



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

April 26, 2021

Honorable Mark Treyger, Chair
Committee on Education

Honorable Stephen Levin, Chair
Committee on General Welfare

Honorable Keith Powers, Chair
Committee on Criminal Justice

New York City Council
City Hall
New York, NY 10007

Re: Educational Programming in Jails and Juvenile Detention

Int. 1224 - A Local Law to amend the Administrative Code of the City of New York, in relation to requiring the Department of Education, the Administration for Children's Services and the Department of Correction to report on educational programming for juvenile delinquents, juvenile offenders and adolescent offenders.

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Dear Chairs Treyger, Levin, and Powers,

Advocates for Children of New York, Inc. ("AFC") appreciates the opportunity to provide written testimony to the New York City Council Committees on Education, General Welfare, and Criminal Justice related to the jointly held hearing on April 21, 2021 on *Educational Programming in Jails and Juvenile Detention* and the Committee on Education's hearing on Intro. No. 1224, a local law requiring the Department of Education ("DOE"), the Administration for Children's Services ("ACS"), and the Department of Correction ("DOC") to report on educational programming for juvenile delinquents, juvenile offenders, and adolescent offenders. AFC strongly supports Intro. No. 1224 to ensure transparency, monitoring, and accountability of education provided to children and youth in court-ordered settings.



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Our testimony focuses on ensuring that children and youth are provided high-quality education in court-ordered settings and upon their return to the community.

For nearly 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. We speak out for students whose needs are often overlooked, such as students involved in the juvenile or criminal justice system, students with disabilities, students with mental health needs, students from immigrant families, and students who are homeless or in foster care. AFC's School Justice Project provides education advocacy and legal representation for youth involved, or at risk of being involved, in the juvenile or criminal justice system. Our perspective comes from our daily contacts with children, youth, and their families, and also from our frequent interactions with defense providers, alternative to incarceration providers, and city agencies.

Court-involved youth are an extremely vulnerable population in New York City and nationally. Many court-involved youth have complex educational and mental health needs that have been inadequately addressed prior to their arrest. A disproportionate number of these students are over-age, under-credited, and reading and performing far below grade level. More than 65% of youth in juvenile detention and placement attending school at Passages Academy are students with disabilities who have Individual Education Programs ("IEPs") and about half of all youth in adult jails attending school at East River Academy are students with IEPs.

Young people in juvenile detention, juvenile placement, and adult jails desperately need intensive and targeted educational services and therapeutic interventions. Education in court-ordered settings is of paramount importance to ensure rehabilitative programming while in custody, as well as successful reintegration to the community upon release. Yet, we have heard numerous stories of students in juvenile justice facilities and incarcerated on Rikers Island who have had limited to no access to technology, teachers, and instruction in person or remotely during the pandemic. While the DOE has reported a number of improvements in juvenile justice facilities that give students better access to education, we understand that the DOC has continued to significantly limit young people's access to education on Rikers Island.

In order to ensure educational equity, effectively integrate children and youth in the juvenile and criminal legal systems into the community, and prevent recidivism, we make the following recommendations:



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1. Launch an All-Out Effort to Improve Literacy

Many students in the juvenile and criminal legal systems are much farther behind where they should be when it comes to basic academic skills, including reading, either because they have an unidentified learning disability or have not had access to high-quality literacy programs. It is critical that incarcerated students receive intensive instruction in literacy using research-based methodologies to gain the basic level of literacy required to do middle school, high school or high school equivalency level work, engage in vocational training, graduate from high school, and obtain employment.

The City should ensure the DOE uses evidence-based, culturally responsive reading curricula for core instruction when teaching students in Passages Academy and East River Academy. Passages Academy and East River Academy should have a menu of curricular options from which to choose and fund the purchase of the materials and training necessary for successful implementation to ensure 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.¹ 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, so too many children and youth struggle to read. We recommend one-on-one or small group support for students in custody who need it.

The City should invest in literacy coaches to help DOE teachers working in Passages Academy and East River Academy improve their literacy instruction. The DOE should pair students struggling with reading with educators trained in evidence-based reading instruction. The DOE should match small groups of students in Passages and East River Academy who need help in reading with educators trained in effective interventions. Such support can be provided in-person or remotely to ensure that students can get support regardless of the staff available in their school.

