



Advocates for Children of New York

Protecting every child's right to learn

Testimony before the Assembly Standing Committee on Education

Re: Examining the current state of health, mental health, and physical education programs, services, and instruction in New York State's schools and studying best practices to continue to support our students' wellbeing.

October 23, 2018

Thank you for the opportunity to speak with you today. My name is Dawn Yuster, and I am the Director of the School Justice Project at Advocates for Children of New York ("AFC").

For over forty-five years, AFC has worked to promote access to the best education New York can provide for all students, especially students of color and students from low-income backgrounds. AFC provides a range of direct services, including free individual case advocacy, such as assisting students who are excluded from school due to unaddressed or unsupported emotional, behavioral, mental health, or physical health needs, including through inappropriate referral to the emergency room, lack of medical supports, suspension, arrest, or summons. We work to help these students get the support they need to succeed in school. Additionally, AFC works on institutional reform of education policies and practices through advocacy and litigation. Our systemic work includes advocating for positive, restorative, and trauma-informed supports and interventions, as well as policies to ensure medically fragile students get the health services they need in school. We are also a proud member of the New York State Campaign for Safe and Supportive Schools and the Dignity in Schools Campaign – New York.

At Advocates for Children, we have seen again and again the harmful consequences of woefully deficient school-based mental health services on students and school communities. For example, we represented an 8-year-old boy with a mental health disability involved in a minor lunchroom incident involving a plastic spork (combined spoon and fork). Instead of implementing behavioral supports, school staff escalated the incident by contacting School Safety Agents who called in NYPD officers who handcuffed the child for three hours. Even after the child's parents arrived and the little boy was clearly calm, the NYPD officers refused to take the handcuffs off the child or allow the child to go home, insisting that Emergency Medical Services ("EMS") transport the child to the hospital. The child was discharged from the hospital shortly after receiving a psychiatric examination. Instead of determining how to support this young child at school, the school then suspended the child from school, causing him to miss classroom instruction.

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In another case, we represented a 15-year-old student who became agitated and upset during lunch when another student, who had been bullying her for three months, threw food at her head. Even though school staff knew she had significant mental health challenges, a school administrator called law enforcement instead of deploying a trained mental health professional with the skills necessary to de-escalate the situation and help her calm down during the emotional crisis. School Safety Agents and NYPD precinct officers violently restrained the student with handcuffs. Then an NYPD officer shot the handcuffed student with a Taser gun, hauled her off to a local precinct, and gave her a juvenile report for disorderly conduct. She was also suspended from school. The student was subsequently diagnosed with Post-Traumatic Stress Disorder and transferred to another school. This student was in clear need of mental health supports and assistance from mental health professionals, but the school responded by excluding the student from school and involving law enforcement officers who failed to de-escalate the situation in an effective manner.

Sadly, these were not isolated incidents. In our work on the ground, we see numerous students each year who could have remained in school learning with appropriate emotional, behavioral, and mental health supports and interventions in school, and instead were excluded. Our experience is supported by compelling data.

In November 2017, Advocates for Children released a data brief (attached) showing that 28.8% of all police interventions in New York City schools for the 2016-2017 school year were what the NYPD calls “child in crisis” interventions—incidents where the police became involved when a student displayed signs of emotional distress and was then taken to a hospital for psychiatric evaluation. Nearly half of these interventions involved children 12 years old or younger. Disparities by race are startling. About 95% of “child in crisis” interventions by police in schools involved students of color; half were Black students—vastly disproportionate to their 27% share of the student population in New York City. About 61.8% of children handcuffed during “child in crisis” interventions were Black; and 100% of children 12 and under who were handcuffed during this type of intervention were students of color.

In August 2017, the Manhattan Borough President’s report on school-based mental health care indicated that the current patchwork of services in schools is insufficient to meet the mental health needs of students in New York City. This past summer, the New York City Comptroller released a report finding that in the 2016-2017 school year as many as 45% of New York City schools did not have even one social worker on staff.



