT** **New Jersey driver kills horse, injures 14-year-old rider b...**

## Conversation 584 Comments

Share your stance. Please adhere to our [guidelines](#).

Join the conversation



Sort by **Best** ▾

**Its a fact!**

...

2 days ago

I cannot believe the state of New York is still doing this to its own people. We already know and have heard from the experts that they knew all along and it wasn't that effective. We also know through data that strokes and heart attacks have exponentially risen at the same time. This is unconstitu...**See more**

Reply ▫ 158 ▫ Share

I have a 7th grader in a citywide public middle school and a 4th grader who began attending a private special education school this past year (21-22). My husband and I worked very hard to keep this child, who has received EI, CPSE, and CSE services almost his entire life, in public school as we value being part of the local elementary school community. Indeed, we chaired various school committees and built strong relationships with many faculty members. However, after 5 years of attendance at our local public school in ICT classes, receiving related services, and even repeating 2nd grade, our son was over a year behind academically and suffering from significant self-esteem challenges. After comprehensive neuropsychological test results came back, even his teachers and related service providers admitted that the constraints of the curricula and structure of the public school environment would likely not be able to serve his needs.

In contrast, after just one year at his new private school, which is specifically geared towards children with learning disabilities, he has gained tremendous confidence and, at 10 years old, can finally read and is growing in his math capabilities. He wakes up eager to go to school. The difference is like night and day.

I hope you will recognize that the vast majority of students attending private special education schools have tried the public school system to no avail. Families like ours are not “gaming the system” but have children with no real public alternative.

To be sure, the legal process and significant expense of time and money this has involved has been quite burdensome. We would much prefer effective DOE programs to the current legal process which is onerous and wasteful of time and money for parents and the city. If my child could secure adequate special education services from the DOE, we would jump at the opportunity to enroll him in such a program.

Our son Peyton is a 10<sup>th</sup> grader at the Bronx High School of Science. Peyton has Autism (Level 2). The school is not following Peyton's IEP mandate. Our son should be receiving ICT in English, Social Studies, Science, and Mathematics. However, he is only receiving ICT in English and Science. The school has refused to place a second teacher in Social Studies (AP European History), claiming that they cannot provide ICT in AP classes. They are not providing ICT in Mathematics either, claiming that they cannot provide ICT in Honors classes.

We complained to the Department of Special Education on September 14. As a result, the school illegally changed our son's IEP so that they would appear to be in compliance. We have never received an amendment form with proposed changes. Clearly, the school has violated the law.

We ask that you contact the Bronx High School of Science regarding this matter. It must be made clear that a student with a disability who qualifies for AP and Honors classes must receive the services mandated in their IEP.

Testimony for Education 9/23 10:15am

Our son is almost 14, in the 8th grade at an excellent public middle school with dedicated leaders and teachers. He went to an equally excellent public school for elementary.

He's had an IEP since first grade until now. His reading and math levels are currently between third and fifth grade. What's working about the DOE is that funded neuropsychological evaluations are available. What's not working is that I had to find this out through friends and not the school. After waiting three months for an appointment (no complaint there), we received an elegant and detailed portrait of his learning strengths and significant challenges May 2022. Those challenges were also named: Dyslexia, Dyscalculia, Dysgraphia and ADHD. My son's six year struggle to achieve and perform like more average students finally ended. We can breathe with greater understanding of how he learns. No more shame.

No educators had ever mentioned those words to me. Although we were paying for a private tutor throughout, it wasn't the right kind of help.

This year, with the help of hired professional advocate, we've been able to build a robust IEP and gain the attention of talented but busy teachers and administrators. But it shouldn't have to be sleepless nights to obtain relevant, evidenced based, multi-sensory learning opportunities and accommodations implemented in public schools.

Thank you.

My son, Marcus, first received Special Education services when he was 3-years-old. Up until Kindergarten, we had been listening to the schools, and the experts at the schools for advice on how to help. But there is no place for my son in the traditional NYC public school system or special education system.

In Kindergarten, 2021, Marcus started hating school. Marcus is autistic and very intelligent. He has high support needs, and ADHD, combined, and challenges associated with that.

He had a 1:1 paraprofessional, and still his teachers in his ICT classroom were not able to teach him properly. But the ICT classroom is the most-supportive environment for Autistic kids with ADHD in the NYC public school system.

The ASD- NEST program was brought up many times during testimony. The ASD-NEST program is broken. It is still being run as a trial/ model program after many years in service from what I can tell. There is no accountability or openness in the application process. I applied in early May of 2022, and have only heard back: "We have received your application." I have emailed the program several times for follow-up, and was told I would receive a follow-up that never actually occurred. I have doubts he would even qualify if they did fully evaluate him, though. The disqualifying behaviors are behaviors the vast majority of autistic kids have. It is too highly selective of who it allows in the program, and does not serve enough students.

Yet there are no other programs that he would come close to qualifying for. Because the vast majority of Special Educational services are for students who have mild to moderate intellectual disabilities. Marcus is considered 2E- twice exceptional- high support needs with high academic aptitude. And there are no 2E schools or programs in the NYC public school system. There are no smaller class sizes for 2E kids overwhelmed in a regular classroom. There are no sensory-friendly classes for 2E kids with sensory overload. There are no therapeutic classes for 2E kids who need more behavioral help. You can claim ASD- NEST fits some of that bill- and it does, for a small fraction of the kids. But not for kids with ADHD. Not for most autistic kids. I have spent the better part of the last year looking, and asking. I talked to everyone I could, and even paid a consultant for her time to see what else I could do.

It was implied by his Kindergarten school that Marcus was "too smart" for the level of support services he needed. He received 1 (one) day of SERS because they focused on the kids "who needed it more", and didn't schedule more for him. Their time was spent helping kids who needed more academic help, and Marcus was left to sit in a corner or hallway when overwhelmed in class rather than being offered proper supports. When they tried to teach him, it wasn't differentiated to a degree that both helped him learn and didn't overstress him. He was blamed for the behaviors their lack of supports brought on, was a mental mess at the end of the year, and still blames himself for the meltdowns they triggered in him.

The only people with answers for better placement told me overwhelmingly- NYC public schools do not have a place for your son. I was provided with a list of private schools to look at, and to see if I could go that route. But, contrary to what the DOE claims, it is not an easy process that one does just to "game the system". Lawyers who take cases often take many cases at once, and you have to spend a lot of time keeping them engaged and on the case. And it is not cheap- most need a retainer and a fee, often not reimbursed by the tuition lawsuit. And if you win, I have been told it takes 2-3 years to get tuition reimbursed. The schools I looked at cost \$90-100k a year- I do not have \$180-\$300k. You also need to

pay additional fees, such as \$6k for a neuropsychologist or other experts. I ultimately decided not to go that route as I was quickly discouraged and overwhelmed. Parents who do go this route really do not have any other choice in many cases, and I am amazed at the work they did to get what they needed for their kids.