2. Offer Intensive One-on-One or Small-Group Tutoring

The City should ensure students in Passages Academy and East River Academy get “high-dosage” one-on-one or small-group tutoring multiple times per week to ensure students get the individualized support they need to get back on track academically. Tutoring should be embedded into the school day for all students (for example, a period each day) and complement regular classroom instruction, with additional

¹ See <https://www.nichd.nih.gov/research/supported/nrp>.



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options offered before or after school, on weekends, and over the summer and other school breaks. Tutors should be trained in research-based approaches including how to work with students with disabilities, receive ongoing support, and work with a consistent cohort of students with whom they build relationships. All programming must include specialized support for students with disabilities, English Language Learners (“ELLs”), and all other students in the juvenile and criminal justice system who need it. Tutoring is a high-impact approach to learning acceleration, if done well and based on the research.²

3. Improve Special Education Services

Given that a large percentage of incarcerated youth are entitled to special education services, the City should focus more attention and resources on improving educational services, programs, and outcomes for students with disabilities in court-ordered settings. 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. While the DOE creates Special Education Plans (“SEPs”) for students with disabilities who have IEPs, the DOE must still comply with the requirements of the IDEA. The City must ensure that the DOE has sufficient funding and resources to provide incarcerated students with disabilities appropriate special education services, delivered by certified special education teachers, that are individualized and enable students to make meaningful progress.

4. Provide Additional, Targeted Support for English Language Learners

Youth in juvenile justice facilities and adult jails who are ELLs need access to bilingual instruction with teachers certified in providing instruction to ELLs. Furthermore, the DOE 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, and it is likely that ELLs in custody have not received all the instruction to which they are entitled. Given the immense challenges ELLs face in participating meaningfully in remote learning and the lack of language support, the City’s educational recovery effort should include a

² See, e.g., https://studentsupportaccelerator.com/sites/default/files/Accelerator_Research_Agenda.pdf, <https://studentsupportaccelerator.com/tutoring>, <https://learningpolicyinstitute.org/blog/covid-getting-tutoring-right>, <http://resources.aasa.org/Accelerating-Learning-Tutoring-April-20-2021.pdf>, <https://www.nber.org/papers/w27476>, and <https://www.sagaeducation.org/blog/2021/3/8/saga-is-highly-effective>.



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targeted plan to provide ELLs in court-ordered settings with the instructional support they have missed during the pandemic.

5. Provide Compensatory Education for Missed Instruction

The DOE must provide make-up services to students with disabilities in juvenile justice facilities and adult jails who did not receive their legally mandated instruction and services during the pandemic so they can start to catch up. Under federal law, students with disabilities have the right to “compensatory services” to make up for any instruction and therapies they missed. The DOE needs to create a system for quickly determining and delivering compensatory educational services to all students with disabilities who did not receive the full amount of special education services to which they were entitled during the COVID-19 period, including students at Passages Academy and East River Academy. Given that youth with and without disabilities have had limited to no access to education in juvenile detention and placement and in adult jails, the DOE should provide all students in court-ordered settings with additional, targeted support so they can start to make up for instruction missed during the pandemic.

6. Offer Extended Eligibility for 21-Year-Old Students

We appreciate that the DOE is allowing most students who age out of school this school year but were unable to earn their diplomas or get needed transition services to return for the 2021-2022 school year. It is critical that the DOE and DOC provide the same opportunity to 21-year-old students in DOC custody in the 2021-2022 school year.

7. Improve Access to High School Equivalency Programs and TASC Testing

Since implementation of Raise the Age legislation, the average age of students at Passages Academy has risen. A number of these youth, including AFC's clients, have expressed interest in obtaining a high school equivalency diploma. AFC and other advocates have been discussing with the DOE opportunities to expand accessibility for young people to prepare for and take the TASC exam (high school equivalency exam) while in custody to keep them engaged in learning. We ask the City Council to help support such expansion so that youth can return to the community prepared to engage in higher education, vocational programs, or employment.



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8. Improve Access to Career and Technical Education, Vocational, and College Programs

Many youth and young adults with court involvement are interested in job training and employment opportunities. These young people need access to high-quality Career and Technical Education (“CTE”) and college programs that will provide them with practical skills relevant to the labor market. The DOE runs several very successful vocational programs in schools in the community, such as Co-op Tech, that provide students with marketable skills. However, these programs are not accessible to incarcerated students. We recommend that the DOE expand or replicate these programs in Passages Academy and look to other jurisdictions for models that offer incarcerated students CTE courses and college credits, individualized transition services provided by a Career Coach, and state-approved pre-apprenticeship programs in the trades upon release.³ Youth would benefit tremendously from this expanded programming and transition services, as they would gain marketable skills and access to higher education and college credits, post-release CTE, training, supports, and services.