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These data and examples point to the dire need for the expansion of mental health services for children in school. Every day, the severe shortage of school-based mental health services in New York leads to unnecessary exclusions, suspensions, calls to EMS, handcuffing, and arrests—responses that are traumatic for children, do nothing to address the root cause of student behavior, push students out of school, and feed the school-to-prison-pipeline.

Best practices exist for responding to student behavior to prevent emotional crises and respond effectively when they occur. There are numerous school-wide and district-wide evidence-based approaches to address student behaviors and improve school climate that can be used in combination with each other, as well as with individualized positive behavioral supports and interventions for students with disabilities required under federal and state law. These approaches emphasize preventing behavioral incidents from occurring and de-escalating them when they do occur. Approaches used should consider students' unique needs and consist of positive, preventative, restorative, and trauma-informed alternatives to exclusionary, punitive discipline, and should be implemented by trained school and mental health professionals.

Mental health professionals with appropriate training and skills are best positioned to assess and address the needs of students with emotional, behavioral, and mental health needs. School staff with appropriate training, resources, and support are best positioned to prevent and de-escalate incidents that might otherwise lead to classroom removal, EMS transport, or police intervention. In matters of student mental health, school districts should unambiguously place responsibility in the hands of the professionals whose lives and careers are centered on supporting the growth and well-being of the young people in their charge. An investment in such services would not only help students and improve the safety of schools, but would save money by reducing costly ambulance rides, suspension hearings, police and court involvement, and state-funded special education private school placements, as well as lost wages, tax revenues, and other social costs.

As a member of the New York State Campaign for Safe and Supportive Schools, we urge you to support legislation that will help address the woefully deficient mental health programs and services in New York schools. Last year, Education Committee Chairwoman Catherine Nolan and Senator Velmanette Montgomery introduced the Judge Judith S. Kaye Safe and Supportive Schools Act. The bill encourages restorative and trauma-informed practices that promote positive behavior to keep children safe and supported in school, present at school, and on a path toward graduation. The bill also promotes school policies that use positive and developmentally-appropriate school discipline strategies while holding students



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accountable for their behavior, eliminate the use of out-of-school suspensions for minor behavior, significantly limit suspensions for students in Kindergarten to third grade, ensure students receive instruction when removed from school, and limit unnecessary contact between law enforcement and students. We urge you to support this bill when it is reintroduced during the next legislative session.

We also urge you to support the New York State Campaign for Safe and Supportive Schools' budget proposal. This proposal recommends dedicating \$50 million of state money through needs-based grants that could be used to support wraparound student supports and positive approaches to student behavior to keep students in school and on a positive track, such as trainings for staff and administrators on trauma-informed and restorative practices; in-school restorative practice facilitators; peer mediation training and facilitation; and additional support staff, such as social workers, school psychologists, guidance counselors, and social service providers.

In addition to the lack of mental health supports, we have noticed a systemic problem relating to the medical supports available for students in New York City, and in particular for those students who need individualized nursing services to attend school. New York City does not have policies and procedures in place to ensure that all medically fragile students receive required nursing services. In the fall of 2017, we filed two complaints against the New York City Department of Education ("DOE") in federal court on behalf of four parents whose children did not receive the nursing services and specialized transportation they needed in order to attend school. Three of these students were unable to attend school because of the DOE's failure to provide a nurse. A federal judge recently described the ordeal that these families endured to get the needed nursing services as "Kafka-esque." The experiences of these families is not limited to the plaintiffs in the federal cases and is based on a broken system within the DOE. Indeed, Advocates for Children has worked with multiple students who could not attend school for years because of the DOE's failure to provide an individualized nurse, even when their IEP called for the service. The State should hold the DOE accountable and ensure that the DOE develops a transparent, coordinated system for recommending nurses on students' IEPs and assigning nurses when recommended.

Advocates for Children would be pleased to partner with you in thinking through these issues to ensure that students who need mental health and medical supports in school most can access and benefit from them. Thank you for the opportunity to speak with you. I would be happy to answer any questions you may have.