If there are schools or programs for students like my son, the DOE makes it very hard to find. I consistently told his Kindergarten school that I did not feel that they were the best placement, and the only thing they would reply was “we hear you, and understand that you feel that way”, with no suggestions for actions I could take. I was not told I could contact anybody outside the school, or even that I should, when I had concerns. I was not directed to anybody in the district or the school system that I could talk to. I was not given any guidance or direction. Even as he would have daily problems in the school.

Like many parents I have spoken with, the school would fail to provide proper supports, yet claim they could provide the supports and give no help for finding anything else. If parents are to have faith in the NYC school system, this needs to change. If a school cannot provide proper supports (because no school can be everything for every kid), then they need to be directing parents to the resources they need. Schools need to be at the front of helping parents speak with district officials who may have more knowledge of district schools and programs. They need to listen to parents who know their children, and see how the school isn't appropriate. And they need to help the parent find placement for their kids. There is no point in having special education programs if schools are not letting parents know about them. There shouldn't be an arcane process of written requests sent to the exact right person that parents have to navigate. Schools need to reach out to parents if the kid is clearly struggling, put the parents into contact with the correct district personnel, and give information without excessive hoops.

I eventually found a charter school that would accept Marcus. No excessive gatekeeping, like with ASD-NEST, and I just enrolled in the lottery. I got in, and they have a lot of supports. They have a program for autistic kids, and he was set up with a proper on-boarding process. Marcus still does not like school, but he goes every day, leaves well-regulated and his teachers give positive reports. I hope that his learning is properly differentiated so that he can learn without being overstressed, and I would greatly prefer a much smaller class-size for him, but am happy the class size is at least smaller than the DOE norm. The school does not have the sensory break rooms, gyms and other areas I saw in many of the private schools, but it does have a nice sensory corner for breaks. It is better than I could find in any non-charter school, and I hope it works. I do not know what I could have even done if he had not gotten into this school.

Dear Chair Joseph and Education Committee Members:

I was present for the hearing on 9/21 but had to leave before I could testify. Therefore, I will include here what I intended to say. But first, as a parent of two kids with special needs, I thank you for calling for the hearing. There were so many urgent topics discussed. I thought it was a shame that the City's Special Education Officials didn't stay to listen to parent testimonies. I know what an exertion it is to be there in person and there was so much truth and pain in these parents' voices—their testimonies ARE the reason for these hearings. And they deserve to be heard in a meaningful way. If that's not a guiding light then there will never be change.

Thank you to the council members who addressed the specific concerns of your constituents with the panel. It's really clear when you are representing.

I wanted to talk specifically about student bussing because I have never seen it so dysfunctional.

My son has autism and a Limited Time Travel designation on his IEP for medical reasons, which means that the ride should not exceed 1 hour each way. But every day, his ride is at least 90 minutes, sometimes 2 hours, sometimes 2.5 hours (or even longer) for one way, within borough.

You can imagine how that kind of daily commute might impact the physical and emotional health of ANY child, and especially that of children with special needs. I will spare you the details mostly to protect my son's privacy but what's happening to him and to kids all across this city is not just inappropriate, it is cruel. It's also cruel to families that have to miss work, rearrange their lives, spend endless hours of their lives on the phone with the bus companies and OPT.

I am hearing stories like ours and worse from other parents, from school administrators, from the bus drivers themselves—one said to me just the other day that he's shocked by how terrible it's been—nonsensical routes, double routes, new kids being added from across towns.

My son's school and I have been calling and filing requests for help nearly every day because every day the Office of Pupil Transportation is violating his IEP. The complaints seem to disappear into the ether. Between the bus company, the Dept of Education and the Office of Pupil Transportation — every entity puts the blame on another. I've called where the phone will ring endlessly, I've been transferred, I've been hung up on. No one is being held accountable to help these children.

I should mention that after all the calls and requests, they did modify his route. But now his commute is even LONGER. That's right — his pickup used to be at 6:35am (for an 8:10 drop off) and it moved up to 6:30am. It's mind boggling, honestly.

Some questions for council members—where are these school budget cuts hurting our kids the most? It's been unclear. Is the office of pupil transportation underfunded right now or is it more

of a management issue? Regarding the pipeline of new drivers — will that be enough? Where are the gaps? Let's not do this for yet another year.

You file a complaint ticket with OPT and then it seems to go nowhere. There is zero follow up. Why is there no process to elevate problems that have been open for weeks and months with no resolution? You can't put this on parents' plates. Especially for parents with special needs kids, there is very little bandwidth. Please don't assume that if parents stop calling it means that the problem has been resolved. It often means that parents have given up because they have lost all confidence that reaching out further will do anything.

This is an unacceptable situation for too many families right now, and we don't like how it's trending.

Last year, bussing was pretty bad , and we filed our complaints, but we tried to stay patient because of covid.

The city has now had OVER A YEAR to anticipate and address these issues, which seem to be getting worse, not better.

I know there are thousands of complaint tickets filed per day, including mine. I also know that fatigued and defeated parents who don't get answers after filing complaints will give up and that kids will continue to be late. Continue to suffer inhumane conditions and commutes.

Please dig into the numbers of complaints. If you are hearing more complaints than ever before from parents in this city but SOMEHOW the number of complaints is declining— we should all be suspicious that the situation is not actually improving.

First, parents who are frustrated by no response GIVE UP. They stop calling. Second, based on my own experience, OPT has started rolling up complaints over days and weeks under the SAME complaint number as an “existing” problem.

And, please just continue to ask the tough questions to hold these offices accountable to students and families across this city. Getting special education students to school on time and in a condition ready to learn is a basic need. We need action, not lip service. And we are counting on you to be a voice for our kids!

Thank you!

I have a 6 year old neurodiverse son who receives a myriad of services. If funding were cut I would be extremely concerned for my son's future. Our children with disabilities were the most impacted by the pandemic. Pivoting to online education was impossible. Socialization wasn't possible. Our children with disabilities continue to be behind. My son is now repeating kindergarten.

At the end of last school year, it was recommended he continue services over the summer. I was told I would be able to receive vouchers for services, given I couldn't take him to and from sessions as I would lose my job. I submitted the google form to be contacted by the DOE and never was. I hunted for answers but it seemed no one knew how I could obtain the vouchers so that my son wouldn't regress. I never received the vouchers and he never received his services.

This is incredibly disappointing.

As parents of children with disabilities, we are struggling. Our children need more resources and help, not less. Please do not cut funding for our children with disabilities. They have great potential. Please don't dismiss them.

Thank you for reading.