The PEACE (Program, Education and Community Engagement) Center provides educational and workforce programs to young people on Rikers Island giving them the tools they need to help them get jobs upon release. However, many young people have reported that the DOC has failed to bring them to the PEACE Center to access these services. We ask the City Council to hold DOC accountable for transporting all young people to the PEACE Center and East River Academy who wish to take advantage of educational and employment programs while on Rikers Island.

9. Improve Reentry and Continued Engagement in School

School engagement is a crucial component of successful reentry programming. Yet, for too many youth, juvenile detention, juvenile placement, or incarceration is the place they become reengaged in school after a long period of disengagement. Sadly, disengagement from school is unsurprising. Research indicates that when behavioral and academic supports are not provided to youth in school and students face school suspension for their behavior, there is an increase in the likelihood that students—particularly Black and Latinx students and students with disabilities—will be held back a grade, not graduate, drop out of school, receive another suspension, and

³ See, e.g., Perkins Collaborative Resource Network, *The Juvenile Justice Reentry Education Program: Opening Doors to College and Careers through Career and Technical Education*, <https://cte.ed.gov/initiatives/juvenile-justice-reentry-education-program> (accessed on April 25, 2021).



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become involved in the juvenile or criminal justice system, thereby feeding the school-to-prison-pipeline.

Despite the efforts of DOE Transition Specialists assisting youth reentering the community from Passages Academy and East River Academy, court-involved youth are often inadequately supported—academically and emotionally—within the under-resourced schools they return to or enter for the first time. We see firsthand that formerly incarcerated students often attend schools that do not provide the academic and mental health support they need to be successful in school, often leading to their disengagement from school. Indeed, we have heard informally that the percentage of young people with a record of involvement in the juvenile justice system who graduate with a high school diploma is in the single digits. When compared with 78.8% of students in New York City's general population who received their high school diploma, this should be seen as nothing short of a crisis.

With passage of Intro. No. 1224, the DOE would be required to annually report school attendance rates of youth six months and one year after their release from ACS or DOC custody. The DOE would also be required to report on plans to ensure the educational progress of youth released from custody. Requiring this publicly reported information is critical to hold the DOE accountable for improving educational engagement and outcomes of court-involved youth.

10. Annually Report Graduation and Dropout Rates of Youth Who Attended Passages Academy and/or East River Academy At Any Time in Their Academic Career

We appreciate that Intro No. 1224 requires the DOE to report the number of juvenile delinquents, juvenile offenders, and adolescent offenders who graduated from high school while in custody. We recommend that the bill go further and also require the DOE to annually report the 4-year, 5-year and 6-year high school graduation and dropout rates for students who attended Passages Academy at *any* time in their educational history. The report should include disaggregated and cross-sectional data related to race, disability, gender, and ELL status.

Pursuant to New York City Administrative Code § 9-151, Local Law 168 of 2017, the DOE is required to annually report data related to educational programming provided at East River Academy to young people 18-21 years old incarcerated on Rikers Island and post the data on the DOE website. However, the DOE posted this data on the



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DOE website only for the 2017-2018 school year.⁴ We ask the City Council to monitor the DOE's reporting on this important information. Additionally, we recommend amending Local Law 168 of 2017 to require the DOE to annually report the 4-year, 5-year and 6-year high school graduation and dropout rates for students who attended East River Academy, as well as those who attended Passages Academy or East River Academy. at *any* time in their educational history. The report should include disaggregated and cross-sectional data related to race, disability, gender, and ELL status.

Thank you again for the opportunity to provide testimony on this important matter. We look forward to working with the City Council, city agencies, affected youth and families, and other stakeholders to ensure that youth involved in the juvenile or criminal justice system are fully supported while in custody and upon reentry to the community and can succeed in school and life.

Sincerely,

Dawn Yuster, Esq.
Director, School Justice Project

⁴ See <https://infohub.nyced.org/reports/government-reports/east-river-academy-reports>.