## September Attendance Awareness Month

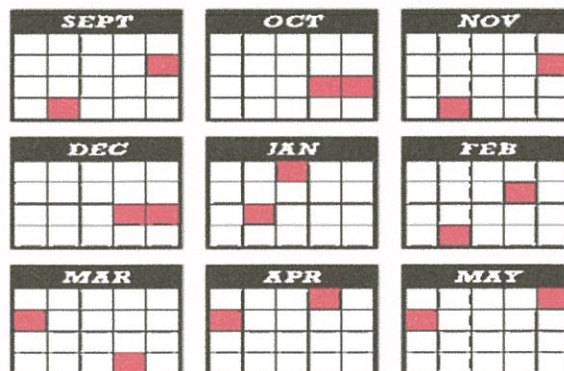
September is Attendance Awareness Month! As your school implements an Attendance Awareness Month campaign, publicize school virtual events, and educate students and families about the importance of attending school. Start the year strong with these ideas:

- Encourage students to attend school or participate online every day of September and offer virtual recognition ceremonies.
- Register for the free Attendance Awareness webinar series and view past webinars with Attendance Works: <https://awareness.attendanceworks.org/resources/webinars/>
- Use this guide from Attendance Works to help get started and promote your Attendance Awareness Campaign: <https://bit.ly/2qndt8M>

### Tip: Attendance Awareness

This graphic illustrates how easy it is for a student to become chronically absent: just two days per month over nine months. Post this calendar throughout the school and share it with parents to promote awareness.

**2 Absences Per Month  
x 9 Months of School  
= Less Likely to Graduate  
from High School**



## September Attendance Awareness Month: Timeline

Activity	Date(s)
<input type="checkbox"/> Create and share your school's attendance plan and policy <input type="checkbox"/> Identify staff to lead the work and Attendance Team members <input type="checkbox"/> Launch Attendance Awareness Month Campaign	Before September 8, 2022
<input type="checkbox"/> Meet with your Attendance Team and schedule weekly meetings <input type="checkbox"/> Review attendance data <input type="checkbox"/> Student/Family outreach: absent since 9/8/22 <input type="checkbox"/> Host Health Partnership Fair in Collaboration with <u>ACS Community Partnership Programs</u> during Back-to-School Nights	September 12-16, 2022
<input type="checkbox"/> Use data to develop and assign tiered interventions <input type="checkbox"/> Student/Family outreach: absent since 9/8/22	September 19-23, 2022
<input type="checkbox"/> Recruit and Onboard Success Mentors <input type="checkbox"/> Identify students for Success Mentor Program	September 26-30, 2022
<input type="checkbox"/> Match mentors and mentees <input type="checkbox"/> Outreach for students absent more than 1 day	October 3-7, 2022
<input type="checkbox"/> Launch Success Mentor Program	October 10-14, 2022
<input type="checkbox"/> Host Attendance Celebration	October 17-21, 2022
<input type="checkbox"/> Outreach and home visits for students absent more than 2 days	October 24-28, 2022

# Engage the Attendance Team in a Weekly Meeting to Monitor Chronic Absenteeism

The weekly Attendance Team Meeting is facilitated by the Principal or Principal's designee. This meeting is a vital part of a proactive attendance strategy in any school. The meeting can be remote or in-person depending upon the needs of the school in response to COVID-19. The goal of the weekly Attendance Team Meeting is to use data to monitor chronically absent students and assign the right intervention to the right student at the right time.

Take these five steps to ensure a successful weekly Attendance Team meeting:

## 1. SET A ROUTINE

- Whether meeting virtually or in-person, meet at a consistent time and place, and use a set agenda. Meetings generally last no more than 45 minutes. See a sample agenda here:  
<https://docs.google.com/document/d/18bCgx7kQy7ulI9MXKHAKMghYR6EPcgm1/edit>

## 2. GET THE RIGHT PEOPLE AT THE MEETING

- The Principal, or Principal's designee, leads and facilitates. Include Guidance Counselors, Social Workers, Assistance Principal, lead teachers, Parent Coordinator, Success Mentors, and other key staff.

Each member of the attendance team should have a clearly defined role and the capacity to perform their role. Review resources here:

<https://sites.google.com/mynycschool.org/newyorkcitycommunityschools/resources/every-student-every-day/weekly-attendance-meetings>

### **3. ASSESS THE CLIMATE OF THE SCHOOL COMMUNITY USING DATA**

- Collect and use data to determine needs such as student access to mental health services, student access to technology and acquisition of skills to participate in remote learning.

### **4. TRACK AND MONITOR ATTENDANCE DATA AND TRENDS USING INSIGHT**

- Identify patterns of absences for students who are chronically absent from in-person or remote learning.
  - i. What trends in the data do you notice?
  - ii. What are the possible underlying factors contributing to the trend?
  - iii. What solutions or interventions are needed?

### **5. DRAW UPON SCHOOL AND COMMUNITY RESOURCES**

- Identify school and community resources to support students and families:

<http://www.communityschools.nyc/partnerships>

#### **Tip: Asthma Awareness**

Asthma is one of the leading causes of chronic absenteeism. Flare-ups occur during the cold winter months. The good news is schools can help students manage their asthma and stay in school. For details, contact the Department of Health and learn more about the Open Airways Curriculum ([www.lung.org](http://www.lung.org))

## KNOW WHERE TO FIND YOUR DATA

Data	Examples	Data Source
Attendance and Chronic Absenteeism	<ul style="list-style-type: none"> <li>Yearly attendance trends by month over time.</li> <li>Discreet monthly attendance trends over time.</li> <li>Attendance trends for vulnerable populations, such as students in temporary housing, students with disabilities, English language learners.</li> </ul>	<p>Suggestion: Use Insight to view trends for your school.</p> <p>Insight can be accessed at (<a href="https://bit.ly/31Prpfc">https://bit.ly/31Prpfc</a>)</p>
Behavior	<ul style="list-style-type: none"> <li>Suspensions and Incidents.</li> </ul>	<p>Suggestion: Use Insight to track</p>
Coursework	<ul style="list-style-type: none"> <li>Credit accumulation.</li> <li>Graduation rates.</li> </ul>	<p>Suggestion: Use Insight to track</p>
Interventions	<ul style="list-style-type: none"> <li>Afterschool program implementation, such as enrollment targets, actuals, Success Mentors, and student program attendance.</li> <li>Tip: create and monitor virtual interventions/options for remote students.</li> </ul>	<p>Suggestion: Use iLog</p>

**UNPACK THE ROOT CAUSE OF A STUDENT'S ABSENCE OR  
ACADEMIC ISSUES AND ASK QUESTIONS TO FIND A SOLUTIONS**

Data	Suggested Action
Special pattern of days missed?	Look for special family circumstances, for example do they have babysitting responsibilities or issues with access to WiFi- enabled technology?
High exam scores, but low attendance rate this year?	Check programming: Is the student fully engaged in classwork? Is there another "hook?"
How old? What grade?	If a student is overage and under-credited, look into alternative programs or transfer schools that can help them get the credits they need to graduate.

## MONTHLY PLANNING & CHECK-IN TOOL (September – June)

Use this checklist to ensure fidelity to the implementation of the weekly Attendance Team Meeting:

- ☐ Attendance Team Meeting occurs weekly at a set time and place (can be remote or virtual) and lasts no longer than 45 minutes.
- ☐ The agenda is known and set for all meetings.
- ☐ Sample agenda for in-person is available here:  
<https://docs.google.com/document/d/18bCgx7kQy7uli9MXKHAKMghYR6EPcgm1/edit?dls=true>
- ☐ Meetings are facilitated by the Principal or the Principal's designee.
- ☐ Principal and key staff monitor attendance data from the DOE's Insight tool (via screen share) to view trends school-wide and disaggregated by subgroup and individual students.
- ☐ An inquiry process is used to assign interventions using iLog, to students to reduce days missed and accelerate academic achievement.
  - See technical instructions here:  
<https://wiki.nycenet.edu/pages/viewpage.action?pageId=26673345>

**Tip for Community Schools:**

The CSD must sign the confidentiality agreement to gain access to student-level data. The Principal, or principal's designee, must add the CSD as a PNOB in your school's Galaxy to provision access to a DOE email. The CSD must request access to Insight using the Student Profile Access Form and Mayoral Directive. For more information about the Confidentiality Agreement, go to: [www.communityschools.nyc/ resources/continuous-improvement/ferpa-and-data- safety](http://www.communityschools.nyc/resources/continuous-improvement/ferpa-and-data-safety)

# Personalize Student Interventions: Success Mentoring

*"He's the only person that actually made me care more, the only person that made me come to school more than what I was, the only person that made me think positive, rather than negative."*

- NYC Student: <https://youtu.be/daORuBe-Kus>

Success Mentors have helped chronically absent students gain up to 13 days of school! Success Mentoring is an evidence-based strategy to significantly reduce chronic absence rates and help students succeed in school and beyond.

Success Mentors are caring adults who help chronically absent students address the barriers that keep them from attending school every day.

Success Mentors can be school staff, community partners, and senior students. Success Mentors are advocates for their mentees and help encourage their success in school.

Take these steps to launch your Success Mentor program:

## Success Mentor Guides and Resources

Learn how to mentor students in person and remotely! Find more information on the Community Schools website. Web address: <https://goo.gl/ZwZ9Zs>

Visit the Success Mentor Hub to find more information: [www.communityschools.nyc/resources/attendance-resources/success-mentors](http://www.communityschools.nyc/resources/attendance-resources/success-mentors)

Learn more about how to start and run a Success Mentor program with the [Getting Started One-Pager](#)

## **1. BUILD A SUCCESS MENTOR TEAM**

- Appoint a Success Mentor Coordinator to coordinate the program. Host a meeting to build buy-in and emphasize the importance of attending school every day.
- Consider how you will implement the program—will you create time during the school day for mentors and mentees to connect?

## **2. IDENTIFY A TARGET LIST OF STUDENTS TO RECEIVE A SUCCESS MENTOR**

- Which students will you assign to a Success Mentor? Use Insight to identify students who were chronically absent last year (missed 10% or 18+ days). Consider focusing on students in transitional grades or students in temporary housing.

## **3. RECRUIT SUCCESS MENTORS TO MENTOR STUDENTS**

- Who will serve as Success Mentors? Assemble staff and peer mentors in September. Explain the role and responsibilities to them.

## **4. TRAIN MENTORS TO BEST SUPPORT STUDENTS**

- Train Success Mentors to promote a positive school climate around attendance and help students to address barriers to their success.
- What are your expectations? When will you meet (virtually or otherwise) and how often will you train them?

## 5. MATCH SUCCESS MENTORS AND MENTEES

- Announce the Success Mentor program to families and students. Provide ways for families and Success Mentors to connect with each other remotely. Survey mentees and find out what they would like to do with their mentors.

### ROLES AND RESPONSIBILITIES OF A SUCCESS MENTOR

Programs vary from school to school; however, mentors' key roles and responsibilities are to:

- Partner with chronically absent students in their school for a full school year, taking on a caseload of 3 to 10 chronically absent students (their "Mentees").
- Connect with mentees each morning.
- Make positive morning phone calls home to families of absent students.
- Monitor mentee's attendance data and maintain a folder on each student to include notes and other information to track mentee attendance and trends.
- Meet with mentees regularly both remotely and in- person. Meet with them in one-on-one and in small groups—to check-in, listen and chat about how school is going.
- Work with school staff and teachers to identify appropriate interventions to support and engage mentee(s).
- Assist mentees in setting goals, personalized to their needs.
- Celebrate all improvements, no matter how small.

### **Tip: Connecting with Mentees Online**

Online etiquette:

- Use a school approved online platform to connect with students (i.e. Zoom, Teams or Google Meets).
- Schedule virtual check-ins that are convenient for both the mentor and their mentees.
- The background that Success Mentors use in a virtual space should be appropriate for students.
- Success Mentors should ensure they are in a private space when speaking with mentees.
- Be aware that mentees, when at home, may share a space with others.
- Exercise discretion during virtual conversations.

### **Tip: Effective Success Mentoring**

An effective Success Mentor will:

- Listen.
- Be empathetic.
- Withhold judgment.
- Focus on solutions and opportunities, not just barriers.
- Be patient, open, and flexible.
- Build trusting relationships.
- Accept different points of view.
- Offer constructive feedback: focus on tangible goals to achieve success like behavior, homework, or attendance goals.

## MONTHLY PLANNING & CHECK-IN TOOL

### Success Mentoring (September – June)

Use this checklist to develop an effective Success Mentoring Program at your school:

- ☐ Students who missed 10% (i.e. a month of more) of school last year are identified and matched to Success Mentors.
- ☐ During the year, early warning students who have missed two days a month are matched to a Success Mentor.
- ☐ The school has recruited and supports staff and CBO members in their mentoring (i.e. training, professional development).
- ☐ Success Mentors acknowledge their mentees at least once a day and meet them at least once a week for 20 minutes or more.
- ☐ Success Mentors have space to meet with mentees both in school and virtually, a phone to contact families, and resources like access to a computer.
- ☐ Success Mentors are introduced and known by all staff.
- ☐ CBO Success Mentors have signed confidentiality agreements to view their mentee's data, available here:  
[https://drive.google.com/file/d/1OGkBjE7vhtCN6VLMiwPPDH\\_Yw0xbhUwaq/view](https://drive.google.com/file/d/1OGkBjE7vhtCN6VLMiwPPDH_Yw0xbhUwaq/view)
- ☐ Success Mentors can connect students to community resources (i.e. at Partnerships Fair, via online resources like Auntbertha.com).
- ☐ Students with Success Mentors are monitored regularly (monitoring takes place at the weekly Attendance Team Meeting). Monitor for the Success Mentor intervention in iLog.

# Partner with Communities to Build a Supportive Remote, Hybrid, and In-Person Learning Environment

Communicating with families about attendance is critical. Talk to families about how attending school is key to boosting achievement. Even a 90% attendance rate is not enough and can significantly impact student outcomes.

Take these steps to partner with the community to support students and families:

## 1. COMMUNICATE WITH FAMILIES REGULARLY ABOUT THE IMPORTANCE OF ATTENDING SCHOOL

- Use these handouts to share with families at upcoming virtual back to school nights and other family events: <https://bit.ly/2mhFSKK>
- Ensure your school's Every Student, Every Day Attendance Policy and Plan is published and shared with families in the first month of school via the school's website and other communication pathways. Draft your school's attendance policy: <http://bitly.ws/te9d>
- Be a familiar face! Send a letter of introduction, talking about the great work of your school and highlight the new Success Mentor program.

- Make a positive phone call home, thanking families when children have been at school.
- Call or write families with any good news about their children.
- Hold improved attendance awards ceremonies - virtually or in person, as appropriate, for families and students.
- Offer early morning activities for families (e.g. breakfast workshop to provide resources for job hunting or fitness classes) to encourage them to bring their children to school every morning.
- Offer training for families on the benefits of regular attendance
- If families take a long vacation during the winter months, explain how these absences add up to hours of lost instructional time. Set up a way for the student to stay involved or attend school while they are away via remote learning platforms and other virtual learning strategies.

## 2. HOST A VIRTUAL PARTNERSHIPS FAIR AT BACK-TO- SCHOOL NIGHTS IN SEPTEMBER

- Host virtual Partnership Fairs at Back-to-School Nights and other virtual family nights in the fall. Use the support of local community-based organizations to get the message out and connect families to vital services that help students get back on track. Learn more about Partnership Fairs here: <http://bitly.ws/tPbj>
  - i. Publicize the Virtual Partnership Fair by using Twitter, the school's website, and other forms of remote communication.
  - ii. Have each community partner prepare a three to five-minute presentation about their organization and the services that they provide.
  - iii. Send out survey calendar invites ahead of time to gauge event attendance and contact families that have not signed up.

- iv. Make it part of the first Parents' Association meeting, Back-to-School Night, or another school function that parents traditionally attend in the first eight weeks of the school year.
- v. Create a personalized digital folder for each family, with their child's attendance data. Include the student profile from the infohub ([www.nycenet.edu/studentprofile/](http://www.nycenet.edu/studentprofile/)) or the New Visions Data Portal and a list of community resources.
- vi. Hold a student performance or an awards ceremony to celebrate all improvements from students, no matter how small!
- vii. Include activities geared toward grandparents who are raising grandchildren.

### 3. DRAW ON COMMUNITY PARTNERS TO SUPPORT STUDENTS AND FAMILIES

- Utilize local partners to help address the barriers to attendance:
  - i. Complete the OCS Assets and Needs Assessment (<https://bit.ly/35G27T0>) to identify needs that the school's partners can help meet. Assign community supports and resources to students who are or are en route to being chronically absent.
  - ii. Contact your Community Partnership Program Liaison, which are located in neighborhoods throughout the City. The liaison connects schools to local organizations and community support. For more information, go to: <https://on.nyc.gov/2PCPLQp>
  - iii. Identify new partnerships to meet the needs of your school community. Use online resources such as Auntbertha.com and the list of free resources listed at the end of this guide to learn about what is available.

### **Tip: Host a Community Forum**

Community Forums are large, interactive school and community-wide events. Community Forums have been held in Community Schools since 2014 and have successfully engaged students, families, and community members through collaborative visioning and leadership.

Any school can host a Community Forum! Use this guide <https://bit.ly/3c8DUtV> to get started.

## MONTHLY PLANNING & CHECK-IN TOOL

### Draw on Community Partners to Support Students and Families (September– June)

Use this checklist to effectively draw on community partners to support students and families:

- ☐ Call students' families regularly to identify needs and inform them of students' successes or absences.
- ☐ Share resources and materials with families at the beginning of September and different virtual school events throughout the year.
- ☐ Host a Virtual Partnership Fair in the first eight weeks of school and invite local partners to attend and share information with families.
- ☐ Celebrate students' successes with special events or personalized mail to families.
- ☐ Connect families with community partnerships and local resources to help students and families get their children to school or online.
- ☐ Offer information to families about specific issues like asthma and provide targeted resources and materials to connect students in need.

## Prevent a May/June attendance Slump!

School attendance declines as the end of the school year approaches, typically by 5% across New York City schools—this is often called the “Attendance Slump”. To combat this trend, focus resources on engaging families and students during these critical final months.

Here are some ideas of how to boost attendance in June:

- Creative use of Expanded Learning Time (ELT). Enlist teachers and CBO staff to host before- and after-school activities or clubs.  
<http://www.communityschools.nyc/resources/expanded-learning-time>
- Host a Family Fun Day. Encouraging family involvement is especially important during the end of the year slump. Be sure to thank families for their help in getting their children to school or online every day.
- Celebrate the end of the year! Host events that will re-engage students like dance performances, theater productions, or award ceremonies.
- Assemble a before- and/or after- school team of school and/or CBO staff to greet students and families in the morning and say goodbye in the afternoon. Engaging parents encourages a strong end of year finish.

# Students in Temporary Housing (STH)

Roughly 9% of New York City school students live in temporary housing and face unique challenges to overcome the barriers of attending school regularly.

Students in Temporary Housing (STH) include students living in non-permanent housing situations, such as:

- Homeless shelters.
- Domestic violence shelters.
- “Doubled up,” living with another family.

STH require individualized support for their unique situations often including but not limited to:

- Transportation assistance.
- Food stability.
- Health and mental health services.
- Access to Wi-Fi-enabled technology to complete assignments.

STH often requires targeted help. Use these strategies:

- Establish or grow your Success Mentoring Program. Offering individual support to Students in Temporary Housing is proven to help students and increase attendance. Each Student in Temporary Housing should be assigned a Success Mentor (e.g. Social Work Success Mentors work well.
- Use Data to Support STH. Using the data from ATS or Insight will help you identify STH under the category of “Housing Status.” Here’s a breakdown of STH codes:

# Virtual Learning Experiences

## Every Student, Every Day Strategies for Virtual Learning Experiences

Every Student, Every Day strategies can easily be implemented in remote and hybrid learning environments.

Use the strategies listed over the next few pages to support regular attendance for every student, every day.

# Define and Communicate Clear School Systems and Practices

## 1. CREATE AND SHARE YOUR SCHOOL'S ATTENDANCE POLICY AND PLAN

- Use this template to draft your school's attendance policies and your plan for supporting every student, every day: <http://bitly.ws/te9d>.

## 2. IDENTIFY KEY STAFF TO LEAD THE DAY-TO-DAY WORK OF THE EVERY STUDENT, EVERY DAY CAMPAIGN

- Who, in addition to the Principal, will operationalize the Every Student, Every Day campaign?

## 3. CREATE A SCHOOL CULTURE THAT PROMOTES GOOD ATTENDANCE

- How will you create a culture in which all students, families, and staff are motivated and informed about the benefits of regular attendance in both remote and hybrid settings?

## 4. RECOGNIZE AND REWARD GOOD OR IMPROVED ATTENDANCE

- What types of incentives or programs could you offer to students and their families in a remote and hybrid setting to encourage engagement and improved attendance?
- How will you create a program to help students and

families feel connected to the school in a remote and hybrid setting?

## **5. ESTABLISH STRONG ATTENDANCE TAKING PRACTICES**

- Collect and record daily attendance in one of two ways: COMING SOON

## SEPTEMBER ATTENDANCE AWARENESS MONTH TIMELINE

Activity	Date(s)
<ul style="list-style-type: none"> <li><input type="checkbox"/> Create and share your school's attendance plan and policy</li> <li><input type="checkbox"/> Identify staff to lead the work and Attendance Team members</li> <li><input type="checkbox"/> Launch Attendance Awareness Month Campaign</li> </ul>	Before September 8, 2022
<ul style="list-style-type: none"> <li><input type="checkbox"/> Meet with your Attendance Team and schedule weekly meetings</li> <li><input type="checkbox"/> Review attendance data</li> <li><input type="checkbox"/> Student/Family outreach: absent since 9/8/22</li> <li><input type="checkbox"/> Host Health Partnership Fair in Collaboration with <u>ACS Community Partnership Programs</u> during Back to School Nights</li> </ul>	September 12-16, 2022
<ul style="list-style-type: none"> <li><input type="checkbox"/> Use data to develop and assign tiered interventions</li> <li><input type="checkbox"/> Student/Family outreach: absent since 9/8/22</li> </ul>	September 19-23, 2022
<ul style="list-style-type: none"> <li><input type="checkbox"/> Recruit and Onboard Success Mentors</li> <li><input type="checkbox"/> Identify students for Success Mentor Program</li> </ul>	September 26-30, 2022
<ul style="list-style-type: none"> <li><input type="checkbox"/> Match mentors and mentees</li> <li><input type="checkbox"/> Outreach for students absent more than 1 day</li> </ul>	October 3-7, 2022
<ul style="list-style-type: none"> <li><input type="checkbox"/> Launch Success Mentor Program</li> </ul>	October 10-14, 2022
<ul style="list-style-type: none"> <li><input type="checkbox"/> Host Attendance Celebration</li> </ul>	October 17-21, 2022
<ul style="list-style-type: none"> <li><input type="checkbox"/> Outreach and home visits for students absent more than 2 days</li> </ul>	October 24-28, 2022

# Engage the Attendance Team in a Virtual Weekly Meeting to Monitor Chronic Absenteeism

## 1. SET A ROUTINE

- Host a virtual meeting at the same day and time and use a set agenda. Meetings generally last no more than 45 minutes and should end with time-bound action commitments. See a sample remote agenda here: <http://bitly.ws/te9t>

## 2. GET THE RIGHT PEOPLE AT THE MEETINGS

- The Principal, or a designee, leads and facilitates. Include Guidance Counselors, Social Workers, Assistant Principals, Teachers, Parent Coordinator, Success Mentors, and other key staff. Each member of the attendance team should have a clearly defined role and the capacity to perform their role.

## 3. ASSESS THE CLIMATE OF THE SCHOOL COMMUNITY USING DATA

- Collect and use data to determine needs such as student access to mental health services, student access to technology and acquisition of skills to participate in remote learning.

#### **4. TRACK AND MONITOR ATTENDANCE DATA AND TRENDS USING INSIGHT**

- Identify patterns of absences for students who are chronically absent from hybrid or remote learning.
  - i. What trends in the data do you notice?
  - ii. What are the possible underlying factors contributing to the trend?
  - iii. What solutions or interventions are needed?

#### **5. DRAW UPON SCHOOL AND COMMUNITY RESEARCH**

- Identify school and community resources to support students and families.

# Personalize Student Interventions: Success Mentoring

Success Mentors have helped chronically absent students gain up to 13 days of school! Success mentoring is an evidence-based strategy to significantly reduce chronic absence rates and help student succeed in school and beyond.

Success mentors are caring adults who help chronically absent students address the barriers that keep them from attending school every day.

Success Mentors can be school staff, community partners, and senior students. Success mentors are advocates for their mentees and help encourage their success in school.

In a remote and hybrid setting, Success Mentors are a key strategy to engage students in the school community and encourage regular attendance.

### Success Mentor Guides and Resources

Learn how to mentor students in person and remotely!  
Find more information on the Community Schools website. <http://bitly.ws/tPc4>

Visit the Success Mentor Hub to find more information:  
<http://bitly.ws/tcTY>

Learn more about how to start and run a Success Mentor program with the [Getting Started One-Pager](#)

### MONTHLY PLANNING & VIRTUAL CHECK-IN TOOL

#### Personalize Student Interventions: Success Mentoring (September – June)

Use this checklist to develop an effective Success Mentoring Program at your school:

- ☐ Students who missed 10% (i.e. 18+ days) of school last year are identified and matched to Success Mentors.
- ☐ During the year, early warning students who have missed two days a month are matched to a Success Mentor.
- ☐ The school has recruited and supports staff and CBO members in their mentoring (i.e. training, professional development).
- ☐ Success Mentors communicate with their mentees at least once a day and meet with them virtually at least once a week for 20 minutes or more.
- ☐ Success mentors have access to technology to use to connect with students and families.
- ☐ Success Mentors are introduced during virtual staff meetings and known by all staff.

- ☐ CBO Success Mentors have signed confidentiality agreements to view their mentee's data, available here:  
<https://drive.google.com/file/d/1OGkBjE7vhtCN6VLMiwPPDHYw0xbhUwaq/view>
- ☐ Success Mentors can connect students to community resources (i.e. at Partnerships Fair, via online resources like Auntbertha.com).
- ☐ Students with Success Mentors are monitored regularly (monitoring takes place at the virtual weekly Attendance Team Meeting). Monitor for the Success Mentor intervention in iLog.

# Partner with Communities to Build a Supportive Remote and Hybrid Learning Environment

Communicating with families about attendance is critical. Talk to families about how attending school and engaging in school activities are key to boosting achievement. Even a 90% attendance rate is not enough and can significantly impact student outcomes.

Take these steps to partner with the community to support students and families.

## 1. COMMUNICATE WITH FAMILIES REGULARLY ABOUT THE IMPORTANCE OF ATTENDING SCHOOL

- Ensure your school's Every Student, Every Day Attendance Policy and Plan is published and shared with families in the first month of school via the school's website and other communication pathways.
- Draft your schools attendance policy: COMING SOON
- Be a familiar face! Assign staff to connect with students and their families regularly outside of instructional time to build trust and engagement.
- If families take long vacation during the winter months, explain how these absences add up to hours of lost instructional time. Set up a way for the student to stay involved or attend school while they are away via remote learning platforms and other virtual learning strategies.

## 2. HOST A VIRTUAL PARTNERSHIPS FAIR AT BACK-TO-SCHOOL NIGHTS IN SEPTEMBER

- Host Virtual Partnership Fairs at Back-to-School Nights and other virtual family nights in the fall. Use the support of community based organizations to get the message out and connect families to vital services that help students get back on track. Learn more about partnerships fairs here: [bit.ly/2ykh2Uf](https://bit.ly/2ykh2Uf)
- Publicize the Virtual Partnership Fair by using Twitter, the school's website, and other forms of remote communication.
- Have each community partner prepare a three to five-minute presentation about their organization, the services they provide, and the neighborhoods they support.
- Identify community based organizations that provide services and support in the neighborhoods your students live in and create a personalized digital folder for families with these resources.

## 3. DRAW ON COMMUNITY PARTNERS TO SUPPORT STUDENTS AND FAMILIES

- Utilize community partners to help address barriers to attendance:
  - i. Complete the OCS Assets and Needs Assessment (<https://bit.ly/35G27T0>) to identify needs that the school's partners can help meet. Assign community supports and resources to students who are or are enroute to being chronically absent.
  - ii. Contact your Community Partnership Program Liaisons, which are located in neighborhoods throughout the city. The liaisons connect schools to local organizations and community support. For more information, go to: <https://on.nyc.gov/2PCPLQp>
  - iii. Identify new partnerships to meet the needs of

your school community. Use online resources such as [Auntbertha.com](http://Auntbertha.com) and the list of free resources listed at the end of this guide to learn about what is available.

# Resources and Support

As you build relationships in your community to launch your Every Student, Every Day campaign and address the challenge of chronic absenteeism, use this list of free resources to make a difference:

- **Compliance Checklist:** Schools are expected to adhere to the attendance compliance mandates as set forth in accordance with Chancellor's Regulations, and compliance mandates. The checklist below outlines compliance mandates, resources, and a timeline for each mandate.

Compliance Item	School	Semester
Clearance of Register Program	By October 31st of each year, the principal, in conjunction with the attendance coordinator, must develop a Clearance of Register program designed to locate and determine the status of, return to school, or appropriately discharge all students who are on the school register and who have not begun attending school for that school year.	Fall

<p>ANDI (November Discharges)/ALOA (Low October Attendance) Audit</p> <p><a href="#">Required by the Auditor General</a></p>	<p>Schools review their enrollment and attendance in ATS, clear as appropriate their register, and provide documentation to verify student presence or discharge.</p>	<p>Fall</p>
<p>Consolidated Plan - Attendance Plans that Adhere to A-210 and A-240</p> <p><a href="#">Required by the Office of Safety and Youth Development</a></p>	<p>Schools submit Consolidated Attendance Plans by the end of September 2022.</p>	<p>Fall</p>
<p>Comprehensive Education Plan - Chronic Absenteeism</p> <p><a href="#">Required by C.R A-655</a></p>	<p>Schools submit CEP chronic absenteeism plans in <a href="#">IPlan</a> by June 30, 2022</p>	<p>Spring</p>
<p>PIF Approval</p> <p><a href="#">Required by C.R. A-240</a></p> <p>Required by the <a href="#">PIF Memorandum</a></p>	<ul style="list-style-type: none"> <li>• Submit PIFs for approval for students born before July 1, 2005 throughout the year.</li> <li>• Submit PIFs for approval for students born before July 1, 2006 on the last day of school 2022-23</li> </ul>	<p>Fall, Winter, Spring</p>

<p>Discharge/Transfer Code Approval</p> <p>Required by <a href="#">DOE's Transfer, Discharge, Graduation Guidelines</a></p>	<p>Approve discharge and transfer codes except for 02, 10, 12, 25, and 39.</p> <p>The District point approves codes 02, 10, 12, 25 and 39.</p>	<p>Fall, Winter, Spring</p>
<p>Missing Attendance</p> <p>Required by the <a href="#">DOE Compliance Checklist</a></p>	<p>Update missing attendance throughout the year and in time for ATS roll over mid-July.</p>	<p>Fall, Winter, Spring</p>
<p>407 Completion</p> <p>Required by <a href="#">Compliance Checklist</a></p>	<p>Work toward the completion and close out of 407s.</p>	<p>Fall, Winter, Spring</p>
<p>Tiered Response Protocol</p> <p>Required by <a href="#">C.R. A-750</a>.</p>	<p>Make calls to appropriate agencies in cases where students on the Tiered Response Protocol (TRP) are absent for inadequate reasons. Flag the students on the TRP in ATS.</p>	<p>Fall, Winter, Spring</p>
<p>Releases</p> <p>Required by <a href="#">DOE Calendar</a></p>	<p>Schools may not release students without central approval.</p>	<p>Fall, Winter, Spring</p>

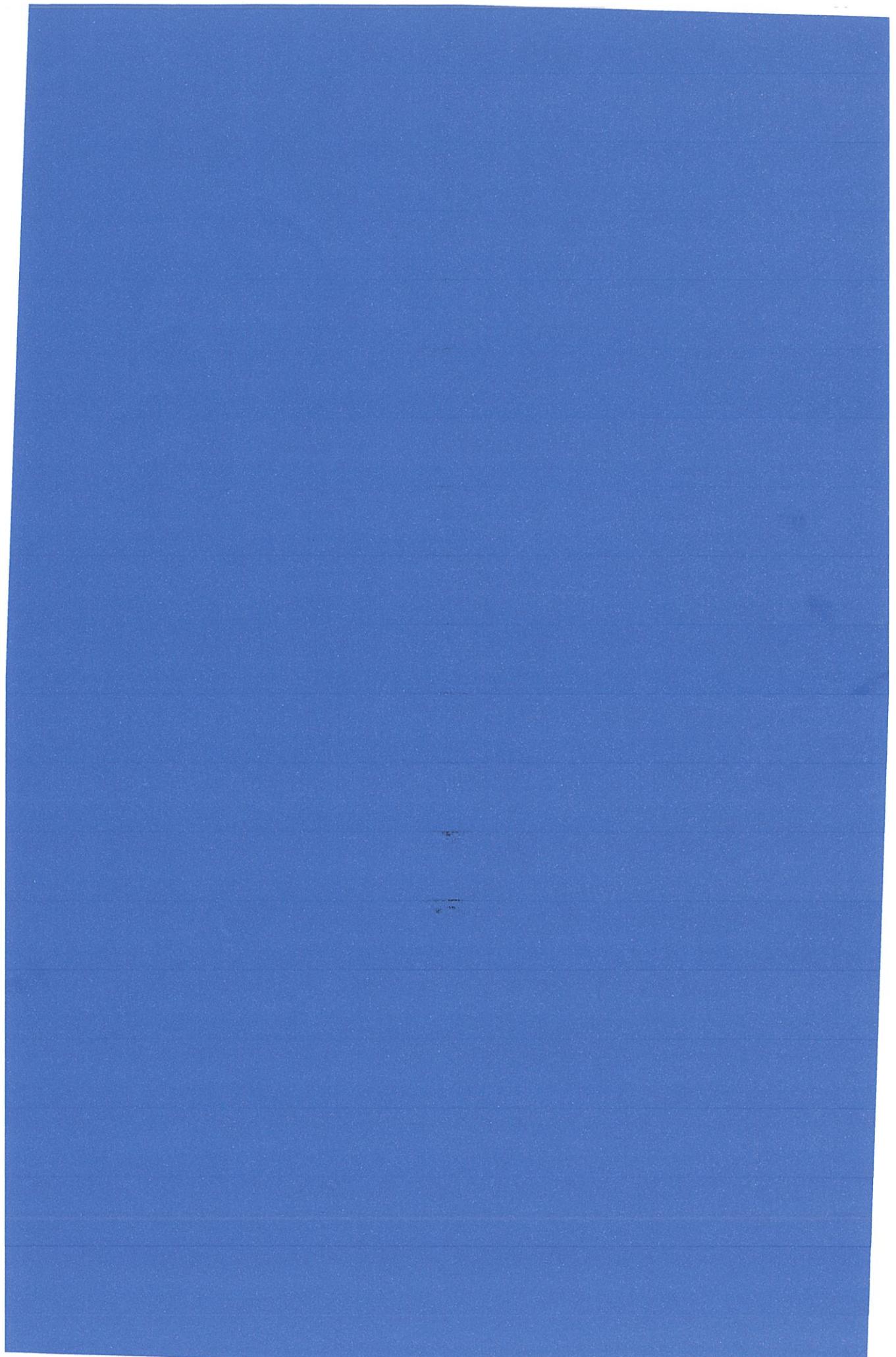
- Attendance Works is a national organization that promotes awareness of the importance of attending school and offers resources, materials and supports for schools, families and community partners. [www.attendanceworks.org](http://www.attendanceworks.org)
- 2022 Attendance Awareness Campaign: If you want to launch a 2020 Attendance Awareness campaign at your school, use this guide from Attendance Works to getting started: <https://bit.ly/2qndt8M>
- Chancellor's Regulation A-210: Review the chancellor's regulation for a detailed look at attendance expectations in NYC. <https://pws.nycenet.edu/docs/default-source/default-document-library/a-210-english>
- Class Trips: If you're looking to celebrate improved attendance with trips, ClassTrips.com provides a list of free trips in NYC you can go on as well as grants you can apply for to support transportation and admissions to events.
- Domestic Violence Assistance: Family Justice Centers for domestic violence are located throughout the city. <https://www1.nyc.gov/site/ocdv/programs/family-justice-centers> Page Reach the Domestic Violence hotline here: 1-800-621-HOPE
- ExpandedED Schools is a nonprofit dedicated to its mission of closing the learning gap by increasing access to enriched education experiences. <https://www.expandedschools.org/>
- Family Justice Centers for Domestic Violence provide comprehensive civil legal, counseling and supportive services for survivors of domestic violence, elder abuse and sex trafficking. Located in all five boroughs, FJCs are safe, caring environments that provide one-stop services and support. <http://www.nyc.gov/html/ocdv/html/help/fjc.shtml>

- Homebase: A network of CBOs that offer support for housing.  
<https://www.easymapmaker.com/map/Homebase>
- How to Complete the Attendance Plan of the OSYD Consolidated Plan: Review the NYC DOE guidance on completing the attendance plan in the OSYD Consolidated Plan. <https://infohub.nyced.org/docs/default-source/doe-employees-only/complete-the-attendance-plan.pdf>
- How to Make the Most of ILOG and ILOG Reports: Review the DOE's guidance on using iLog and iLog Reports.  
<https://infohub.nyced.org/docs/default-source/doe-employees-only/ilog.pdf>
- How to Set Attendance and Lateness Policies in 10 Steps with sample/template: Review the DOE's guidance on setting attendance and lateness policies.  
<https://infohub.nyced.org/docs/default-source/doe-employees-only/set-attendance-and-lateness-policies.docx>
- How to Incorporate Attendance into School Instructional Expectations: Review the DOE's guidance on incorporating attendance into instructional expectations.  
<https://infohub.nyced.org/docs/default-source/doe-employees-only/incorporate-attendance-into-school-instructional-expectations.pdf>
- How to Partner with Families to Promote Good Attendance with Tips for Family Vacations: Review the DOE's guidance on partnering with families and promoting attendance.  
<https://infohub.nyced.org/docs/default-source/doe-employees-only/partner-with-families-to-promote-good-attendance.pdf>
- Mentor New York: This organization offers free customized training to your Success Mentors and school staff. Topics include: home visits, youth engagement, goal setting, etc.

Contact them for a free site consultation.

[www.MentorNewYork.org](http://www.MentorNewYork.org)

- New York Road Runners Club supports free youth programs throughout the City to promote physical activity. Check out their website for more information! [www.nyrr.org](http://www.nyrr.org)
- Office of Pupil Transportation: Key for supporting youth with transportation to and from school, contact DOE staff here: (718) 392–8855
- Single Stop: A network of providers that provide all benefits in one place. Single Stop is located throughout the City.  
<https://www.easymapmaker.com/map/singlestop>



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: John Hammer

Address: 76<sup>th</sup> Street Middle Village, NY 11379

I represent: NYC DOE

Address: 52 Chambers

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: LIZ VLADECK

Address: 52 Chambers St. Rm 320 10007

I represent: NYC Department of Education

Address: 52 Chambers St. Rm 320 10007

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Simone Hawkins

Address: 52 Chambers Street

I represent: NYC DOE Division of Early Childhood Ed.

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Christina Foti

Address: Stephens Court Bk, NY 11226

I represent: NYC DOE

Address: 52 Chambers Street

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Carolyn Quintana

Address: 52 Chambers St NY NY 10007

I represent: NYC Public Schools

Address: Hill Street Mount Vernon, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: GLEAN A. RISBROOK

Address: VERMONT PLAZA LIC NY 11101

I represent: DOE OPT

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

Name: Janet Marte (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

Name: Laura Espinoza (PLEASE PRINT)

Address: 44th St

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: Sept 21, 2022

Name: President Michael Mulgrew (PLEASE PRINT)

Address: UFT

I represent: 52 Broadway

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9/21/2022

(PLEASE PRINT)

Name: Jennifer Choi

Address: Woodside Ave

I represent: Special Support Services

Address: 1060 Ocean Ave Bklyn 11266

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 12022-2233 Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9/21/22

(PLEASE PRINT)

Name: Miriam Dunbar

Address: 13th St, Brooklyn NY 11215

I represent: Students with disabilities

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9/21/22

(PLEASE PRINT)

Name: Randi Levine

Address: \_\_\_\_\_

I represent: Advocates for Children of New York

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9/21/22

(PLEASE PRINT)

Name: Phylisa Wisdom

Address: Clarkson Ave, Brooklyn 11226

I represent: YAFFED

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9/21/22

(PLEASE PRINT)

Name: Lori Foster

Address: ELG<sup>th</sup> St. NY ny 10003

I represent: INCWDEMYC

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9/21/22

(PLEASE PRINT)

Name: Nelson Mar

Address: \_\_\_\_\_

I represent: Bronx Legal Services

Address: 349 E 149<sup>th</sup> St., Bronx NY

▶ Please complete this card and return to the Sergeant-at-Arms ◀

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Thomas Taratko

Address: \_\_\_\_\_

I represent: Department of Education

Address: \_\_\_\_\_

▶ Please complete this card and return to the Sergeant-at-Arms ◀